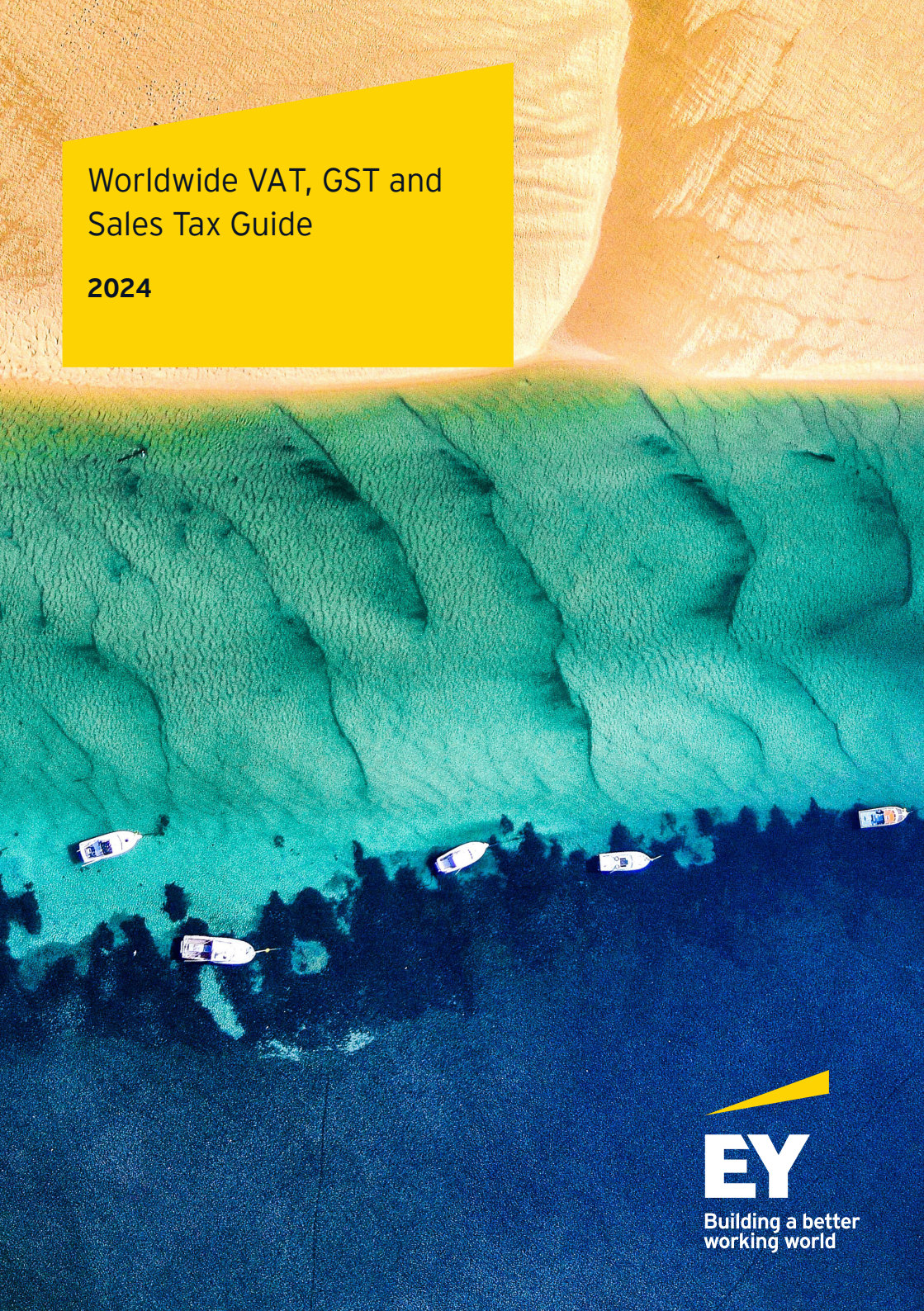
Worldwide VAT, GST and Sales Tax Guide

2024



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Building a better working world

Preface

While greatly accelerating the pace of all their tax legislation, the world's governments continue to rely heavily on indirect taxes as an invaluable source of revenue. As a result, there is increased risk that taxpayers will be caught unprepared, making a current, detailed guide like the *Worldwide VAT, GST and Sales Tax Guide* all the more valuable.

The guide's organization is straightforward. Chapter by chapter, from Albania to Zimbabwe, we summarize indirect tax systems in 150 jurisdictions. All of the content is current on 1 January 2024, with more recent additions noted.

Each chapter begins with contact information for the key people in that jurisdiction's EY member firm offices. We then answer the basic questions practitioners ask about indirect tax systems:

- At a glance, what are the basic features of the major indirect tax in this jurisdiction?
- What is the scope, and who is taxable?
- What are the rates, and how has the country defined the time of supply?
- When can taxpayers recover VAT that they have paid on inputs?
- What are the rules on filing, payment and penalties?

The *Worldwide VAT, GST and Sales Tax Guide* is published annually, along with two companion guides on broad-based taxes: the *Worldwide Corporate Tax Guide* and the *Worldwide Personal Tax and Immigration Guide*. Additional tax guides on more specific topics can be found at ey.com/taxguides.

EY
March 2024

About EY Tax Services

Your business will only succeed if you build it on a strong foundation and grow it in a sustainable way. At the EY organization, we believe that managing your tax obligations responsibly and proactively can make a critical difference. More than 50,000 talented tax professionals, in 150 countries, give you technical knowledge, business experience, consistency and an unwavering commitment to quality service – wherever you are and whatever tax services you need.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Tatimi mbi Vleren e Shtuar (TVSH)
Date introduced	27 April 1995
Trading bloc membership	Central European Free Trade Agreement
Administered by	General Directorate of Taxes of Albania
VAT rates	
Standard	20%
Reduced	6%
Other	Zero-rated (0%) and exempt
VAT number format	A23456789B
VAT return periods	Monthly
Thresholds	
Registration for resident taxable persons	ALL10 million
Registration for exporters, importers, non-established businesses	Subject to registration regardless of turnover
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services performed by a taxable person in Albania
- Importation of goods into Albania, regardless of the status of the importer
- Services supplied to taxable persons in Albania by service providers, of which the place of business is outside Albania
- Certain supplies of services rendered to nontaxable persons in Albania by providers whose place of business is outside Albania, such as digital services and services related to an immovable property located in Albania

The use of goods or services purchased or produced in the course of a business activity for private purposes constitutes a taxable supply to the extent the VAT on those supplies was deducted.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Albania the VAT law provides for the application of the use and enjoyment rules as a deviation from the main rules for determining the place of supply of services. These rules apply to services such as advertising, telecommunication and broadcasting regardless of whether they are provided to taxable or nontaxable persons, i.e., business to business (B2B) and business to consumer (B2C).

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Albania, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- A group of assets forming part of a business activity, or an entire business activity is transferred
- The transfer is performed between two taxable persons (B2B)
- The transferee ensures the continuity of the business activity or part of it transferred

Transactions between related parties. In Albania, for a transaction between related parties the value for VAT purposes is calculated at market value. The market value is defined as the consideration that an independent buyer would be willing to pay for the supply of goods or services under open market conditions. In case no comparable value are available, the market value can be determined as follows:

- For supplies of goods, an amount not less than the purchase price or the acquisition costs at the moment of the supply
- For supply of services, an amount not less than the full costs incurred for performing the services

C. Who is liable

Any person (entity or individual) that makes supplies in the course of the person's independent economic activity is liable to VAT.

Taxable activities also include "the exploitation of tangible or intangible property for the purposes of obtaining income from that on a continuing basis."

Exemption from registration. The VAT law in Albania does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A taxable person established in Albania is obliged to register for VAT purposes and charge VAT if the annual turnover in the previous 12 months exceeds ALL10 million. Once this threshold of ALL10 million is exceeded, any supply shall be subject to VAT and the taxable person is required to apply for VAT registration within 15 days.

Taxable persons with an annual turnover less than ALL10 million but greater than ALL5 million may voluntarily register for VAT, and that taxable person must remain registered for a minimum of two years.

Persons involved in import or export activities must register for VAT regardless of the amount of turnover.

Group registration. Group VAT registration is not allowed in Albania.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Albania where it has any establishment characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources that would enable it to provide the services that it supplies, and/or to receive and use services supplied to it for its own needs.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Albania.

No VAT registration threshold applies to taxable supplies made in Albania by a non-established business. A non-established business must register for VAT in Albania if it engages in any of the following supplies:

- Supply of goods located in Albania at the time of supply
- Certain supplies of services to nontaxable persons in Albania, such as digital services and services related to an immovable property located in Albania
- Import and export activities in Albania

Tax representatives. A non-established business must appoint a resident VAT representative to register for VAT purposes in Albania unless the reverse-charge mechanism applies. The VAT representative may act on behalf of the taxable person for all purposes related to VAT and is jointly liable for compliance with all VAT obligations of the non-established business.

Reverse charge. The reverse-charge mechanism applies to supplies of services made by a non-established business to taxable persons in Albania. A non-established business is not required to register for VAT if all its taxable supplies in Albania fall under the reverse-charge mechanism.

Domestic reverse charge. There are no domestic reverse charges in Albania.

Digital economy. Albania follows the destination principle regarding cross-border digital services supplied to nontaxable persons in Albania. The place of supply of cross-border digital services to nontaxable persons is the place where the nontaxable person is established or where it has its permanent address or usually resides.

Therefore, nonresident providers of electronically supplied services for B2C supplies are required to register and account for VAT in Albania. This is done by appointing a VAT representative in Albania to account for and pay VAT liability. No VAT registration threshold applies.

Nonresident providers of electronically supplied services for B2B supplies are not required to register for VAT in Albania. Instead, the customer is required to self-account for the VAT via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

Imported goods are exempt from import duties and VAT, if the goods are purchased through the internet and imported into Albania through postal mail with a value lower than EUR22 (and its equivalent in ALL).

Online marketplaces and platforms. The above rules for the digital economy also apply to online marketplaces and platforms, i.e., the place of supply for services supplied by electronic means to nontaxable persons is the place where that person is established or where they have their permanent address or usually resides.

Registration procedures. The application for registration can be performed online, in person at the counters of the Agency for the Delivery of Integrated Services Albania (ADISA) or in person at the National Business Center (NBC). A taxable person may personally or through an authorized person submit the registration form and requested documents with the NBC. The registration

procedure generally lasts two to three working days. The required documents for registration are as follows:
- Copies of the identity card of the administrator or the authorized person
- Authorization for the person submitting the application for registration if different from the administrator of the company
- Copies of identity cards of the shareholders of the company
- Founding act and statute if drafted in two different documents
- Commercial extract of the foreign company registering a branch/subsidiary in Albania
- Good standing certificate of the foreign company registering a branch/subsidiary in Albania

The application for VAT registration of the taxable person must be performed within 30 days after the foundation date and before the effective start of the business activity.

Deregistration. Every taxable person registered for VAT may request to be deregistered if turnover fell below the VAT registration threshold during the previous 12 months. Such deregistration becomes effective 12 months after the request. Taxable persons ceasing their economic activity must request deregistration within 15 days from the termination of their activity.

Changes to VAT registration details. In case the taxable person notices that its turnover falls below the VAT registration threshold or vice versa, they must inform the tax authorities and request the change within 15 days.

The taxable person must also inform the tax authorities within 15 days for the following changes to its VAT registration details: name change, operating activity address or contact changes, legal status change, opening/closing of branches or sectors and change in the economic activity type.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rate: 6%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Certain supplies are referred to as "exempt-with-credit" (i.e., zero-rated), which means that no VAT is chargeable, but the supplier may recover the input tax (effectively zero-rated).

Examples of goods and services taxable at 0%

- Exports of goods
- International transport
- Services relating to maritime activities
- Supplies under diplomatic arrangements
- Supply of gold to the Central Bank of Albania
- Intermediary services related to zero-rated supplies or services rendered abroad

Examples of goods and services taxable at 6%

- Supplies of accommodation services by the accommodation facilities
- Supplies made within five-star accommodation structures of an internationally known trademark
- Supplies of accommodation and restaurant services, excluding beverages, by the certified structures operating in agritourism

- Supplies of advertising services by audiovisual media
- Supply of licensed public transport equipped with electric motors, with nine plus one places or more
- Supply of books of any type
- Supply of construction work services for public investments in sports clubs/sports federations or for investments in sports infrastructure undertaken by private entities

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Hospital services and medical care
- Insurance and reinsurance services
- Supply and rent of land and buildings
- Financial services
- Postal services
- Education services
- Hydrocarbon exploration operations
- Printing and sale of publications
- Betting, lotteries and gambling
- Importation of machinery and equipment used for inward processing of goods or in the implementation of contracts of ALL50 million or more
- Importation of production machinery for small business
- Import of raw materials used for the manufacture of medicines, with the exception of dual-use substances, carried out by holders of production authorization
- Agricultural machinery
- Agricultural inputs, such as fertilizers, pesticides, seeds and seedlings
- Veterinary services, except veterinary services for domestic animals
- New vehicles with electric motor, zero km, that have not been previously registered for circulation in any other country
- Supply related to the construction/reconstruction process in the case of natural disasters upon receipt of the authorization by the General Tax Director
- Supply of services and goods directly to the constructor engaged with the building process in the case of natural disasters, when authorized by the General Tax Director

Option to tax for exempt supplies. The Minister of Finance may grant through a decree the right to opt for taxation for the following VAT exempt supplies:

- Financial transactions
- The supply of building and of the land on which the building stands
- The supply of land
- Leasing of immovable property

E. Time of supply

VAT becomes due at the "time of supply" unless otherwise provided in law. The time of supply is considered to occur when an invoice is required to be issued or when goods or services are delivered. The invoice should be issued at the moment that the supply of goods or services takes place. If the payment is made before the delivery of goods or services, the moment of supply is the moment when the payment is made.

The time of supply for a continuous supply of goods and services, including construction services, is considered to be the month when the invoice is issued. Invoices should be issued on a monthly basis.

Deposits and prepayments. Where a payment is to be made on account before the goods or services are supplied, VAT shall become chargeable on receipt of the payment and on the amount received.

In case of any amount paid or retained in the form of a guarantee deposit in relation to the performance of a supply of goods or service, VAT shall become chargeable at the moment the deposit is received. In case the amount of deposit is returned to the customer, then the necessary adjustment should be made for VAT purposes.

Exemption from the above is granted to the guarantees deposited in a bank deposit account or to a third party, without the right of use. In such case, VAT shall become chargeable at the moment that the deposit guarantee is executed.

Continuous supplies of services. Supplies of services performed on a continuous basis, within a period of time (as prescribed in the supply agreement between the customer and supplier, for example invoices to be issued on a monthly basis), including construction operations, shall be deemed to have been made in the same month in which the invoice is issued.

Where payment is made in advance of the invoice being issued, there are no special time of supply rules in Albania for this scenario. As such, the general time of supply rule applies (as outlined above), which is when the payment is made.

Goods sent on approval for sale or return. There are no special time of supply rules in Albania for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. Invoices for reverse-charge services are required to be issued by the 10th day of the month following the month in which VAT becomes due.

Leased assets. In the case of leased assets, the VAT becomes due at the time when the periodic monthly payments are invoiced to the lessee. In the case of a financial lease, whereby the option to buy the leased assets is exercised, VAT becomes due on the sale of assets, at the moment the final invoice is issued to the customer.

Imported goods. The time of supply for imported goods is the date of importation or the date on which the goods exit a duty suspension regime.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is the VAT that the taxable person paid on the purchase of goods and services that were used to provide taxable goods and services in Albania. A taxable person may also recover VAT related to the overseas supply of services (outside the scope of Albanian VAT) that would have been taxable if made in Albania. A taxable person generally recovers input tax by deducting it from output tax, which is the VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Albania, VAT paid on imports of goods and VAT applied to reverse-charge services.

The time limit for a taxable person to reclaim input tax in Albania is five years. The taxable person's right to claim a VAT refund or offset the VAT credit with output tax expires five years from the filing date of the respective VAT return or its amendment.

Nondeductible input tax. Not all input tax is deductible. Generally, input tax may not be recovered on purchases of goods or services that are not used for business purposes.

Examples of items for which input tax is not deductible

- Expenditure on fuel unless the payer is a company that purchases the fuel for trading purposes
- Expenditure on trips and per diems and hotel accommodation
- Expenditure on cars, unless the business activity consists of the trading or renting of cars such as car rentals, taxi services and ambulances

Examples of items for which input tax is deductible (if related to a taxable business use)

- Expenditure relating to publicity and promotional articles
- Expenditure relating to representative expenses up to the amount of expenses that are recognized as deductible for corporate income tax purposes
- Expenditure on fuel used solely for carrying on taxable economic activity up to the limit defined by a decree issued by the Minister of Finance

Partial exemption. If a supply of a good or service is used partly for purposes of taxable supplies and partly for exempt supplies, the taxable person may not deduct input tax in full. This situation is known as "partial exemption." The calculation of the amount of input tax that may be recovered is made on a pro rata basis by using the following formula:

$$\text{Amount of relevant input tax} \times \frac{\text{VAT creditable turnover}}{\text{Total annual turnover}}$$

During the tax year, the pro rata VAT due may be calculated based on the preceding year's results. The calculation must be adjusted by 31 January of the following year to reflect the actual results of the tax year. If the change in deductible input tax is less than ALL20,000 from the change of the initial and actual pro rata VAT, there is no need for a VAT adjustment. The taxable person should inform the tax authorities for the initial pro rata VAT that will use during the year, by no later than 31 January.

The calculation does not include supplies of capital goods used by the taxable person for business purposes, nor does it include incidental real estate and financial transactions.

Approval from the tax authorities is not required to use the partial exemption standard method in Albania. Special methods are not allowed in Albania.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is generally deducted in the VAT year in which the goods are acquired. If the business comprises both taxable and exempt supplies and the capital goods do not only serve taxable supplies, the amount of input tax that can be recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. The amount of input tax recovered is adjusted over time if during the adjustment period the taxable person's pro rata calculation changes or the capital good is transferred to an exempt activity with no right to deduction.

The capital goods adjustment period is as follows:

- Immovable capital assets: 10 years
- Movable capital assets: 5 years

In case of pro rata changes during the adjustment period, the adjustment is made for 1/5 for movable capital goods and 1/10 for immovable capital goods, while for transfer of capital goods to an exempt activity the adjustment is made for the remaining years of the adjustment period.

Refunds. A taxable person may claim a VAT refund if both of the following conditions are satisfied:

- The taxable person carried forward the relevant amount as a VAT credit balance in the following three consecutive months.
- The amount claimed exceeds ALL400,000.

The taxable person must file a "Request for Refund" form, as prescribed in the VAT law, with the relevant tax office. The tax office must verify the fulfillment of the refund conditions and approve the refund within 60 days.

Pre-registration costs. Input tax incurred on pre-registration costs in Albania is not recoverable.

Bad debts. Taxable persons who have not received partial or total payment for a taxable supply may claim the VAT charged as input tax if all the following conditions are satisfied:
- The debt has remained outstanding for more than six months
- The amount has been written off
- A court has recognized the debt as uncollectible because the debtor is insolvent

Noneconomic activities. To the extent that they do not distort competition, payments received by not-for-profit organizations, such as grants, donations and membership dues, are considered to be noneconomic activities for which no VAT is due. The same applies to the performance of public services by the public authorities.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Albania is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a VAT invoice for all taxable supplies made, including exports. The invoice must comply with the requirements set out in the VAT law and issued in accordance with the provision of the Law No. 87/2019, "On the invoice and the turnover monitoring system" and its bylaws.

Credit notes. A VAT credit note may be used to reduce the VAT charged on a supply of goods or services; a debit note may be used to increase the amount of VAT. Tax credit and debit notes must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory for all taxable persons in Albania.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Albania. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Albania.

All taxable persons are required to use electronic invoicing for cash and noncash transactions. All invoices must be verified in real time by the tax authority before issuance. According to the law on fiscalization, the invoices must be generated directly from the online system of the tax authorities.

The authenticity of the origin and the integrity of the electronic invoice's content must be guaranteed by registration of the taxable person at the tax authorities' central online platform.

Simplified VAT invoices. The taxable persons subject to the regime of small businesses (i.e., annual turnover less than ALL10 million) may issue simplified invoices without VAT, but only of goods or services paid in cash. Simplified invoices should also follow the rules on electronic invoicing.

Note that according to the new law on fiscalization, there are no simplified VAT invoices but only simplified invoices, which are issued from taxable persons who are not registered for VAT purposes and the transaction is conducted in cash. If the taxable person is voluntarily registered for VAT purposes, even if it does not reach the VAT registration threshold, the standard e-invoice shall be used.

Self-billing. Self-billing is allowed in Albania. Self-billing is only allowed under the following conditions:

- Both the supplier and the customer should be taxable persons registered for VAT.
- The supply should be taxable, not exempt.
- A written agreement should be in place between the supplier and the buyer, in which is provided for a procedure for the acceptance by the supplier of the invoices issued by the buyer.
- Any invoice issued by the buyer in the name and on behalf of the supplier must be approved by the latter.
- The buyer should notify the tax authority in advance.
- The buyer should undertake the obligation to declare and pay VAT in the name and on behalf of the supplier.
- The invoice issued by the buyer should identify the data (name, VAT ID, address, etc.) of the supplier and should indicate "Self-Billing."

Proof of exports. No VAT is chargeable on exported goods if exporters have documented their supplies with an official customs declaration.

Foreign currency invoices. An Albanian VAT invoice must be issued in the domestic currency, which is the Albanian lek (ALL). If an invoice is received in a foreign currency, the amounts must be converted into lek. The exchange rate used for imports is determined by Customs, while the exchange rate for domestic VAT supplies is the rate published by the Central Bank of Albania for the date of the invoice.

Supplies to nontaxable persons. For supplies made by a taxable person to a nontaxable person (private consumer) the supplier must issue a fiscal invoice regardless of the invoice amount.

Records. A taxable person is required to keep records, including records of all supplies made by them, all supplies made to them, and all imports and exports of goods carried out by them as part of their economic activity, in compliance with the law "On accounting and financial statements."

In Albania, examples of what records must be held for VAT purposes include records of all invoices and any supporting documents issued by/to the taxable person, in respect of supplies made or received.

In Albania, VAT books and records can be kept outside the country. There is no provision in the Albanian VAT law on where records should be held. However, in practice, records may be held in or outside of Albania. If the records are held outside of Albania, they must be easily accessible upon request by the tax authorities.

Record retention period. The period during which the taxable person must ensure that the invoices and supporting documents are retained, is five calendar years, starting from the next year following the invoice/document issuance. They shall be retained in the original form in which they were sent or made available, whether in paper or electronic form. In addition, in case of invoices stored by electronic means, the data that guarantee the authenticity of the origin of the invoices and the integrity of their contents, must also be stored by electronic means.

Electronic archiving. Electronic archiving is allowed in Albania. The taxable person has the right to designate the place of storage of the invoices or of the information retained, provided that they make them available to the competent authorities immediately upon request. If records are kept on a computer or as electronic data, the taxable person should provide tax authorities access to the place where records are held and access to computers or other devices to inspect the records that are held as electronic data.

I. Returns and payments

Periodic returns. The tax period is a calendar month. Purchase and sales ledgers must be submitted monthly by the 10th day of the following month. Following the recent fiscalization reform

the VAT return is automatically generated by the tax authorities based on the information provided in the sale and purchase ledgers. However, taxable persons have the right to review and amend the VAT return accordingly. The deadline for VAT payment is the 14th day of the month following the tax period. For imports, VAT is payable upon importation.

For a taxable person that is newly registered, the first tax period begins on the date of the registration, as stated in the certificate of registration, and ends on the last day of that month.

VAT payable by a taxable person for a tax period equals the VAT on the total taxable value of supplies made during the tax period minus any input tax allowed as a deduction.

Periodic payments. VAT payable by a taxable person for a tax period equals the VAT on the total taxable value of supplies made during the tax period minus any input tax allowed as a deduction. The VAT must be paid by bank transfer from an Albanian bank.

Electronic filing. Electronic filing is mandatory in Albania for all taxable persons. Taxable persons must electronically submit the purchase and sales ledgers and VAT returns. The electronic submission must be made online through the tax authorities' system at https://efiling.tatime.gov.al/cats_public/Account/LogOn.

Payments on account. Payments on account are not required in Albania.

Special schemes. *Travel agencies.* This scheme applies to transactions where the travel agency deals with customers in its own name and uses the supplies of other taxable persons in the provision of travel services. In this case, the taxable amount for services supplied to customers is the travel agency's margin, i.e., the difference between the total amount charged to the customer and the actual purchase price the travel agency paid for the services. The input tax incurred by travel agents may not be deducted.

The special scheme does not apply to travel agencies that only act as intermediary, in which case the supplies and services of other taxable persons can be treated as disbursements.

Secondhand goods, works of art, collector's items and antiques. Taxable persons must electronically submit the purchase and sales ledgers and VAT returns.

Compensation scheme for farmers. The taxable person (purchaser) of the agricultural services and goods is required to issue an invoice for purchases from farmers benefiting from this scheme for the taxable amount exclusive of VAT and then add VAT at the rate of 6%. The buyer pays the farmer the total price including the VAT calculated. The additional 6% is considered to be a compensation for the farmer for the input tax that has been incurred. The taxable person (purchaser) must account for the VAT on the invoice but is entitled to recover the VAT subject to normal recovery rules.

Investment gold. A special VAT scheme applies to investment gold. The taxable value of processed gold, imported gold and processed gold supplied domestically, does not include the value of gold used as raw material. At the same time, the taxable value of an import or supply within the country includes material components such as: silver, precious stones, plastics, labor, processing wastage, etc.

- Taxable value of imported processed gold:
  - The taxable value of imported processed gold, shall be determined in accordance with customs and tax legislation. The supporting document is the foreign supplier's invoice issued to the domestic buyer, indicating the value of gold converted into pure gold, out of the total value of imported gold. In absence of such a breakdown, the importer cannot exclude from the taxable value of the import the value of gold used as raw material.

- Taxable value of processed gold supplied domestically:
  - The value of a supply within the country is the full payment for that supply. The taxable value of processed gold supplied domestically is calculated by deducting from the full supply charge the value of gold used as raw material. The supporting document is the invoice of the supplier indicating separately the value of the gold used as the raw material. In absence of such a breakdown, the supplier cannot exclude from the taxable basis the value of gold used as raw material. Irrespective of the supply nature, wholesale or retail, and irrespective of the supply value, the taxable person shall issue a tax invoice as provided in VAT law.

Annual returns. Annual returns are not required in Albania.

Supplementary filings. No supplementary filings are required in Albania. In the case of underpaid VAT for a certain tax period and if no tax audit has been undertaken by the tax authorities, the taxable person can voluntarily amend the VAT return to adjust the situation. No penalties for late payment of VAT will be applicable.

Correcting errors in previous returns. A taxable person can submit a new amended tax return in cases when it notices that the original submitted tax return is not correct. The amended tax return must be submitted within 36 months from the moment of original tax return submission with the condition that this return has not been the subject of assessment from the tax authorities. An exceptional case is that the taxable person has the right to amend the tax return, even though it has been audited, if the amendment will result with higher tax liability. The tax return can be submitted online through the e-account of the taxable person.

Digital tax administration. The fiscalization reform aims to provide the tax authorities with a better control system and more efficient tax inspection. The fiscalization system is a set of measures used to reduce tax evasion in cash and noncash transactions. In the process of fiscalization, all transactions (invoices) are reported in real time to the tax authorities. For the purpose of identifying and tracking each transaction, each invoice is given a unique invoice number. The fiscalization process is regulated by Law No. 87/2019 "On fiscalization and turnover monitoring system" ("law on fiscalization") and Instruction No.16, dated 3 April 2020.

The law on fiscalization entered into force as of 1 January 2021 for cashless transactions between taxable persons and public institutions; 1 July 2021 for cashless transactions between taxable persons; and 1 September 2021 for cash transactions by taxable persons regardless of tax liability or annual turnover realized.

The law on fiscalization covers all taxable persons who issue invoices as per the law on VAT, public institutions, banks, financial institutions other than banks and other entities that offer services of electronic invoices payment. Every taxable person is subject to the law on fiscalization, except agricultural producers who are registered in the compensation scheme according to the law on VAT; taxable persons providing public transport and taxable persons who make supply goods/services that qualify for VAT exemption under the law on VAT.

The taxable persons who are already registered as such with the tax authorities become automatically subject of the law on fiscalization. The new taxable persons who register in the National Business Center are to be registered automatically as taxable persons subject to the law on fiscalization.

The taxable persons subject to the law on fiscalization must submit through the central platform of invoices managed by National Agency for Information Society (NAIS) the details related to the place and type of business, the operator who will be responsible for the invoice issuance through the fiscal system and the producer/maintainer of the software used. The latter should be independently registered with NAIS and certified as a software producer/maintainer.

As per the new law on fiscalization, there will be no need of manual filing of the purchase and sales ledgers, as they will be automatically generated from the system of the tax authorities. The

taxable person, however, must review the purchase and sales ledger by the 10th day of the following month and adjust it with information as appropriate.

According to the new law, the invoice must contain details such as "Fiscal Invoice" title, date and time of the invoice issuance, invoice number, the unique identification number, name and address for both, the seller and buyer. The invoice details must also include the code of the place where the supply of goods/services took place and the code of the operator who generates the invoice from the system, the quantity and description of the goods/services supplied, the total value including any discounts and the total amount due, the payment manner, the unique invoice number and the security number of the invoice issuer and the QR code.

J. Penalties

Penalties for late registration. Noncompliance with the requirement to register or to update registration data triggers a penalty that can range from ALL10,000 to ALL15,000.

Penalties for late payment and filings. Each late tax filing is subject to a penalty that can range from ALL5,000 to ALL10,000. Late payment of a tax obligation triggers a penalty amounting to 0.06% of the tax due for each day of delay, up to a maximum of 365 days (i.e., capped at 21.9%). In addition, default interest applies.

Penalties for errors. Erroneous completion of a tax filing or a tax refund claim is subject to a penalty of 0.06% of the tax due for each day of delay, up to a maximum of 365 days. In addition, default interest applies.

The late notification of or failure to notify the tax authorities of changes to a taxable person's VAT registration details is considered an administrative offense and can be subject to a penalty of ALL15,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Concealment of tax obligations constitutes a fiscal evasion and is subject to a penalty of 100% of the tax amount evaded.

Improper administration of sales and purchases books and documentation is subject to a penalty that can range from ALL10,000 to ALL50,000.

The failure to issue a VAT fiscal invoice for the whole amount of the transaction is subject to a penalty of 100% of the undeclared and unpaid tax liability.

Criminal offenses carried out by taxable persons are penalized under the criminal code. These offenses relate to certain situations including, but not limited to, the following:
- Taxable persons willfully engaging in fiscal evasion
- Taxable person not paying taxes to the state budget
- Taxable persons destroying and concealing important tax documents and information

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Albania.

Statute of limitations. The statute of limitations in Albania is five years. According to the Albanian tax legislation, the statute of limitation is five years from the filing of a tax return or its amendment. The statute of limitation is suspended if a new tax assessment is issued either as a result of a tax appeal or a tax audit or investigation. Moreover, the statute of limitation is suspended or voided if the taxable person is or becomes subject to penal proceedings in relation to its tax affairs.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la Valeur Ajoutée (TVA)
Date introduced	April 1992
Trading bloc membership	Greater Arab Free Trade Area (GAFTA)
Administered by	General Directorate of Taxes at the Ministry of Finance (DGI) (https://www.mfdgi.gov.dz/)
VAT rates	
Standard	19%
Reduced	9%
Other	Exempt
VAT number format	XXXXXXXXXXXXXXX (15 Digits) XXXXXX (+ 5 Digits for branches)
VAT return periods	Monthly
Thresholds	
Registration	None
Deregistration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Sales transactions, construction works and services of industrial, commercial or artisanal nature, when they are carried out in Algeria on a usual or occasional basis
- Import operations

In respect of the Algerian VAT territoriality, a business is deemed performed in Algeria:
- Sales transactions: when they are carried out with conditions of delivery in Algeria
  Or
- Other operations: where the service rendered, the right assigned, the object rented, or the carried-out studies are used or exploited in Algeria

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. As outlined above, a service is taxed in Algeria if it is "used and enjoyed" in Algeria. If a service delivered by a non-established supplier is used and enjoyed in Algeria, there is no requirement for this supplier to register locally for VAT purposes unless this service triggers a permanent establishment (PE) in Algeria, in such case the foreign supplier should be tax registered in Algeria (for all taxes including VAT). However, in case no PE is triggered in Algeria for the foreign supplier, the local customer will be in charge of withholding tax (WHT) reporting and payment (including notably VAT) in case no double-tax treaty exists between both jurisdictions or paying the VAT via the reverse-charge mechanism in case a double tax treaty exists and provides a neutralization or reduced tax rate for the WHT.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Algeria, a TOGC is not a concept that explicitly exists locally. As such, there is no specific guidance on the criteria and requirements for a transfer of business to satisfy the requirements of a TOGC. Nevertheless, in general, a transfer of business should not be subject to VAT, as it could not be considered as a turnover (not included in the list of taxable transactions as provided above).

Transactions between related parties. Referring to a tax administration note dated 6 August 2013 on transfer pricing and profit shifting in Algeria, intercompany transactions must be carried out in accordance with the "arm's-length principle." Also, it provides that the transfer price compliance with the arm's-length principle shall be determined considering:

- The nature of the product, its quality and novelty, the delivery time, the presence of intangible elements attached to the product and the degree of finishing
- The conditions of the transaction, the volume of sales, the geographical location, the date of the transaction, the accessories to the sale and the presence of intangible elements attached to the transaction

The Algerian legislature does not provide valuation methods. The accounting and financial methods should be accepted and used by the valuation experts. However, transfer pricing methods provided by the Algerian legislation are similar to Organisation for Economic Co-operation and Development (OECD) methods.

C. Who is liable

A taxable person is any person carrying out transactions within the scope of VAT, whether such transactions give rise to the payment of VAT or are exempt. Persons liable for VAT in Algeria are:

- Producers, such as:
  - Individuals or legal persons who, mainly or incidentally, extract or manufacture goods, fashion them or transform them as manufacturers or entrepreneurs of manufacturing activities to give them their final form or their commercial presentation under which they will be delivered for use or consumption by the consumer, whether the processing operations involve the use of other materials or not.
  - Individuals or legal persons who replace the manufacturer to carry out, either in its factories or outside its factories, all operations relating to the manufacture or the definitive commercial form of products such as packaging or in receptacles, the shipments or deposits of such

goods whether they are sold under the brand name or on behalf of those who carry out such operations.
  – Persons or companies that have the operations referred to above, carried out by third parties.
- Wholesalers, performing the following:
  – Deliveries relating to articles which, because of their nature or use, are not usually used by individuals.
  – Deliveries of quantities of goods of the same prices, performed in bulk or in detail.
  – Deliveries of products for resale, regardless of the quantity delivered.
- Subsidiaries, performing the following:
  – A subsidiary company would be any company that ensures the operating part of one or more branches of another company, which is under the control or direction of the latter.
  – Independent professionals opting for the common tax regime option (added by Article 93 of the Finance Act for 2022).

Self-supplies are subject to VAT. The taxable base is determined as follows:
- For self-supplies of movable assets: by the wholesale prices of similar goods or otherwise by the price increased by the normal profit of the manufactured goods
- For self-supplies of immovable assets: by the cost price

Exemption from registration. There are no VAT registration requirements applicable to non-established businesses that source cross-border supplies of goods or services. Indeed, there is no registration dedicated to VAT only, but rather a tax registration (covering all applicable taxes, notably VAT) required for non-established businesses if a taxable presence is triggered in Algeria.

For imported goods, there is no requirement for the nonresident supplier to collect the Algerian VAT. In practice, the VAT is paid by the Algerian importer when the goods are cleared at customs.

For imported intangibles (i.e., supplies that do not require payment of the VAT at customs), if the Algerian client is a business, it is required to reverse-charge VAT.

Voluntary registration and small businesses. Taxable persons under the common law taxation regime may voluntarily apply for VAT. They must be natural or legal persons whose activity is outside the scope of VAT, insofar as they deliver:
- Through exports
- To oil companies
- To other VAT liable taxable persons
- To companies benefiting from the VAT-free purchase option

Group registration. In Algeria, the concept of a "VAT group" does not exist, but rather a "tax group." A tax group includes at least two Algerian entities under the form of a joint stock company (i.e., *Società per Azioni* [SpA]) where one, called the "parent company" holds the other(s) at 90% minimum of share capital.

A tax group can apply for the consolidation accounts' option (i.e., consolidation of balance sheet accounts) excluding companies operating in Oil & Gas (O&G) activities. If this option is approved, it should apply irrevocably for four years.

It is possible to consolidate VAT at the level of a group's head company, which must be an Algerian company. Note that it is not possible for a non-established business to be a member of tax group.

The group will be considered as a single entity for all tax purposes. Nonetheless, no specific VAT registration of the group is required (tax registration is required covering all taxes).

A tax group option is valid for four irrevocable years.

Members of a tax group in Algeria are not jointly and severally liable for VAT debts and penalties. Instead, each entity of the group is responsible for its own VAT debts and penalties.

Transactions between members of a tax group should not be subject to VAT.

Fixed establishment. Algerian common tax regime does not provide a specific definition of the concept of permanent establishment (PE). However, its Article 162 provides that foreign companies carrying out an activity in Algeria which requires the presence of their experts for a duration exceeding 183 days per a period of 12 months should be considered as having a taxable presence in the country; consequently, they should register their contracts and keep their books locally.

In Algeria, a foreign entity which has a taxable presence/PE in this country should be subject to the common tax regime including the VAT.

Non-established businesses. VAT registration is not allowed in Algeria for non-established businesses (i.e., those that do not have a presence in Algeria). However, if such businesses carry out transactions deemed to be within the scope of Algerian VAT, they may be subject to Algerian VAT by way of the reverse-charge mechanism.

Tax representatives. A tax representative can be appointed for PE purposes. However, no specific tax representative can be appointed for VAT registration purposes only.

Reverse charge. The reverse-charge mechanism is applicable to the supply of services by taxable persons established outside Algeria in case country that has a double-tax treaty with Algeria, with no legal presence locally (and if no taxable presence/permanent establishment is triggered by the onshore activities). The local customer must withhold and pay the due VAT on behalf of the foreign provider and declare it on monthly tax returns.

Domestic reverse charge. There is no domestic reverse charge in Algeria.

Digital economy. The following supplies are exempted from VAT until 31 December 2026:
- Expenses relating to the leasing of bandwidth intended exclusively for the provision of fixed internet services
- Internet access royalties
- Web server hosting costs at data centers located in Algeria and the domain ".dz"
- Website design and development costs
- Maintenance and support costs relating to website access and hosting activities in Algeria

There is no registration threshold for VAT purposes only in Algeria. A nonresident that provides electronically supplied services is subject to withholding tax (WHT) at the rate of 30% covering all taxes, including VAT; the filing and payment of which should be borne by the local customer on behalf of the foreign provider. This applies for both business-to-business (B2B) and business-to-consumer (B2C) supplies.

There are no other specific e-commerce rules for imported goods in Algeria.

Online marketplaces and platforms. No further special rules exist for online marketplaces and platforms in Algeria.

Registration procedures. Every individual who would practice an industrial, commercial or non-commercial profession and every legal entity or permanent establishment must, within 30 days of the commencement of its activities, file at the territorially competent tax authority a declaration of existence. The declaration of existence request must be accompanied by:
- A copy of the Articles of Association and trade register for the legal entities
- The corporate name
- The statistical identification number of the company
- A copy of the lease agreement related to the office
- The bank account number

- If it is a permanent establishment, a copy of the contract related to its local project
- A copy of the agreement or the administrative authorization if the activity or the place where the activity is performed is subject to a prior authorization

After filing the declaration of existence, the taxable person is provided with a registration certificate, which applies as a registration for all tax purposes (there is no specific registration for VAT). Afterward, the taxable person obtains a tax identification card, which includes the tax identification number.

The application for registration must be submitted by the taxable person itself or its legal representative or by any other person with a power of attorney to register a taxable person. Accordingly, there is no specific online registration for VAT purposes.

Deregistration. There is no special procedure or form required to deregister. It should be part of the overall tax deregistration. However, companies that cease to be subject to VAT are required to attach to their declaration a detailed statement of the stocks of goods that they hold in their factories, stores or depots.

Changes to VAT registration details. There is no VAT registration, but rather a tax registration covering all applicable taxes when required. Any change relevant from a tax perspective should be communicated to the tax authorities as soon as possible. The law fixes a timeline of 10 days only when it is about the closing of a company or regarding a permanent establishment when the contract already submitted for registration purposes has been amended. Any change should be communicated via an official letter (i.e., paper).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 19%
- Reduced rate: 9%

The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows for a reduced rate or exemption.

Examples of goods and services taxable at 9%

- Sales transactions involving the distribution of electricity and natural gas for a consumption of less than 250 kilowatt hours (KWH) and 2,500 thermal units per quarter
- Sales of heavy fuel oil, butane, propane and their mixture consumed in the form of liquefied petroleum gas (GPL-C)
- Pawnbroking transactions with households
- Sale of tickets to cinematographic theaters
- Operations carried out by maritime and air construction sites
- Services related to tourist activities, hotel, spa, classified tourist catering, travel and rental of tourist transport vehicles *(with effect until 31 December 2024)*
- Recyclable waste, including aluminum, iron, wood, glass, cardboard, plastic, paper, rubber, used tires, used engines, gearbox and lubricating oils, edible oils and fats and lead batteries

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Transactions carried out by a startup (where the taxable person meets certain conditions to be qualified as "startup company")

- Constructions and services relating to the prospecting, research, exploitation, liquefaction or pipeline transport of liquid and gaseous hydrocarbons, carried out by or on behalf of the national hydrocarbon company SONATRACH
- Acquisition operations carried out by banks and financial institutions within the framework of leasing operations
- Sales operations relating to pharmaceutical products mentioned in the national drug nomenclature
- Exportations of goods and services
- Internet access royalties *(with effect until 31 December 2026)*
- Promoters engaged in activities subject to VAT as part of investment projects eligible for employment support schemes

Note that the following are subject to the "lump sum tax regime" – natural persons exercising industrial, commercial or artisanal activity, whose annual turnover does not exceed DA8 million, excluding some activities listed by the Article 282ter of the Code of Direct Taxes.

Option to tax for exempt supplies. Taxable persons making exempt supplies may opt to tax such supplies by request to the tax authorities.

E. Time of supply

VAT tax point rules depend on the nature of the transaction and the related sector as follows:
- The tax point for the sale of goods is at the earlier of when the goods are physically delivered or when the invoice is issued (i.e., the legal delivery) to the customer.
- The tax point for construction works is the time full or partial payment is made.
- The tax point for services is the time full or partial payment is made.

Deposits and prepayments. Where the deposit is not considered as a part of the price nor as a part of a turnover, then no VAT is due on the deposit, except for a bank deposit, which is considered as a service provided by the bank.

Where the prepayment is part of the total price and therefore subject to VAT, two scenarios are to be considered:
- Goods: the tax point is normally the date of delivery of goods. However, in case of prepayment or advance payment, VAT will be applicable on the amount paid in advance.
- Services: prepayments are considered as partial payments of the price, thus the date the prepayment made is considered as the tax point.

Continuous supplies of services. There are no special time of supply rules in Algeria for continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. The tax law does not explicitly refer to goods delivered for approval; the delivery is considered as completed once the propriety of the goods is transferred from the seller to the buyer. In that case, the taxable event is the approval of the client.

Reverse-charge services. The reverse-charge mechanism is applicable to the supply of services by taxable persons established outside Algeria in a country that has concluded a double tax treaty with Algeria, with no legal presence locally (i.e., if no taxable presence/permanent establishment is triggered by the onshore activities). The local customer must pay the due VAT on behalf of the foreign provider and declare it on monthly tax returns.

Leased assets. Leasing operations, services, studies and research as well as any operation other than sales and construction works are subject to VAT at the date of collection or partial payment.

Imported goods. The tax point for imported goods is the date on which the goods are customs cleared.

Deemed supplies. There are no special time of supply rules in Algeria for deemed supplies. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

A taxable person may recover input tax charged on goods and services supplied to it, for business purposes. A taxable person generally recovers input tax by offsetting it against output tax charged on supplies made. Input tax includes VAT charged on goods and services supplied in Algeria, VAT paid on imports of goods and VAT self-assessed by the taxable recipient under the reverse-charge mechanism.

A valid tax invoice or customs document is compulsory for a VAT refund claim.

The time limit for a taxable person to reclaim input tax in Algeria is until 20 December of the following year from when the was input tax was omitted. It must be entered separately from the deductible taxes relating to the current period for which the declaration was made.

Nondeductible input tax. The right to deduct is not available where there is no conformity with the operating principles of VAT. Moreover, input tax is not recoverable on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use).

Examples of items for which input tax is nondeductible

- Acquisition of passenger's cars that are not considered as the main means of the company
- Restaurant meals and entertainment for employees and clients
- Goods, services, materials, real estate and offices that are not used for the purposes of the carrying on of a taxable activity
- Hotel accommodation for clients
- Reception costs

Examples of Items for which input tax is deductible (if related to a taxable business use)

- Service costs related to the business such as consulting reports, studies
- Lease payments related to the company's office
- Acquisition of goods to be resold to the company's customers

Partial exemption. If an Algerian taxable person performs both exempt and taxable supplies, it may only recover a portion of input tax. This situation is referred to as "partial exemption."

For the calculation of deductible VAT, partial taxable persons are subject to specific rules that have the effect of limiting the deduction to a fraction of the tax collected on their services and goods.

This fraction is equal to the amount of the said tax affected by a general percentage of deduction called "pro rata."

Taxable persons are required to provide, within the first 25 days of March of each year to the tax department where they are registered, the percentage of deduction they apply during the current year, as well as the overall elements used to determine this percentage.

Capital goods. There are no specific regulations that apply to the refund of VAT for capital goods in Algeria. As such, the general input tax recovery rules apply.

Where a capital good is acquired for less than five years and then it is transferred, the VAT deducted upon the asset's acquisition should be reversed according to a pro rata for the remaining years.

Where a taxable person carries out both activities that are "taxable and exempt" (i.e., partial exemption), the deduction of the VAT should be made under the prorate rule. See the subsection *Partial exemption* above for more details.

Refunds. In case of a VAT credit, it is possible to ask for a refund of VAT in the following four cases:
- Exempt supplies (including exports)
- Supplies to a sector or clients benefiting from a VAT exemption purchase certificate
- Termination of taxable activities
- In case of VAT rate differences between input and output tax

Taxable persons must meet the following conditions for being eligible for a VAT refund:
- Hold regular and compliant bookkeeping
- Provide a copy of the tax role (no tax debts)
- The reporting of the estimated deductible VAT amount on the monthly declarations by the beneficiary
- The VAT refund request must be made to the director of the competent tax authorities' office no later than the 20th of the month following the quarter for which the refund is requested; taxable persons who are "partially exempted" as defined above should submit their refund request annually (before April 30 of the year related to this VAT credit for which a refund is requested)
- The amount of VAT credit related to a given quarter for which a refund is requested should be equal or more than DZD1 million; this limitation amount does not apply on taxable persons who are "partially exempted" as defined above

Pre-registration costs. Input tax incurred on pre-registration costs in Algeria is not recoverable.

Bad debts. A taxable person is entitled to recover any output tax already accounted for to the tax authorities in respect of bad debts (i.e., where it has not been able to collect VAT due from its customers). VAT on a bad debt is recovered at the VAT rate that was applied to the original transaction. The tax law also requires that the taxable person reverses the input tax already deducted given that the supply operation will not trigger an output tax charge.

Noneconomic activities. Input tax incurred on purchases that are used noneconomic activities is not recoverable in Algeria.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Algeria is not recoverable.

H. Invoicing

VAT invoices. Any person liable for VAT who supplies goods or services to another taxable person must issue to the latter an invoice or document serving as an invoice.

Invoices or documents serving as an invoice, drawn up by the taxable person, must necessarily show, in a distinct manner, the following information:
- Name and information of the seller (i.e., corporate name, legal form of the taxable person)
- Name and information of the customer (i.e., denomination, address, trade register number, tax ID)
- Date
- Unit price excluding taxes
- Total price excluding taxes
- Nature and rate of the applicable taxes, notably VAT
- The total amount of the invoice including VAT

Credit notes. A VAT credit note may be used to reduce the VAT charged and to be reclaimed on a supply. It is also possible to cancel an incorrect invoice and issue a revised one.

Electronic invoicing. Electronic invoicing is allowed in Algeria, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Algeria. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Algeria. The requirements related to electronic invoicing are the same as those for paper invoicing.

Note: In Algeria, any person liable for VAT who supplies goods or services to another taxable person is allowed to issue an electronic invoice. However, physical invoicing is the common practice.

An electronic invoice does not need to be verified by the tax authority before issuing. It is, however, recommended to print and store all invoices, in the event that any invoices are requested for inspection in the case of a tax audit by the tax authority. The Algerian law provides some requirements for any issued electronic invoice, most notably to include the purchaser/the buyer information, the price excluding taxes, the VAT rate and the net amount. If the electronic invoice does not contain such required information, then the invoice may be rejected, notably by the tax authorities for the deduction of the related VAT.

Simplified VAT invoices. Authorization of simplified VAT invoices is granted expressly to taxable persons by the administration in charge of the commerce and can only be used for transactions that are repetitive and regular sales of goods to the same customer. Summary invoices are allowed for covering transactions with a customer, for a maximum period of one month. It must contain the prescribed information as outlined above for full VAT invoices.

Self-billing. Self-billing is not allowed in Algeria.

Proof of exports. To benefit from VAT exemption on exports, the taxable person must:
- Provide a document issued by the bank, proving the repatriation of export's payment in foreign currency.
- Join the above document to the annual tax return to justify the exemption of the related profit from corporate income tax (before 30 April of the following year).

Foreign currency invoices. Invoices related to import/export transactions can be issued in a foreign currency. However, the applicable VAT is generally issued in a separate invoice in the domestic currency, which is the Algerian dinar (DZD).

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Algeria. As such, full VAT invoices are required.

Records. In Algeria, examples of what records that must be held for VAT purposes include accounting documents and in particular, the invoices, contracts, purchase orders, monthly tax returns and identification information related to suppliers and customers.

Records must be kept for a minimum of four years, in line with the tax audit prescription. However, for Algerian trade legislation, the prescription is fixed at 10 fiscal years. In Algeria, company books and records must be held within the country. Such records must be kept at the level of the local company (i.e., in Algeria) and should be available to be provided in a timely manner in the case of tax audits.

Record retention period. Records of invoices must be kept for a period of 10 years, in line with the Algerian trade legislation.

Electronic archiving. Electronic archiving is allowed in Algeria. Documents can be archived electronically and physically. However, in case of a tax audit, the physical document should be made available for the tax authorities.

I. Returns and payments

Periodic returns. In principle, any person registered for VAT is required to file periodic returns and pay the relevant tax due to the Treasury. The said return is called a G-50 Form and is filed monthly to the competent tax authority (within the first 20 days following the end of the month). The form must state all information related to turnover, collected, payable and deductible VAT.

As per the provisions of the Finance Act 2024, with effect from 1 January 2024, it is mandatory to declare VAT exempt revenue when submitting the monthly VAT return to the tax authorities. As such, the VAT reporting obligations for exempt supplies now falls under the same approach as supplies subject to VAT.

Periodic payments. Payments are to be made alongside the monthly tax return filling and should be remitted to the tax authorities before the 20th of the following month.

In the case of payments after the deadlines, penalties for late payment apply, counted from the date on which they should have been paid. However, when the electronic payments made within the given deadlines suffer a delay not incumbent either on the taxable person or on the financial institution, provided that this delay does not exceed 10 days from the date of the payment, the late penalties do not apply.

Electronic filing. Electronic filing is mandatory in Algeria for certain taxable persons. VAT must be reported electronically on the monthly tax return (G50 Form). If the taxable person is registered at the Direction of Large Companies (DGE), which is the tax authority where large companies register, the monthly tax return should be submitted on DGE's online platform called "JIBA-YA'TIC." It is recommended to print it afterward to keep it in the taxable person's records.

If the taxable person is registered at a regional tax inspection, the monthly tax return should be printed and remitted physically to the tax collector.

It is always recommended to keep physical copies at the level of the taxable person, as they are required in case of a tax audit.

Payments on account. Payments on account are not required in Algeria.

Special schemes. *Lump sum tax regime.* The lump sum tax regime is a single global tax regime that covers VAT, personal income tax (PIT) and tax on professional activity (TAP) and is applicable to natural persons exercising an industrial and commercial, as well as artisanal activities, whose annual turnover does not exceed DA8 million, excluding some activities listed by the Article 282ter of the Code of Direct Taxes. The Code of Direct Taxes sets the rate of lump sum tax as follows: 5%, for the activities of production and sale of goods and 12%, for other activities.

Furthermore, new taxable persons that meet the scope of the lump sum tax regime may opt to be taxed according to the standard regime when they file their declaration of existence, as provided for in Article 183 of the Direct Taxes and Similar Taxes Code.

The lump sum tax regime also applies for natural persons with the status of "auto-entrepreneur." Algerian law defines an auto-entrepreneur as "any individual carrying out, on an individual basis, a profit-making activity listed in the activities qualifying for status." Moreover, and as per local regulation, any individual is eligible for the status of auto-entrepreneur provided they meet the following conditions:

- They have reached legal working age
- They are either of Algerian citizenship and an Algerian resident or a foreigner residing in Algeria
- They perform an activity that is listed in the specified list of activities for the regime
- Their annual turnover does not exceed DZD5 million

Under Algerian regulations, the auto entrepreneur status is only available for specific supplies of services. As such, the following activities are covered by this status:
- Consultancy, expertise and training
- Digital services and related activities
- Home services
- Personal services
- Leisure and entertainment services
- Business services
- Cultural, audiovisual and communication services

Annual returns. Annual returns related to VAT are not required in Algeria. However, an annual tax return in term of corporate income tax (CIT) is required before April 30 of FY(n+1).

Supplementary filings. In the case of a taxable person carrying out wholesale activity, a dedicated template, including the information related to the clients, must be filed. This template should be submitted on an annual basis.

Correcting errors in previous returns. Omissions and errors can be corrected voluntarily by submitting a supplementary monthly tax return (G50 Form) and including the additional tax amount to be paid. An explanative letter should also accompany the corrective returns.

Digital tax administration. There are no transactional reporting requirements in Algeria.

J. Penalties

Penalties for late registration. Taxable persons who fail to subscribe their declaration of existence within the required time are liable to a fiscal fine amounting at DZD30,000.

Penalties for late payment and filings. The late filing of the monthly tax return (G50 Form) gives rise to the application of a penalty of 10%. The penalty is based on the amount of unpaid VAT due. This penalty is raised to 25% after the Administration has given notice to the person liable by registered letter with acknowledgment of receipt to regularize its situation within a period of one month. Finally, it is specified that the date of the deposit to be held will be that of the "delivery" to the receiver, therefore the "reception" by the latter and not the sending by the taxable person. Tax authorities can proceed with internal assessments based on the information provided by the taxable person, its clients and its suppliers.

Penalties for errors. When following an audit, it appears that the annual turnover declared by a taxable person is insufficient or in the case of a deduction made in error, the amount of the evaded rights (i.e., the unpaid tax due to the error) is increased by:
- 10% when the amount of rights evaded, per year, is less than or equal to DZD50,000
- 15% when the amount of rights evaded, per exercise, is greater than DZD50,000 and less than or equal to DZD200,000
- 25% when the amount of duties established, per financial year, is greater than DZD200,000
- In case of fraudulent maneuvers, the penalty is set at 100% on all rights. In addition, the tax authorities could instruct to apply the below correctional sanctions, see the subsection *Penalties for fraud* below, in case the evaded amount exceeds 10% of the amount due.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Rulings. Taxable persons registered with the DGE can submit a ruling request to the tax authorities to be advised on the compliant way of proceeding. A ruling can be opposed to the tax administration to challenge its position.

Penalties for fraud. The breach of the laws and regulations governing VAT are sanctioned by tax or correctional penalties, depending on whether the offenses have been committed in good faith and without fraudulent intent or, on the contrary, the offense is due to fraudulent acts committed knowingly.

The penalties for those who knowingly decrease or try to decrease the total or a part of the taxable basis or the applicable tax are:

- A criminal fine of DZD50,000 to DZD100,000, where the amount of the duties evaded does not exceed DZD100,000.
- Imprisonment from two months to six months and a fine of DZD100,000 to DZD500,000, or only one of these two penalties when the amount of duties evaded is greater than DZD100,000 and does not exceed DZD1 million.
- Imprisonment from six months to two years and a fine of DZD500,000 to DZD2 million, or only one of these two penalties when the amount of duties evaded is greater than DZD1 million and does not exceed DZD5 million.
- Imprisonment from two years to five years and a fine of DZD2 million to DZD5 million, or only one of these two penalties when the amount of duties evaded is greater than DZD5 million and does not exceed DZD10 million.
- Imprisonment from five to 10 years and a fine of DZD5 million to DZD10 million, or only one of these two penalties when the amount of duties evaded is greater than DZD10 million.

Personal liability for company officers. Company officers cannot be held personally liable in the case of non-voluntary errors and omissions. However, in the case of fraudulent actions, legal representatives and managers of the companies are jointly and severally liable with the company and would be subject to sanctions mentioned in the subsection above *Penalties for fraud.*

Statute of limitations. The statute of limitations in Algeria is four years. Hence, the tax authorities may review the last four years of returns to identify errors and charge penalties.

Angola

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Value-added tax (VAT) entered into force in Angola on 1 October 2019, revoking the existing consumption tax (Imposto de Consumo).

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposto sobre o valor acrescentado (IVA)
Date introduced	1 October 2019
Trading bloc membership	Southern Africa Development Community African Continental Free Trade Area (AfCFTA)
Administered by	Administração Geral Tributária (AGT) (https://agt.minfin.gov.ao/PortalAGT/)
VAT rates	
Standard	14%
Reduced	5%, 7%
Other	Zero-rated (0%) and exempt
VAT number format	5 4 2 3 4 5 6 7 8 9
VAT return periods	Monthly
Thresholds	
Registration	AOA25 million
Deregistration	Less than AOA25 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
• The supply of goods or services made, used or exploited in Angola by a taxable person
• The importation of goods

For VAT purposes, the territory of Angola includes the land and water, as well as the subsoil in the terms prescribed in Article 3 of the Republic of Angola's Constitution, as well as other territorial or international areas where law or international agreements recognize Angola's tax jurisdiction, such as the concessions map.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Angola, the Angolan VAT Code set forth, as a general rule, that the place of supply of services is deemed to be located in Angola whenever the acquirer has herein its place of business/head office or has a permanent establishment from which the services are acquired or, in the absence of such, when the acquirer has domicile or habitual residence in Angola. However, the Angolan VAT Code also foresees exceptions to the mentioned place of supply of services' general rule determining that "without prejudice to the provisions in the preceding paragraphs to this, the supply of services whose effective use and enjoyment takes place in national territory are always subject to VAT." The definition of "effective use and enjoyment" is not established in the VAT law nor exist any guidelines from the AGT in this regard. However, the AGT tends to consider that services, even if physically carried on in full outside Angola, are herein located in case they are somehow connected with Angola.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Angola, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The goods and services transferred are capable (as a whole) of forming a separate business in their own right
- The recipient (i.e., transferee) is a taxable person or becomes a taxable person as a result of the transfer, and performs exclusively output transactions that entitle the right of VAT deduction

Transactions between related parties. In Angola, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the VAT Code sets forth that VAT related to simulated transactions (or simulated price) is not recoverable.

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services or importation of goods in the course of a business in Angola. A taxable person that begins activity must notify the VAT authorities of its liability to register for VAT purposes.

Nevertheless, if the taxable person only incurs a one-off single taxable transaction it will not be required to file the declaration of beginning of activity at the tax authorities regarding such matter. In Angola, there are three VAT regimes in place:

- General VAT regime, which is applicable to taxable persons with an annual turnover (and/or import of goods) of more than AOA350 million.
- Simplified VAT regime, which applies to taxable persons whose annual turnover (and/or import of goods) is higher than AOA25 million and lower than AOA350 million.
- Exclusion VAT regime, applicable to taxable persons with annual turnover lower than AOA25 million. Under this regime, taxable persons are treated as final consumers (they do not charge VAT on the output transactions nor can they deduct any input tax).

Entities with an annual turnover and/or import of goods transactions higher than AOA350 million fall under the general VAT regime and must comply with local bookkeeping and Standard Audit File for Tax (SAF-T) rules from that date, as well as with the remaining VAT obligations.

As a general rule, imports of goods are subject to VAT. The VAT taxable base is the customs value of the goods, obtained according to the customs legislation in force, including the following (if not included already): customs duties, other taxes (except for VAT) or administrative charges due on the import of goods and ancillary costs (such as packaging, transport, insurance and other charges), including ports and airports costs.

Exemption from registration. If the taxable person only incurs a one-off single taxable transaction, it will not be required to file the declaration of beginning of activity at the tax authorities regarding such matter.

Voluntary registration and small businesses. There is the possibility of voluntary registration to the VAT general regime if the following cumulative requirements are met:
- Have organized bookkeeping and updated registration with the Angolan tax authorities
- No tax or customs debts
- Have ERP systems prepared to issue invoices according to the current rules in force
- Be prepared to submit by electronic means the VAT returns and accounting and invoicing information (i.e., SAF-T file)

Group registration. Group VAT registration is not allowed in Angola.

Fixed establishment. In Angola there is no legal definition of a fixed establishment for VAT purposes. The AGT does not provide such a definition. Mainly, the only criterion applicable is whether or not the taxable person performs taxable transactions located in Angola.

Non-established businesses. A "non-established business" is a business that is not registered nor has permanent establishment in the territory of Angola. Non-established businesses that perform taxable operations in Angola should nominate a representative who is a taxable person for VAT purposes. The representative must comply with all the obligations created under the VAT Code for taxable persons, namely the declaration and registration obligations. The representative will be liable for the payment of the VAT due. The Angolan VAT Code sets forth that non-established business may opt for a simplified VAT registration (under which there is no requirement to nominate a tax representative). *At the time of preparing this chapter, however, such option depends on further regulation, which has not been published (but is expected to occur within the upcoming months).*

If no tax representative is nominated, the VAT should be self-assessed and paid by the purchaser (if the purchaser is a taxable person for VAT purposes).

Tax representatives. As mentioned above, non-established businesses should nominate a tax representative for VAT purposes in Angola. In case of default (i.e., nonpayment of VAT due within the legal deadline), the representative and the non-established business are jointly liable for the payment of the VAT due.

Reverse charge. The reverse-charge mechanism is applicable whenever a non-established entity does not nominate a VAT representative and the services are deemed located in Angola, notably:
- Provision of services related with real estate properties located in Angola
- Accommodation and catering services supplied in Angola
- Provision of services connected with movable assets made (total or partially) in Angola
- Provision of services connected with the services relating to the access of cultural, artistic, sporting, scientific, educational and similar events, including the access of fairs and exhibitions (as well as the provision of services considered auxiliary so such activities) in Angola

- Leasing of motor vehicles, pleasure crafts, aircraft or any other vehicles when they are put at the disposal of the recipient in Angola
- Provision of services related with the transport of passengers in Angola
- Other services used, or which exploitation occurs in Angola

Domestic reverse charge. There are no domestic reverse charges in Angola.

Digital economy. With effect from 28 December 2023, distance sales of goods made via e-commerce are considered to be subject to VAT in Angola. This is provided that the purchaser has herein its registered office, domicile or permanent establishment in Angola, or the payment had its origin in Angola.

With reference to the supply of services, the general rule for the place of supply is that the services are deemed to be located/supplied in Angola whenever the customer has in Angola its place of business/head office or has a permanent establishment, from which the services are acquired, or, in the absence of such, when the customer has domicile or habitual residence in Angola. However, the VAT Code sets forth exceptions to such a rule, by establishing other (i.e., taxation) drivers, regardless of the place where the customer is located. One of these exceptions is established by the "use and enjoyment" criteria outlining that the supply of services whose effective use and enjoyment takes place in national territory are always subject to VAT. The definition of effective use and enjoyment is neither foreseen in the VAT law nor do any guidelines exist from the Angolan tax authorities in this regard. Therefore, in practice, nonresident providers of electronically supplied services will be deemed to be located in Angola under the use and enjoyment criteria.

Nonresident providers of electronically supplied services for business-to-consumers (B2C) supplies are required to register and account for VAT on their supplies in Angola.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT in Angola. Instead, the customer is required to self-account for the VAT due, by way of the reverse-charge mechanism. See the *Reverse-charge* subsection above.

Online marketplaces and platforms. According to the changes inserted in the VAT Code with effect from 28 December 2023 onward, there is a specific provision that foresees the VAT payment liability on transactions performed via electronic platforms. *However, at the time of preparing this chapter, it remains unclear which entities are covered by this provision (due to an ineffective normative reference).*

Registration procedures. For VAT purposes, a declaration of the beginning of an activity (Form Modelo 06) must be filed 15 days prior to starting to perform the activity, through electronic means. No other documents are required to be filed as long as the taxable person is already registered at the Commercial Registry. If this is not the case, further documents may be required.

Deregistration. Individuals or companies subject to VAT must, within 30 days from the date of termination of activity, submit a Declaration of Cease of Activity through electronic means.

The activity is deemed ceased when one of the following conditions is verified:
- The company is no longer trading for a period exceeding two consecutive years (note that in this situation, the AGT will presume that the goods of the entity that still exist were sold)
- Extinction of the assets of the company (the goods were sold or were used to private use of the titular, the staff or, more generally, for purposes different of the company's business)
- Transfer of the property of the entity (e.g., TOGC)
- AGT can declare, on their own authority, the cessation of activity, if considering that there are grounds to sustain that the company's activity is being used for fraudulent purposes

Changes to VAT registration details. When there is a change in certain VAT registration details (i.e., name, address, starting/stopping to make imports, exports), the taxable person is obligated to inform the tax authorities of changes within the following 15 days after the change through the submission of a declaration of changes of activity by electronic means.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 14%
- Reduced rate: 5%, 7%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provided for a reduced rate, the zero rate or an exemption.

There is also a 1% VAT rate that is applicable to the import of goods and the subsequent onward supplies in the province of Cabinda (except for oil sector, light passenger vehicles, alcoholic beverages, tobacco, jewelry and watches). This is with effect from 28 December 2023 and was previously 2%.

Examples of goods and services taxable at 0%

- Exports:
  - Dispatched to a foreign country by the seller/exporter
  - Repair, maintenance lease and other operations relating to the ships identified above as well as for aircraft used by companies that develop cross-border traffic activities
  - Supply, conversion, repair, maintenance, freight and rental, including leasing, of vessels and aircraft affected to air and sea navigation companies that are principally engaged in international traffic, as well as the transmission of supply goods placed on board the referred vessels and aircraft, as well as services rendered to meet their direct needs and those of its cargo
  - Supplies of goods destined to international organizations recognized by Angola or to members of the same organisms within the limits and with the conditions established in international agreements concluded by Angola
  - Transport of passengers, cargo or mail proceeding from abroad

Examples of goods and services taxable at 5%

- Widely consumed foodstuffs (e.g., meat, fish, milk, sugar) (*with effect from 28 December 2023*)
- Agricultural inputs listed in Annex I and II to the VAT Code (e.g., live animals, seeds and fertilizers) (*with effect from 28 December 2023*)

Examples of goods and services taxable at 7%

- Hotel and restaurant services, only if the correspondent service providers comply cumulatively with the following:
  - Registration of all immovable property and/or motor vehicles that are owned or used by the service provider
  - Issuance of invoices through electronic invoicing systems
  - Submission of the due tax returns from previous years

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Medication and other related products for therapeutic and prophylactic ends

- Wheelchair and similar vehicles destined for people with disabilities as well as braille machines and other gadgets used to correct learning disabilities
- Books (including e-books), except those including pornographic content
- Sale or leasing and letting of immovable property (excluding financial leases and the accommodation services provided by hotels and entities with similar activity)
- Collective public transportation services
- Banking and financial operations carried out by banking financial institutions and nonbanking financial institutions, including the financial leasing, apart from these activities if a tax or a consideration is charged by the service provided
- Insurance activities
- Supply of fuels according to Annex V of the VAT Code
- Medical and health services (except beauty/aesthetics services)
- Teaching services provided by establishments covered by the basic law of the education and teaching system

Option to tax for exempt supplies. It is possible to waive the VAT exemption related to the supplies of medication and other related products for therapeutic and prophylactic ends as well as the supplies of books. Taxable persons that want to waive the VAT exemption must file a declaration, by electronic means, to the General Tax Authorities and meet certain requirements. If AGT does not reply within 30 days, the request is tacitly accepted. Once accepted, this waive is valid from 1 January of the following civil year (unless the taxable person starts its activity during the year, in which case the taxable person can request to waive the exemption from the beginning of its activity). Once the exemption has been waived, the taxpayer is required to maintain the option for a period of at least five years.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." Under the general rule, an invoice should be issued by the fifth business day following the date of the supply. The actual tax point becomes the date on which the invoice is issued. However, if no invoice was issued, tax becomes due on the fifth business day after the basic tax point. If the payment occurs before the invoice is issued, even if partially, the corresponding VAT is due at the same time of the payment. The same is applicable in case payment occurs or invoices are issued before the finalization of the taxable operations.

The basic time of supply for goods is when they are made available to the client or at the time the transaction was fully or partially settled (before the client has received the goods).

There are no special time of supply rules in Angola for construction works.

The basic time of supply for services is when they are rendered or at the time the referred provision of services was fully or partially settled (before the service has been provided).

Deposits and prepayments. For advance payments, the tax point is the date on which the advance payment is received. The supplier must issue an invoice as soon as advance payment is received.

Continuous supplies of services. With regard to continuous supplies of services, the time of supply occurs at the end of the period concerning each payment. However, when the payment schedule is not defined or exceeds 12 months, the VAT is due at the end of each 12-month period.

Goods sent on approval for sale or return. As a general rule, when goods are made available before the sale takes place, a taxable supply of goods is deemed to have taken place when the underlying contract is finalized. Additionally, when goods are sent on a consignment basis, tax is due if after 180 days the acquirer does not return the goods.

Reverse-charge services. There are no special time of supply rules in Angola for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Since leasing agreements are usually considered a continuous supply of services, the time of supply occurs at the end of the period foreseen for each payment, under the rules abovementioned.

Imported goods. The tax point for the importation of goods will be in the moment that the formalities of customs duties are completed.

Personal use. When company goods are permanently assigned to an employee for personal use the tax point occurs when the assignment takes place. The same rule is applicable when privately owned goods are assigned to company use.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred with the acquisition of goods and services deemed indispensable for the maintenance of the business. A taxable person generally recovers input tax by deducting it from output tax charged on the supplies of goods or services carried out as well as tax paid on the import of goods.

Input tax includes VAT charged on goods and services supplied in Angola, VAT paid on import of goods and VAT self-assessed on the reverse-charge services.

The time limit for a taxable person to reclaim input tax in Angola is 12 months. While input tax should generally be deducted in the VAT return of the month of issuance of the underlying invoice or in the following month, changes implemented with effect from 28 December 2023 means it is possible to submit the corresponding VAT return (including as an amendment return) up to 12 months after the issuance of the corresponding invoice or receipt for payment of import VAT in order to deduct the tax.

To deduct VAT, the taxable person must be in possession of invoices compliant with the legal requirements applicable for the invoices' issuance.

Nondeductible input tax. There are some types of costs that, by their nature, may easily be used for personal purposes. As such, the legislator has opted to deny the right to input tax on these expenses – except when the same constitute the core of the entity's activity.

Examples of items for which input tax is nondeductible

Input tax is not deductible on the following operations:

- Expenses with acquisition, manufacturing or import, leasing (including financial lease), insurance, transformation and repair of tourism cars (i.e., those considered as vehicles, with trailer included, that are not exclusively used for the carriage of goods or to perform an agricultural, commercial or industrial activity, or even used for cargo and passenger or only for passenger transport purposes, it does not have more than 10 seats, with the inclusion of the driver), leisure boats, helicopters, airplanes, motorbikes and motorcycles
- Expenses relating to housing, food, beverages and hospitality expenses
- Expenses relating to acquisition or import of tobacco

Special input tax rules apply to oil companies.

Examples of items for which input tax is deductible (if related to a taxable business use)

- All except the abovementioned ones and resulting from simulated operations.

Partial exemption. Input tax directly related to exempt supplies of goods or services is not generally recoverable. If an Angolan taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

The VAT Code provides for two methods to recover VAT when a company makes both exempt and taxable supplies. The first that should be applicable by rule is a pro rata method according to which VAT is only deductible in the same ratio as the annual amount of operations that originate deductibility vs. the exempt operations that don't give rise to deductibility. Whenever the pro rata is equal or higher than 98%, the VAT may be deducted in full.

There is also a second method, referred to as the "direct allocation method," which prescribes the real allocation of all the goods that are purchased for resale. The Angolan VAT authorities may impose the use of the direct allocation method to prevent distortions of competition. Approval from the tax authorities is required to use the partial exemption standard method. This is effectively the direct allocation method in Angola and can only be used in the following month and onward to the one when the AGT approval was obtained. This can be done through a written request. Special methods are not allowed in Angola.

Capital goods. The VAT Code is silent on a specific rule for input tax deduction for capital goods. This said, taxable persons are obliged to record any purchases to allow monitoring of the input tax deductions made.

The records, to be filed together with the VAT tax return, should contain, for all goods, the following elements (i.e., requirements):
- Data of the acquisition
- Value of the input tax
- Value of the input deducted

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit that will be carried forward to the next taxable periods.

However, if the taxable person has been in a credit position for three consecutive months and the tax credit is equal or higher than AOA700,000, it could apply for a VAT refund.

A refund may also be requested (regardless the previous requirements) if any of the following circumstances verifies:
- The taxable person ceases operations.
- The tax credit situation results from zero-rated VAT transactions.
- The taxable person switches to the "non-subject VAT" scheme (see *Section I. Returns and payments* below).

The VAT refund is requested through the correspondent VAT return.

The request for a VAT refund will trigger an inspection by the tax authorities to confirm that the taxable person is indeed entitled to the VAT refund being claimed. For this purpose, the following documents/information may be requested (in digital format) by tax authorities within the VAT refund inspection:
- Invoices or equivalent documents regarding the goods or services acquired, which underlie the VAT credit
- Customs declaration of import of goods
- Payment document of import VAT
- General analytical balance sheet and journal of accounting movements for the period of VAT credit

- Explanatory note on the VAT adjustments made in favor of taxable person
- Any document necessary to assess the legitimacy for the request for the reimbursement of the VAT credit
- Proof of export document (to be submitted electronically)
- Document or letter of comfort of the intermediary banking institution in the export process to ensure export revenues are repatriated to the country in accordance with the Foreign Exchange Act

The following conditions must be met for a refund request to be granted (if one or more of these conditions is not met, the refund request can be suspended or rejected):

- The taxable person must be fully compliant with its declarative and reporting obligations (i.e., VAT, excise duties, industrial tax and property taxes) related to previous tax periods.
- Have electronically communicated the SAF-T files (one for "Invoicing" and other for "Acquisitions of Goods and Services") for the previous periods, without divergences with the amounts disclosed in the VAT return.
- Existence of a bank account of which the taxable person is the holder, confirmed by the correspondent bank (should be an entity established in Angola).
- Input tax deductible cannot refer to transactions made with other taxable persons with a nonexistent or invalid tax number (except for transactions where the VAT due was reverse charged by taxable person).
- The suppliers' annex (which is filed as an annex to the VAT return) should not include reference to taxable persons who have suspended or ceased their activity in the period to which the VAT refers to.

The payment deadline of the VAT refund is foreseen to end at the last day of the third month following the filing of the refund claim, after which indemnity interest will be due for the delay.

The VAT refund will be reimbursed in cash or through a tax credit certificate. This tax credit certificate (i.e.,electronic format) can be used to pay customs duties and other taxes (except for withheld taxes) within the five years' expiry period.

In case the taxable person has any tax debt when the VAT refund is to be granted, the VAT credit amount will be offset with the correspondent tax debt.

Pre-registration costs. Input tax incurred on pre-registration costs is non-recoverable in Angola.

Bad debts. Taxable persons may deduct the VAT amount related with bad debts revealed in its accounting records, as well the irrecoverable debts resulting from the execution and insolvency proceedings. A bad debt is considered to exist when the following conditions are met: (i) a nonpayment risk is duly justified, (ii) the credit is overdue for more than 18 months and (iii) there is objective evidence of its impairment and the collection efforts/actions made.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Angola.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Angola is not recoverable.

H. Invoicing

VAT invoices. Taxable persons should, by rule, issue invoices per operation (for all taxable supplies – including exports).

Non-established entities that are required to nominate a representative must issue invoices with their VAT registration number, along with the VAT number and address of the chosen representative additionally to the other ordinary requirements of any invoice.

Credit notes. A VAT credit note can be issued to reduce the VAT charged and reclaimed on a supply (e.g., return of the goods or a discount). A credit note must be cross-referenced to the original invoice and contain the following phrase, *anulação ou rectificação* (i.e., cancelation or correction). The supplier can make the reductions if it has in its possession the proof that the customer agreed and acknowledged with such procedure.

Electronic invoicing. Electronic invoicing is mandatory in Angola for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Angola. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoicing is mandatory in Angola for taxable persons with an annual turnover higher than AOA25 million. For this purpose, it is mandatory to have a billing software previously certified by the AGT. For other taxable persons (i.e., those with an annual turnover equal or less than AOA25 million), electronic invoicing is allowed, but not mandatory.

Simplified VAT invoices. The Angolan VAT law does not contain any provision on simplified VAT invoices. However, under certain conditions, it is possible to raise other types of documents (e.g., entrance tickets, tickets of transports, tolls; documents issued by automatic distribution electronic machines or electronic systems) instead of invoices if the acquirer of the goods is not a taxable person (but an individual entity) and these goods or services acquired are not linked or connected with any business activity.

These documents should be sequentially numbered, dated and contain the following information:
- Suppliers' VAT identification number, full name and address
- Quantity and nature of the goods supplied or the extent and nature of the services rendered
- The price and the amount of the VAT due (if applicable)

However, it is mandatory to raise an invoice for this type of operations if the client requires it.

Self-billing. Self-billing is allowed in Angola. Under the Angolan Legal Regime for Self-billing, self-billing corresponds to the issuance of invoices/receipts by the acquirers on behalf of their suppliers. Any entity who is a tax resident in Angola may adopt self-invoicing on the acquisition of products of specific sectors (i.e., agriculture, forestry, aquaculture, apiculture, poultry, fisheries and cattle, as also foreseen by the previous regime) or acquisition of any service.

However, this possibility (of issuing self-invoices) is only applicable when the supplier is an individual entity who is unable to issue invoices or equivalent documents.

The issuance of invoices/receipts by the acquirer of goods and/or services (in place of their correspondent suppliers) must be made in accordance with specific legal requirements, namely reference should be made in the self-invoice to the word *Autofacturação* (i.e., self-invoicing in Portuguese), and the self-invoice must be issued through a certified billing software program.

The issuers of self-invoices take due action to report to the tax authorities the tax registration process of their suppliers/providers (whom they are replacing on the invoices' issuancse) that are not yet registered and whenever one of the following situations occurs:
- Are issued three (or more) self-invoices to the same supplier, within a minimum period of three months
  Or
- The total amount of a single acquisition is equal to or greater than AOA500,000

Issuer of self-invoices who are wholesale traders will be subject to an obligation of reporting the sale of goods made to private entities in the amount of AOA1 million or higher.

The issuance of self-invoices is also subject to the following limits:

- Self-invoices should not correspond to more than 20% of the total costs of goods sold and materials consumed and costs with supplies of goods and services rendered by third-party entities of the issuer.
- If the products acquired in covered sectors (i.e., agriculture, forestry, aquaculture, apiculture, poultry, fisheries, cattle) contribute exclusively to the realization of the acquirer entity's corporate purpose, the costs resulting from self-invoicing can be considered at 60%.

There are no special provisions demanding for a written agreement. The invoice/receipt should be raised when the payment is received.

Proof of exports. VAT is not chargeable on exported goods. However, an invoice should be raised per supply of goods or services and in order to qualify as VAT-free, exports must be supported by evidence that confirms the goods have left Angola (e.g., customs authorities' document or statement issued by the customer disclosing the goods' destination).

Foreign currency invoices. Invoices must be issued in the domestic currency, which is the Angolan kwanza (AOA), except when related with import and export operations, which are subject to the international trade rules. As such, the invoices should be issued in Portuguese containing the unit price and total price in local currency.

Supplies to nontaxable persons. The VAT invoicing rules for supplies to nontaxable persons are the same as those outlined above, under the *Simplified invoices* subsection. Otherwise, full VAT invoices are required.

Records. In Angola, examples of what records must be held for VAT purposes include all invoices and equivalent documents (issued and received), accounting records regarding output and input supplies, and correspondent VAT applicable and receivables.

Taxable persons are obliged to archive and conserve on national territory all invoices and equivalent documents, as well as records concerning the analysis, programming and implementation of computer systems used.

In Angola, VAT books and records must be held within the country.

Record retention period. All invoices and equivalent documents must be kept, according to the legislation in place, by the taxable person for five years.

Electronic archiving. Electronic archiving is mandatory in Angola. Backup copies of the invoices and equivalent documents must be archived in digital format and be available for immediate consultation of the AGT (if needed).

I. Returns and payments

Periodic returns. VAT returns and their annexes must be submitted on a monthly basis, by electronic means, in the taxable person portal. Monthly VAT returns must be submitted by the last business day of the month following the one when the operations took place.

Periodic payments. After the submission of the periodic return, and in case VAT is due, the billing document should be issued automatically. VAT amounts due should be paid in AOA, by the last business day of the month following the one when the operations took place. The payment of the VAT due can be made via bank transfer, at an ATM machine (i.e., a *Multicaixa*). Payments can also be made in installments (see the subsection *Payments on accounts* below).

Electronic filing. Electronic filing is mandatory in Angola for all taxable persons. VAT returns must be filed online via the taxable person portal.

Payments on account. Payments on account are optional in Angola. The AGT has provided taxable persons with the option to pay VAT due in installments. Taxable persons can now pay VAT due in five installments, with a possibility to make payments through multiple bank accounts. The installment payments must reflect the equitable division of all items that make up the total amount payable (i.e., VAT payable, legal surcharges and penalties, and interest, if applicable). The option to pay VAT in installments is only possible if the VAT payable is equal to or exceeds AOA3 million.

Special schemes. *Simplified VAT regime.* Further to the changes introduced in the VAT Code with effect from 28 December 2023, the rules applicable to taxable persons covered by the simplified VAT regime are now part of the VAT Code. The simplified VAT regime is available for taxable persons with an annual turnover higher than AOA25 million and lower than AOA350 million (unless they opt for the general VAT regime). Under the simplified regime, taxable persons must assess a 7% VAT on the turnover actually received from all transactions (including exempt transactions and advanced payments), except for the lease of real estate, to which is applicable the rate defined in the Stamp Duty Code. The taxable person can deduct up to 10% of the VAT on the acquisition of goods and services (including the expenses for which input VAT is considered as nondeductible, such as tourism cars, accommodation services and others).

There is payment obligation of stamp duty at a 1% rate on the receipt of discharge of VAT exempt transactions which applies only to taxable persons under the general VAT regime that carry out exclusively VAT-exempt transactions. The VAT payment is made on a monthly basis and must comply with local bookkeeping and SAF-T rules from that date, as well as with the remaining VAT obligations.

Exclusion VAT scheme. The exclusion VAT regime is applicable for the entities with a turnover lower than AOA25 million (during the previous 12 months). These taxable persons are also obliged to submit the declaration of the beginning of the activity, as well as the declaration of cease of the activity. Under this regime, taxable persons have to file on a monthly basis and by electronic means, a report containing the information of the suppliers (*mapa de fornecedores*) stating the acquired goods and services from suppliers under the VAT general regime. Additionally, taxable persons are also obliged to issue invoices that state: *IVA – Regime de não sujeição* and store the documents related to the sales performed and the goods or services acquired.

Cash accounting. Taxpayers under the general VAT regime who have had in the previous financial year a turnover or import operations equal to or less than AOA200 million and do not carry out exempt transactions (without credit) may apply for the VAT cash regime. This regime could also be applicable for companies with business activity only related with the distribution of drinking water and electric power. In case the entities chose to apply for such regime, it must remain in it for three years and the invoices should state *IVA Regime de Caixa.* Additionally, certain taxable persons should be required to withhold (*IVA Cativo*) 100% of the VAT of their acquisitions (i.e., oil companies, the Angolan State – except public companies) and others should be required to withhold 50% of the VAT of their acquisitions (the National Bank of Angola and the commercial banks, insurance and reinsurance companies, and telecommunication operators with a unified global title). In this case, the taxable person should charge VAT on the invoice and the acquirer will withhold the VAT – at the moment the invoice is received – and will be responsible for the payment of the VAT to AGT.

There is also a special VAT regime applicable to the province of Cabinda.

Annual returns. Annual returns are not required in Angola.

Supplementary filings. *Suppliers List*. Taxable persons with an annual turnover (of taxable supplies or imports) with a value greater than AOA25 million must file the monthly VAT return along with a correspondent annex outlining list of suppliers.

Correcting errors in previous returns. Corrections to a previous VAT return must be made through the correspondent amendment VAT return. However, the VAT deduction should be made on the VAT return of the period or the following one to when the underlying invoices or equivalent document was issued.

Digital tax administration. *Standard Audit File for Tax (SAF-T).* Taxable persons under the general VAT regime are required to file a Standard Audit File for Tax (SAF-T) file type "Invoicing" and "Acquisition of Goods and Services" until the last day of the month following that in which the operations were carried out. The SAF-T file type "Invoicing" refers to all invoices issued by the taxable person during the relevant period and SAF-T file type "Acquisitions of Goods and Services" refers to all invoices received.

A SAF-T file type "Accounting" should disclose all accounting records in accordance with the data structure foreseen by applicable law and made available to the tax authorities if requested.

J. Penalties

Penalties for late registration. If the taxable person files declaration of beginning of activity after the deadline (15 days prior to starting the activity) the penalty is equal to AOA600,000, for cases of negligence. If the situation is legalized with 30 days from the deadline, the penalty is reduced to half.

If the taxable person fails to submit a VAT return or does so after the legal deadline has passed, the payment of a fine equal to AOA600,000 for each in fraction will be due, doubling every three months until the VAT return is duly filed. At this point, if the situation is rectified in 30 days' time, the value of the fine is reduced by half.

Penalties for late payment and filings. If the VAT returns are not submitted in time, the AGT will proceed with the tax assessment on its own authority. This assessment is based upon the VAT returns submitted in the previous months. The applicable penalty for not or late filing the VAT return is the same as mentioned for the declaration of beginning of activity.

With regard to outstanding VAT (under assessment of VAT is equal to the failure to deliver VAT), the applicable penalty is 25% of the outstanding VAT amount, with a minimum of AOA5,000.

If the taxable person fails to pay the VAT assessed by the AGT within the established deadline, proceedings aiming at the coercive collection of the tax due, plus legal costs, will ensue.

Penalties for errors. For the invoicing and accounting errors, the penalties are the following:
- 5% of the invoice's value if any of the following invoicing elements is missing or incorrectly identified: price, name, address or tax number of the issuer (per invoice)
- 1% of the invoice's value if the other legal requirements for issuance of invoices are missing or incorrectly identified (per invoice)
- If there was a supply of services or goods but an invoice was not raised, the applicable penalty is 7% of the operation's amount or 15% of such amount in cases where invoices were not raised for more than four times

The tax authorities may proceed with corrections whenever it finds that the tax due on the return submitted is inferior or the deduction is superior to what is due. The inaccuracies may be assessed during the course of an inspection or simply from the confrontation of different returns submitted.

The late notification of or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of AOA600,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. When the taxable person participates in tax fraud or tax avoidance , the right to input tax deduction is denied.

The taxable person is presumed to participate in tax fraud or tax evasion when the price paid by the services and goods acquirer is lower than the market prices. This presumption may be refutable.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Angola.

Statute of limitations. The statute of limitations in Angola is five years. With reference to the time limit applicable for taxable persons, the Angolan tax authorities understand that the provision of the VAT Code that sets forth the VAT deduction must be reported in the VAT return of the period of issuance of the correspondent underlying invoice or in the following VAT return. VAT amendments in favor of the taxable person should be made up to 12 months after the issuance of the corresponding invoice or receipt for payment of import VAT.

Anguilla

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Direct all queries regarding Anguilla to the persons listed below in the Bridgetown, Barbados office.

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Anguilla implemented a goods and services tax (GST) on 1 July 2022. The GST replaced the accommodation tax, the public entertainment tax, the environmental levy, the communications levy and the interim goods tax.

A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Goods and services tax (GST)
Date introduced	1 July 2022
Trading bloc membership	Caribbean Community and Common Market (CARICOM) (note Anguilla is an associate member of CARICOM and is therefore not subject to CARICOM's trade policy)
Administered by	Inland Revenue Department (IRD)
GST rates	
Standard	13%
Other	Zero-rated (0%) and exempt
GST number format	Tax Identification Number, 10-digit number beginning with 1 for individual registrants or 2 for corporate registrants
GST return periods	Monthly
Thresholds	
Registration	
Mandatory	XCD300,000
Voluntary	
Recovery of GST by non-established businesses	No

B. Scope of the tax

GST applies to the supply of taxable goods and services by a taxable person in Anguilla and to the importation of goods and services (other than exempt imports).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in that jurisdiction where it has customers that are not taxable persons. In Anguilla the "use and enjoyment" provisions (B2B/B2C) apply to the supply of the following goods or services, and therefore are deemed to take place in Anguilla if the recipient uses or obtains the advantage of the goods or services, and where the supply would be subject to VAT if the supplier meets the registration threshold:

- A transfer or assignment of a copyright, patent, license, trademark or similar right
- The service of a consultant, engineer, lawyer, architect or accountant; the processing of data or supplying information or any similar service
- Advertising service
- The obligation to refrain from pursuing or exercising taxable activity, employment or a right described in this subsection
- The supply of personnel
- The service of an agent procuring for the agent's principal a service described in this section
- Leasing of movable property, other than transport property

Where the above services are supplied from a place of business in Anguilla but utilized outside of Anguilla, the services are considered to be supplied in Anguilla and are considered to be zero-rated exports.

Transfer of a going concern. Transfer of going-concern rules do not apply in Anguilla. As such, GST applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Anguilla, for a transaction between related parties, the value for GST purposes is calculated at the fair market value of the supply.

C. Who is liable

The registration turnover threshold is XCD300,000 per annum (the currency in Anguilla is the East Caribbean dollar [XCD]). A person must register for GST within 15 days of the following month if any of the below scenarios apply:

- The person's turnover was equal to or greater than the XCD300,000 in the previous 12 months period.
  Or
- Based on reasonable grounds, the person's annual turnover is expected to be equal to or greater than XCD300,000 in the upcoming 12 months.

Exemption from registration. A taxable person may apply to the Anguilla Comptroller (the Comptroller) for exemption from registration if all or most of their taxable services are zero-rated, and where they can demonstrate that, if they were to be registered, their input tax would exceed their tax payable on a continuing annual basis.

Voluntary registration and small businesses. The Comptroller may permit voluntary registration to such persons who may have turnover below the registration turnover threshold upon receipt of application for GST registration. However, no registration would be permitted where the Comptroller is satisfied that the person is not eligible for registration and in cases where the person has no fixed place of abode and the Comptroller has reasonable grounds to believe that the person will not keep proper records or will not submit regular and reliable tax returns.

Group registration. Group GST registration is not allowed in Anguilla. However, taxable persons who conduct their taxable activity in branches or divisions are required to register in the name of the taxable person and not in the names of its branches and divisions. Where a taxable activity is

conducted by a taxable person in branches or divisions, the taxable person is deemed to be a single person conducting the taxable activity for purposes of the GST Act. All members of a GST branch or division in Anguilla are jointly and severally liable for GST debts and penalties. *However, this information was provided by the Deputy Comptroller and has not been addressed in law.*

Fixed establishment. In Anguilla there is no legal definition of a fixed establishment for GST purposes. A nonresident business that carries on a taxable activity would be required to register for VAT purposes if it meets the registration threshold as outlined below.

Non-established businesses. Non-established businesses are required to register for GST if they make taxable supplies in Anguilla that exceed the registration threshold.

Tax representatives. For established businesses, they can appoint a third-party representative, such as an external accountant or business advisor, to submit a GST registration form on behalf of the taxable person. It is also possible to delegate responsibility to manage certain aspects of the taxable person's account. For non-established businesses, they can also appoint a local tax representative. For both types of taxable persons, appointing a tax representative is optional and not mandatory.

Reverse charge. The reverse-charge mechanism applies in Anguilla. Where a resident person in Anguilla receives a supply of services from a nonresident person and such services are utilized or consumed in Anguilla, other than to make taxable supplies, GST is payable by the recipient of the services.

Domestic reverse charge. There are no domestic reverse charges in Anguilla.

Digital economy. There are no specific rules relating to the taxation of the digital economy.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies would be required to register and account for GST in Anguilla.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for GST on supplies in Anguilla. Instead, the customer is required to self-account for the GST due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in Anguilla.

Online marketplaces and platforms. No specific rules exist for online marketplaces and platforms in Anguilla.

Registration procedures. Taxable persons are required to register in the prescribed form (by paper) with the Comptroller. The Comptroller is required to register a person who applies for registration within 10 days of receipt of the application.

Deregistration. A taxable person may deregister when they cease to carry on taxable activities and notifies the Comptroller in writing of such cessation within 15 days. The taxable person will ordinarily be deregistered with effect from the last calendar day of the tax period during which all such taxable activities ceased or from such other time as the Comptroller may determine.

The Comptroller is not required to cancel the registration of a taxable person where the Comptroller has reasonable grounds to believe that the person will carry on any taxable activity at any time within 12 months from that date of cessation.

Changes to GST registration details. A taxable person must notify the Comptroller, in writing, within 15 days of any change in the name, address, place of business, constitution, name of partners or nature of the principal activity or activities of the taxable person; any change of address

from which, or name in which, any taxable activity is carried on by the taxable person; and any changes in circumstances if the taxable person ceases to operate or close on a temporary basis, except where it closes to due to a cessation of carrying on a taxable activity.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GST, including the zero rate.

The GST rates are:
- Standard rate: 13%
- Zero rate: 0%

The standard rate of GST applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports, except goods that have been or will be re-imported into Anguilla by the supplier

Examples of exempt supplies of goods and services

- Financial services
- Insurance services
- Medical services and devices
- Prescription drugs
- Sanitary products
- Registered education services
- Services in a qualifying nursing home, residential care facility for aged, indigent, infirm or disabled persons who need permanent care
- Services rendered as day care, including after-school care, and by a summer camp for children under 17 years of age
- Lease, license, hire rental or other form of supply of accommodation, to the extent that it is a supply of the right to occupy or be accommodated in premises for 183 days or more
- Leasehold land by way of lease (not being a grant or sale of the lease of that land) to the extent that the subject land is used or is to be used for the principal purpose of accommodation in a residential dwelling erected or to be erected on that land, where the lease is for 183 days or more
- Supply of the following immovable property: vacant land; a residential dwelling that is resold by the initial purchaser, including all subsequent sales of such property, and sold by the first-time owner after two years of occupancy of such premises by the owner or its immediate family; or a tourism accommodation development such as condominiums, villas, hotels, resorts and similar establishments, and luxury real estate products
- Lease, license, hire rental of land except for use as described above where the lease is for 183 days or more
- Lease, license, hire rental of land to the extent that it is to be used for agricultural purposes and tourism accommodation development
- Religious service by an approved religious organization
- Public domestic transport and international transport
- Games of chance
- Gasoline, diesel and liquid propane gas *(with effect 1 July 2022 until 30 June 2023)*
- Bikes and bike parts
- Goods approved for conditional exemption as provided by the government of Anguilla

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Anguilla.

E. Time of supply

The time when GST becomes due is called the "time of supply." In general, the time of supply for goods and services supplied by a taxable person is the earliest of the following events:
- The date of issuance of the invoice by the supplier
- The date on which any consideration is received for the supply
- The date on which the goods are made available to the recipient or the services are performed

A taxable person must account for GST in the GST period in which the time of supply occurs, regardless of whether payment is received.

Deposits and prepayments. Generally, deposits other than deposits on a returnable container are not regarded as consideration for a supply because they are given merely as security for the performance of an act. However, when the supplier applies the deposit as consideration for the supply or when the deposit is forfeited, the supply is deemed to take place.

Continuous supplies of services. Goods supplied under a rental agreement, or services supplied under an agreement that provides for periodic payments are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Goods sent on approval for sale or return. There are no special time of supply rules in Anguilla for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Anguilla for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Goods supplied under a rental agreement are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Imported goods. GST is payable on the import of goods or services, other than exempt imports. An import of goods occurs when the goods are entered for purposes of the Customs Act.

F. Recovery of GST by taxable persons

GST paid by a taxable person is recoverable as input tax if it relates to goods and services acquired solely for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (i.e., tax charged on supplies made) in the GST return for each GST period.

If input tax exceeds output tax in a GST period, the excess will be carried forward to the next period and will be treated as deductible input tax credit for that period. Further excesses will be carried forward consecutively for a maximum of three tax periods and if after that period the excess credit remains, the taxable person may apply for a refund.

The time limit for a taxable person to reclaim input tax in Anguilla is three years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

- A passenger vehicle, unless the person is in the business of dealing in, or hiring of, such vehicles, and the vehicle was acquired for the purposes of such business
- Goods and services acquired for the purpose of entertainment or providing entertainment unless the person is in the business of providing entertainment and the taxable supply or import

relates to the provision of taxable supplies of entertainment in the ordinary course of that business, or the person is in the business of providing taxable supplies of transportation services and the entertainment is provided to passengers as part of the transportation service
- Fees or subscriptions paid by the person in respect of membership of any person in a club, association, or society of a sporting, social or recreational nature

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business entertainment
- Passenger vehicles

Partial exemption. A partial recovery calculation is required where costs incurred relate to both taxable and exempt supplies. Regulations provide a standard method of apportionment to calculate the amount of input tax the taxable person is entitled to claim. The standard method of appointment is calculated as follows:

A x B/C

- A is the total amount of the input tax payable in respect of supplies and imports received during the period, less the sum of the input tax attributable to supplies or imports acquired or made, which are directly allocable to the making of taxable supplies and in respect of deductions that are disallowed under the GST Act.
- B is the total amount of taxable supplies made by the taxable person during the period.
- C is the total amount of all supplies made by the taxable person during the period.

A taxable person may, where the fraction B/C is more than 0.90, deduct the total amount of the input tax on the supplies/imports acquired or made during the period.

A taxable person may not, where the fraction B/C is less than 0.10, claim input tax deduction on taxable supplies made during the period.

The above do not apply to a financial institution making both taxable and exempt supplies during a period. Instead, the amount of the input tax claimed by a financial institution shall be the amount of input tax payable in respect of supplies or imports received that are directly allocable to the making of taxable supplies.

The Comptroller may use an alternative basis to determine the amount of input tax permitted. This is determined on a case-by-case basis.

The Deputy Comptroller has indicated that the Inland Revenue Department (IRD) would be made aware of the nature of supplies of a taxable person upon registration of the entity. However, approval from the tax authorities is not required to use the partial exemption standard method or special methods in Anguilla.

Capital goods. In Anguilla "capital goods" are defined as assets, or components of assets, which are of a character subject to an allowance for depreciation and which are used in the course or furtherance of a taxable activity.

There are no special input tax recovery rules for capital goods. The normal input tax rules apply.

Refunds. A credit exists where a registered taxable person's input tax exceeds the output tax for that month. Except for exports, the difference will be carried forward to the next month's return and will be treated as a deductible input tax credit for that month. Further excesses will be carried forward consecutively for a maximum of three months and if after three months the excess credit remains, that registered taxable person may then apply for a refund.

A registered taxable person whose taxable activities represent more than 50% zero-rated supplies, may request a refund on a monthly basis. The Comptroller is required to serve a taxable person claiming a refund a notice in writing of the decision in respect of the claim within two calendar months of receiving the claim except where there is an audit. Where a refund is due and is not paid within two calendar months of the application and it is not subject to audit, the Government of Anguilla will pay interest at the rate of 1% per month.

The Comptroller may, subject to appropriate conditions and restrictions, authorize to refund part or all the GST incurred in relation to a taxable acquisition or import made by the Governor's Office, diplomats, approved nonprofit bodies and public international organizations.

Pre-registration costs. A taxable person can claim GST incurred on costs prior to registration in the first tax period in which the person is registered in respect of taxable supplies and imports of goods, including capital goods. This is on the basis that the capital goods are for use or resupply in a taxable activity carried on by the person after registration. This applies where the supply or import takes place no more than 12 months prior to the date the registration takes effect, the goods are on hand at the date of registration and the evidentiary requirements are satisfied.

Bad debts. A GST registrant is entitled to claim an input tax deduction for sales made with respect to a taxable supply written off as a bad debt, i.e., when the amount owed is written off in accounting records. The taxable person can make an adjustment by claiming as input tax the amount previously declared as output tax.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Anguilla.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in Anguilla is not recoverable.

H. Invoicing

GST invoices. For all taxable supplies, the supplier must provide the buyer, if they are GST registered, a GST invoice within 40 calendar days of the supply. For a GST invoice to be valid, it must show certain information as outlined in GST law.

Credit notes. A tax credit note is required to be issued by a registered supplier to a purchaser when a GST invoice previously issued charged GST greater than the tax properly chargeable. The credit note must be in the form and contain the information as specified in GST law.

Electronic invoicing. Electronic invoicing is allowed in Anguilla, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Anguilla. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Anguilla. The requirements related to electronic invoicing are the same as those for paper invoicing.

Simplified GST invoices. A registered supplier making a taxable supply is authorized to issue a sales receipt, and not a full GST invoice, if the total consideration for the taxable supply is in money and does not exceed XCD1,000.

Self-billing. Self-billing is not allowed in Anguilla.

Proof of exports. GST is charged at the zero-rate (0%) on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence (e.g., export certificate or other customs document) that confirms the goods have left Anguilla.

Foreign currency invoices. Invoices must be issued in the domestic currency, which is the East Caribbean dollar (XCD). However, the legislation does not expressly prohibit the issue of invoices in a foreign currency.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Anguilla. As such, full GST invoices are required.

Records. In Anguilla, examples of what records must be held for GST purposes include financial statements, accounting records, accounts, books, computer-stored information, diaries, dispatch notes, delivery notes, bank statements, purchase invoices and debit notes, sales invoices and credit notes, sales receipts, contracts, payroll data, order books, till rolls and any other documents.

Every taxable person is required to maintain in Anguilla the following documents:
- A GST account, in which must be listed the total amount of GST due on sales in the period, the total amount of GST reclaimable on purchases in the period, the net amount of GST payable to IRD in the period, or if applicable, the net amount of GST reclaimable from IRD in the period
- Original tax invoices, tax credit notes and tax debit notes received by the person
- A copy of all tax invoices, tax credit notes and tax debit notes issued by the person
- Customs documentation relating to imports and exports by the person
- Accounting records relating to taxable activities carried on in Anguilla
- Any other records as may be prescribed by regulations

Record retention period. Records are required to be maintained in English and retained for seven years after the end of the tax period to which they relate.

The Comptroller must always have, during normal working hours, and without any prior notice to any person, full and free access to any premises, place, book, record or computer.

Electronic archiving. Electronic archiving is allowed in Anguilla. No further guidance has been released.

I. Returns and payment

Periodic returns. The tax period for taxable persons is the calendar month. GST returns are due within 20 days after the end of the period, whether or not tax is payable in respect of that period.

Periodic payments. Any tax due for the period must be remitted with the return to the tax authority, by the 20th day of the month following the end of the tax period. GST due may be paid electronically by using the government's platform (IRD online portal). It may also be paid by cash, cheque, credit card or via online banking.

Electronic filing. Electronic filing is allowed in Anguilla, but not mandatory. GST returns can be filed electronically via the IRD's online filing portal. Electronic filing is preferred in Anguilla but is not mandatory.

Payments on account. Payments on account are not required in Anguilla.

Special schemes. No special schemes are available in Anguilla.

Annual returns. Annual returns are not required in Anguilla.

Supplementary filings. No supplementary filings are required in Anguilla.

Correcting errors in previous returns. A taxable person may apply to the Comptroller to make an addition or alteration to its GST returns within three years after the date the return was filed or where an assessment is made after the three-year period, within 40 days after the notice of assessment is served.

Digital tax administration. There are no transactional reporting requirements in Anguilla.

J. Penalties

Penalties for late registration. A taxable person who fails to apply for registration is liable for a penalty equal to double the amount of output tax payable from the time the taxable person is required to apply for registration until the person files an application for registration with the Comptroller. This penalty will not apply if the taxable person has been convicted of the equivalent criminal offense.

For the equivalent criminal offense, a taxable person who knowingly or recklessly fails to apply for GST registration as required commits an offense and is liable on conviction to a fine not exceeding XCD5,000 and imprisonment for a term not exceeding two years.

Penalties for late payment and filings. A taxable person who fails to file a return within the required due date is liable to a penalty that is the greater of XCD500 per day for each day or part thereof and is liable to a penalty equal to 10% of the tax payable for the period of such return, for each month or part thereof that the return remains outstanding. Any GST payable outstanding by the due date is liable to a penalty equal to 20% of the amount payable.

For the equivalent criminal offense, a taxable person who knowingly or recklessly fails to file a GST return, commits an offense and is liable on conviction to a fine not exceeding XCD5,000.

If a person fails to lodge the return within a further period specified by the Comptroller by notice in writing, that person commits an offense and is liable on conviction to a fine of XCD5,000 for each day during which the failure continues or to imprisonment for three months or both.

Penalties for errors. A taxable person who knowingly or recklessly fails to furnish any import declaration as required, commits an offense and is liable on conviction to a fine not exceeding XCD5,000 and to imprisonment for a term not exceeding three years.

A taxable person who knowingly or recklessly fails to provide a tax invoice as required, or also makes a false claim for refund, commits an offense and is liable on conviction to a fine not exceeding XCD5,000 and to imprisonment for a term not exceeding six months.

The late notification of or failure to notify the tax authorities of changes to a taxable person's GST registration details may result in a fine not exceeding XCD5,000 and to imprisonment for a term not exceeding two years where the failure was made knowingly or recklessly, or in any other case, to a fine not exceeding XCD5,000. For details, see the *Changes to GST registration details* subsection above.

Penalties for fraud. For false or misleading statements, the penalty imposed will be an amount determined by the Comptroller. It will only be imposed if the false statement reduced the amount of tax liability or if a criminal penalty was not imposed for the false statement or omission.

A taxable person who knowingly or recklessly uses a false GST registration number, including the GST registration number of another person on a return, notice or other document, commits an offense and is liable on conviction to a fine not exceeding XCD20,000 and to imprisonment for a term not exceeding two years.

A taxable person who makes a false or misleading statement or omission in a material, commits an offense and is liable on conviction to a fine not exceeding XCD5,000 or to imprisonment for a term not exceeding two years or both.

Personal liability for company officers. Where an offense has been committed by a company, every person who at the time of the commission of the offense was a representative officer, director, general manager, secretary or was acting in or purporting to act in such capacity is deemed to have committed the offense. The officers would be subject the general penalty of XCD10,000 or imprisonment for one year or both.

Statute of limitations. The statute of limitations in Anguilla is five years. However, generally, there is no limitation period within which the tax authority can issue an assessment for output tax. But, where the tax authority wishes to issue an assessment because it is dissatisfied with a return or accompanying documents, the assessment must be issued within five years after the return or documents are furnished. However, this limitation period does not apply where the default that prompted the assessment was due to fraud, or gross or willful neglect.

K. Transitional provisions

Time of supply and charging GST. If taxable services were rendered before the date on which the GST Act comes into effect and payment is made within three months after the Act comes into effect, GST is not imposed on the supply.

If, in relation to a supply of goods or services, title to goods passes, delivery of goods is made or services are rendered after the date on which the GST Act comes into operation, and payment is received, or an invoice is issued within three months before that date; the payment is treated as having been made or the invoice is treated as having been issued on the date on which the Act comes into operation.

Contracts silent on GST. Where contracts were concluded between two or more parties before the entry into force of the GST Act, and no provision relating to tax was made in the contract, the supplier may recover from the recipient tax due on any taxable supplies made under the contract after the date on which the Act comes into operation.

Where contracts concluded after the date on which this Act comes into operation do not include a provision relating to tax, the contract price is deemed to include a provision relating to tax, the contract price is deemed to include tax and the supplier under the contract is required to account for the tax due.

Antigua and Barbuda

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Direct queries regarding Antigua and Barbuda to the persons listed below in the Bridgetown, Barbados, office.

Indirect tax contacts

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A. At a glance

Name of the tax	Antigua and Barbuda Sales Tax (ABST)
Local name	Antigua and Barbuda Sales Tax (ABST)
Date introduced	29 January 2007
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Inland Revenue Department (IRD) (https://ird.gov.ag/index.php/antigua-and-barbuda-sales-tax/)
ABST rates	
Standard	17%
Other	Zero-rated (0%) and exempt
ABST number format	General tax identification number (TIN) consisting of 5/6 digits and the suffix "58" is added to signify ABST (e.g., XXXXXX-58)
ABST return periods	Monthly
Thresholds	
Registration	XCD300,000 (or none for certain taxable persons)
Recovery of ABST by non-established businesses	No

B. Scope of the tax

ABST applies to the following transactions:
- The supply of taxable goods and services by a taxable person in Antigua and Barbuda
- Importation of taxable goods from outside Antigua and Barbuda, other than exempt imports

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for ABST in that jurisdiction where it has customers that are not taxable persons. In Antigua and Barbuda, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of an ABST-registered or ABST-registrable business will be subject to ABST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Antigua and Barbuda, a TOGC is treated as zero-rated of ABST where the following conditions are met:

- The supply would otherwise have been a taxable supply that was not a zero-rated supply
- The supplier has agreed in writing with the recipient that the taxable activity is supplied as a going concern
- The supplier has notified the Commissioner, in writing, of the details of the supplies treated as zero-rated because of the transfer, including the quantities and values of the things supplied

Transactions between related parties. The value of the supply of transactions between related parties is the ABST-exclusive fair market value of the supply. There is no difference between the supply of goods and services.

C. Who is liable

Antigua and Barbuda ABST law imposes a registration requirement on any person who makes taxable supplies in Antigua and Barbuda, other than a person whose annual turnover is less than XCD300,000 a year.

In general, any person that begins making taxable supplies in Antigua and Barbuda and expects to exceed the registration threshold above must apply to the ABST authorities for registration within 21 days after the date on which taxable supplies are first made. Additionally, government entities, local authorities, councils, promoters or proprietors of public entertainment and professionals such as lawyers, accountants or auditors are required to register irrespective of whether they exceed the registration threshold.

Exemption from registration. The ABST law in Antigua and Barbuda does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person may apply for voluntary registration if they are making taxable supplies below the mandatory ABST registration threshold (XCD300,000) if they meet the following conditions:

- Are making or will make taxable supplies
- Carry on taxable activities from a fixed place
- Will keep proper records
- Will file regular, reliable ABST returns and comply with other tax obligations

Group registration. Group ABST registration is not allowed in Antigua and Barbuda.

Fixed establishment. In Antigua and Barbuda, there is no legal definition of a fixed establishment for ABST purposes. A non-established business that carries on a taxable activity would be required to register for ABST purposes if it meets the registration threshold as outlined below.

Non-established businesses. A non-established business is a business that does not have a fixed establishment in Antigua and Barbuda. A non-established business must register for ABST in Antigua and Barbuda where it carries on a taxable activity in Antigua and Barbuda and meets the registration requirements as outlined above (i.e., exceeds the registration threshold). Input tax incurred by non-established businesses is not recoverable unless the non-established business is registered for ABST.

Tax representatives. Tax representatives are not required in Antigua and Barbuda. However, a taxable person can voluntarily choose to appoint a tax representative if they wish to do so. In addition, the Commissioner may, by writing, declare a person to be a representative of another person for the purpose of ABST.

Reverse charge. The reverse-charge mechanism applies in Antigua and Barbuda. Where a resident taxable person in Antigua and Barbuda receives a supply of services from a nonresident taxable person (i.e., a business-to-business [B2B] supply), ABST maybe payable by the recipient of such services. This occurs where the supply of services would have been taxable in Antigua and Barbuda had they been performed there, they are utilized or consumed there and the recipient uses the services to make exempt supplies, for private or domestic use, or to provide entertainment other than in the course of a taxable supply of entertainment.

Domestic reverse charge. There are no domestic reverse charges in Antigua and Barbuda.

Digital economy. There are no specific rules relating to the taxation of the digital economy. In practice, nonresident providers of electronically supplied services for B2B and business-to-consumer (B2C) supplies would be required to register and account for ABST in Antigua and Barbuda. This only applies to services that are physical performed or used in Antigua and Barbuda.

There are no other specific e-commerce rules for imported goods in Antigua and Barbuda.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Antigua and Barbuda.

Registration procedures. Taxable persons are required to register by paper or email to irdtaxpayerservices@ab.gov.ag with the Antigua and Barbuda Inland Revenue Department (IRD) and are required to provide the incorporation documents of the person being registered. Registration with the Inland Revenue Department is required prior to completing ABST registration. If submitting the ABST registration application by paper, the application must be sent to the following address:

Woods Centre
Friars Hill Road
St. John's
Antigua, W.I.

Deregistration. A taxable person must deregister when they cease to make taxable supplies and must notify the Commissioner in writing of such cessation within 15 days of the cessation. The taxable person will be deregistered, subject to minimum registration period of two years, with effect from the date set out in the notice of cancellation.

Changes to ABST registration details. A taxable person must notify the Commissioner in writing, within 14 days of any change in the name, address, place of business or nature of the taxable activity of the taxable person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of ABST, including the zero rate.

The ABST rates are:
- Standard rate: 17% *(with effect from 1 January 2024)*
- Zero-rate: 0%

The standard rate of ABST applies to all supplies of goods and services unless a specific measure provides for the reduced rate, zero rate or an exemption.

The standard rate of ABST increased from 15% to 17% with effect from 1 January 2024. The reduced rate of 14% was removed with effect from 1 January 2024.

Examples of goods and services taxable at 0%

- Exported goods and services
- Supply or import of food for human consumption (as specified in the ABST regulations)
- Supply of electricity provided to residential premises for domestic use (or in any other case, as provided in the ABST regulations)
- Supply or import of water
- Supply or import of fuel, as defined under the following Customs tariff headings:
  - 2710.10 Motor spirit (gasoline) and other light oils and preparations
  - 2710.20 Kerosene and other medium oils (not including gas oils)
  - 2710.30 Gas oils
  - 2710.40 Fuel oils, not elsewhere specified or included
  - 2711.00 Petroleum gases and other gaseous hydrocarbons

The term "exempt supplies" refers to supplies of goods and services that are not liable to ABST and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Supply of goods to taxable persons if used solely in connection with making exempt supplies, unless the supply is made to a registered person
- International transport services, including international mail services provided by the General Post Office
- Domestic postal services by the General Post Office
- Sale of real property relating to residential premises ("real property" includes an estate, interest, easement, or right, whether equitable or legal, in, to, or out of land, including anything attached to land or things permanently fastened to anything attached to land)
- Lease, license, hire or other form of supply of the right to occupy or be accommodated in residential premises
- Supplies relating to land
- Residential accommodation to an individual for a continuous period of more than 45 days
- Transportation of passengers by land, sea or air within Antigua and Barbuda
- Education services
- Medical, dental, nursing, convalescent, rehabilitation, midwifery, paramedical, optical or other similar services in particular circumstances
- Services in a nursing home or residential care facility
- Prescription medicines
- Veterinary services
- Supply of gambling conducted by a nonprofit association approved by the Minister
- Supply of unimproved land or of land to be used for agricultural purposes
- Supply of unprocessed agricultural products
- Supply of live animals or insects, other than domesticated animals generally held as pets
- Local entertainment services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Antigua and Barbuda.

E. Time of supply

In general, the time of supply for goods and services supplied by a taxable person is the earlier of the following events:

- The date of issuance of the invoice by the supplier
- The date on which any consideration is received for the supply

Deposits and prepayments. There are no special time of supply rules in Antigua and Barbuda for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. Where a progressive or periodic supply is treated as a series of separate supplies made successively, each successive supply is treated as being made on the earliest of the following events:

- The date on which an invoice for the progressive or periodic payment corresponding to the supply is issued by the supplier, but only if a separate invoice is issued for each such supply
- The date on which the progressive or periodic payment corresponding to the supply is due
- The date on which any of the progressive or periodic payment corresponding to the supply is received
- The first day of the period, if any, to which the progressive or periodic payment relates
- The first day on which the recipient is able to commence use or enjoyment of the successive part of the actual supply which corresponds to the supply

Goods sent on approval for sale or return. There are no special time of supply rules in Antigua and Barbuda for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Antigua and Barbuda for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. If payment for the leased goods is made progressively or periodically, the time of supply rules applicable to continuous supplies of services should be applied (as outlined above). In any other case, the general time of supply rules apply.

Imported goods. ABST is payable on the importation of goods other than an exempt import. ABST on the entry of imported goods becomes due and payable at the time when the goods are entered for the purposes of the Customs (control and management) Act and is payable by the importer.

F. Recovery of ABST by taxable persons

The ABST paid by a taxable person is recoverable as input tax if it relates to goods and services acquired for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (that is, tax charged on supplies made) in the ABST return for each ABST period.

Any refunds arising from the above may be carried forward and offset against any net VAT tax payable in a subsequent tax period.

The time limit for a taxable person to reclaim input tax in Antigua and Barbuda is three years. This is from the date the taxable person has the right to apply for the refund.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable or business purposes.

Examples of items for which input tax is nondeductible

- Personal passenger vehicles, spare parts, repair and maintenance services
- Personal or private entertainment
- Membership in recreational associations or clubs
- Domestic or private acquisitions and imports

Examples of items for which input tax is deductible (if related to taxable business use)

- Entertainment, not supplied to related persons or employees

- Passenger vehicles, spare parts, repair and maintenance services
- Acquisitions and imports

Partial exemption. If all supplies made by a taxable person during a tax period are taxable supplies (i.e., standard-rated, reduced-rated and zero-rated supplies), the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are taxable supplies, a partial recovery calculation may be required. This means that a partial recovery calculation is required where costs incurred relate to both taxable and exempt supplies. The ABST Act provides a standard method of apportionment to calculate the amount of input tax the taxable person is entitled to claim. The standard method of apportionment is calculated as A x B/C, where A, B and C represent the following:
A = The total amount of the input tax payable in respect of acquisitions and imports made by the taxable person during the period, less the sum of the input tax attributable to acquisitions or imports acquired or made, which are directly allocable to the making of taxable supplies, and in respect of deductions which are disallowed under the ABST Act.
B = The total amount of taxable supplies made by the taxable person during the period.
C = The value of all supplies made by the taxable person during the period.

C does not include the value of supplies made through a taxable activity carried on by the taxable person outside Antigua and Barbuda. This covers foreign operations carried on by the entity outside of Antigua and Barbuda such as branch operations.

A taxable person may, where the fraction B/C is more than 0.90, deduct the total amount of the input tax on the supplies/imports acquired or made during the period. A taxable person may not, where the fraction B/C is less than 0.10, claim input tax deduction on taxable supplies made during the period.

The above standard method does not apply to financial institutions making both taxable and exempt supplies during a tax period. Instead, the amount of the input tax claimed by a financial institution is calculated as A x B/C, where A, B and C represent the following:
A = The total amount of input tax payable in respect of taxable acquisitions or imports made in the preceding calendar year valued at XCD100,000 or more.
B = The value of all taxable supplies made by the taxable person during the preceding two calendar years.
C = The value of all supplies made by the taxable person during the preceding two calendar years, other than supplies made through a taxable activity carried on by the person outside Antigua and Barbuda.

Capital goods. In Antigua and Barbuda, capital goods (known as capital assets) are defined as an asset, whether tangible or intangible, acquired by a person for use in the person's taxable activity but does not include:
- Consumables or raw materials
  Or
- An asset acquired for the principal purpose of resale in the ordinary course of carrying on the person's taxable activity, whether or not the asset is to be sold in the form or state in which it was acquired

In Antigua and Barbuda there are no special input tax recovery rules for capital assets. The normal rules outlined above apply. Where a capital asset is used to make both taxable and exempt supplies, the taxable person is required to apportion the input tax according to the partial exemption formula outlined above. However, a taxable person must make an adjustment to the initial input tax credits claimed if the actual use of a capital asset does not match the initial intended use of the capital asset and the difference between the actual and intended use was greater than 10% of the total actual use of those goods or services.

Refunds. A refund arises when the total input tax credits allowed in the tax period exceed the total output tax payable for that tax period. The difference will be carried forward to the next month's return and will be treated as a deductible input tax credit for that tax period. Further excesses will be carried forward consecutively for six consecutive months. If after six months there is an excess credit of XCD100 or more, the taxable person may then apply for a refund. If the excess credit does not exceed XCD100, it is carried forward and used as input tax creditable in that period.

Pre-registration costs. Input tax incurred on pre-registration costs in Antigua and Barbuda is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Antigua and Barbuda. A taxable person is allowed to claim bad debt relief for tax paid in respect of a taxable supply made by the taxable person where the whole or part of the consideration for the supply is subsequently treated as a bad debt.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Antigua and Barbuda.

G. Recovery of ABST by non-established businesses

Input tax incurred by non-established businesses that are not registered for ABST in Antigua and Barbuda is not recoverable.

H. Invoicing

ABST invoices. A taxable person making a taxable supply to a registered recipient (i.e., a B2B supply) is required to issue the recipient with a full ABST invoice at the time of the supply. An ABST invoice is necessary to support a claim for input tax recovery.

Credit notes. A credit note, or debit note must be issued when the quantity or consideration shown on a tax invoice is altered. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Antigua and Barbuda, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Antigua and Barbuda. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Antigua and Barbuda. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, there are no provisions in the law for electronic invoicing in Antigua and Barbuda. In practice, standard paper invoicing is preferred, but electronic invoicing may be accepted.

Simplified ABST invoices. A taxable person making a taxable supply to a registered recipient (i.e., a B2B supply) is authorized to issue a sales receipt in lieu of a full ABST invoice, if the consideration for the taxable supply is in cash and does not exceed XCD50.

A taxable person making a taxable supply to an unregistered recipient (i.e., a B2C supply) is prohibited from issuing a full ABST invoice but instead must issue a sales receipt to the recipient.

Self-billing. Self-billing is not allowed in Antigua and Barbuda.

Proof of exports. ABST is charged at a rate of 0% on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence that confirms the goods have left Antigua and Barbuda. Evidence of the consignment or delivery of goods to an address outside Antigua and Barbuda; or the delivery of the goods to the owner, charterer or operator of a ship or aircraft engaged in international transport for the purpose of carrying the goods outside Antigua and Barbuda is considered sufficient evidence that the goods have been exported, in the absence of proof to the contrary.

Foreign currency invoices. Invoices may be issued in a foreign currency from the domestic one, the Eastern Caribbean dollar (XCD). The currency in which the invoice is issued should be clearly indicated on the invoice. In the case of imports, the amount is to be converted at the exchange rate as determined by the Customs (control and management) Act. In all other cases, the amount is to be converted at the exchange rate applying between the currency and the XCD at the time the amount is taken into account.

Supplies to nontaxable persons. A taxable person must not issue full ABST invoices to nontaxable persons. Instead, sales receipts must be issued. See the Simplified ABST invoices subsection above.

Records. In Antigua and Barbuda, examples of what records must be held for ABST purposes include:

- Copy of all ABST invoices, ABST credit notes and ABST debit notes issued by the taxable person, maintained in chronological order
- All ABST invoices, ABST credit notes and ABST debit notes received by the taxable person, whether originals or copies
- All customs documentation relating to imports and exports of goods by the taxable person
- Generally for all imported services, sufficient written evidence to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply and the extent to which the supply has been used by the recipient for particular purposes

In Antigua and Barbuda, ABST books and records must be held within the country.

Record retention period. Records must be retained for seven years after the end of the tax period to which they relate.

Electronic archiving. Electronic archiving is mandatory in Antigua and Barbuda. Registered taxable persons must retain their records by electronic means by use of electronic tills or point of sale systems and computerized accounting systems.

I. Returns and payment

Periodic returns. The ABST period in Antigua and Barbuda is the calendar month. The ABST return must be filed one calendar month after the end of the tax period (i.e., the deadline dates vary each month according to the last date of each month, e.g., 28th, 30th, 31st).

Periodic payments. Any tax due for the period must be remitted by the same date as the return deadline, i.e., one calendar month after the end of the tax period.

Payments to the IRD can be made by credit/debit card (in person at the tax authorities' offices), direct deposit, mail (a form and check), cash/check (in person at the tax authorities' offices) and e-payment (online).

Ideally, payment should be submitted with the return, but in some instances (e.g., for wire transfer and direct deposit) this may not be possible. In such instances the payment memo should indicate what the payment is in respect of.

Electronic filing. Electronic filing is allowed in Antigua and Barbuda, but not mandatory. ABST returns can be submitted electronically via email to ird.acbrevenue@ab.gov.ag.

Payments on account. Payments on account are not required in Antigua and Barbuda.

Special schemes. No special schemes are available in Antigua and Barbuda.

Annual returns. Annual returns are not required in Antigua and Barbuda.

Supplementary filings. No supplementary filings are required in Antigua and Barbuda.

Correcting errors in previous returns. If a taxable person discovers an error or an omission from a previous ABST return, the taxable person is required to file an amended return. A request to amend a return must be made in writing within three years after the end of the tax period to which the return relates.

Digital tax administration. There are no transactional reporting requirements in Antigua and Barbuda.

J. Penalties

Penalties for late registration. A taxable person who fails to apply for registration is liable for an administrative penalty equal to double the amount of ABST payable from the time the taxable person is required to apply for registration until the person files an application or is registered by the Commissioner, whichever is earlier. This penalty will not apply if the taxable person has been convicted of the equivalent criminal offense.

A person who knowingly or recklessly fails to apply for ABST registration commits a criminal offense and is liable on conviction to a fine not exceeding XCD10,000 or imprisonment for a term not exceeding two years or both.

Penalties for late payment and filings. A taxable person who fails to file an ABST return within the required due date is liable to a penalty equal to the greater of XCD500 or 5% of the ABST payable for the period to which the return relates. Any ABST payable which is outstanding by the due date is liable for interest equal to 1% per month on the amount unpaid, calculated from the date the payment is due until the date the payment is made.

Penalties for errors. Failure to maintain proper records could result in a penalty of XCD50 per day for each day that the failure continues. No penalty is imposed in the following circumstances:

- Where a false statement is made, if the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading.
- Where incorrect information relating to a recipient is included in an ABST invoice, credit note or debit not if the person after taking all due care reasonable believed that the information relating to the recipient is correct.

The late notification or failure to notify changes to a taxable person's ABST registration details to the Commissioner as required is liable to a maximum penalty of XCD1,000. A taxable person who fails to notify the tax authorities of changes to their ABST registration details commits a criminal offense and is liable on conviction to a fine not exceeding XCD10,000 or imprisonment for a term not exceeding two years or both. For further details, see the subsection *Changes to ABST registration details* above.

Penalties for fraud. A taxable person who willfully evades, or attempts to evade the assessment, payment, or collection of ABST commits an offense and is liable on summary conviction to a fine not exceeding XCD25,000, or to imprisonment for a term not exceeding two years, or both.

A taxable person who uses a false TIN, issues a false ABST invoice, credit note, debit note or provides these documents in a manner that is contrary to the requirements of legislation commits an offense and is liable on conviction to a fine not exceeding XCD25,000 or to imprisonment for a term not exceeding two years.

Personal liability for company officers. Where an offense has been committed by a company, every person who at the time of the commission of the offense was a director or other similar officer of the company or was acting in or purporting to act in such capacity is deemed to have committed the offense. The officer would be subject to the corresponding penalty for the offense.

Officers will not face liability if the offense was committed without their knowledge, and they exercised all such diligence to prevent the commission of the offense as ought to have been exercised in the circumstances.

Statute of limitations. The statute of limitations in Antigua and Barbuda is three years. The start date for the tax authorities to assess an administrative penalty or institute criminal proceedings vary and are as follows:

- If the facts giving rise to the administrative penalty or the offense involve the doing of an act, within three years after the doing of the act.
- If the facts giving rise to the administrative penalty or the offense involve the failure to do an act, within three years after the Commissioner becomes aware of the failure.
- If the facts giving rise to the administrative penalty or the offense involve the nondisclosure or incorrect disclosure of information relating to ABST liability for a tax period, within three years after the correct ABST liability has become final for that tax period.

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A. At a glance

Names of the taxes	Value-added tax (VAT) Turnover tax (IIBB)
Local names	Impuesto al valor agregado (IVA) Impuesto sobre los ingresos brutos (IIBB)
Date introduced	January 1975 (VAT) January 1977 (IIBB)
Trading bloc membership	Mercosur
Administered by	
VAT	Federal Administration for Public Revenues (AFIP) (http://www.afip.gov.ar)
IIBB	Revenue service of each province (Dirección General de Rentas)
VAT rates	
Standard	21%
Reduced	10.5%
Other	27%, zero-rated (0%) and exempt
IIBB rates (average)	
Industrial	1% to 4%
Commerce and services	2.5% to 5%
Commission and intermediation	4.9% to 8%
VAT and IIBB number format	30-99999999-1
VAT and IIBB return periods	Monthly

Thresholds	
VAT registration	For corporations and other legal entities, commencement of activity For individuals, registration required if sales are the higher of the following: ARS11.37 million for goods ARS7.99 million for services
IIBB registration	Commencement of taxable activity
Recovery of VAT or IIBB by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supply of goods or services made in Argentina by a taxable person
- Reverse-charge services received by a taxable person in Argentina
- The importation of goods
- The supply of digital services rendered by foreign parties with effective use in Argentina to VAT non-registered taxable persons

IIBB applies to the performance of an economic activity (i.e., a taxable event), which is typically expressed through the supply of goods or services made in Argentina by a taxable person, and recently in some provinces to the provision of certain services from foreign suppliers to users located in certain Argentinean provinces.

VAT is a national tax, whereas IIBB is a provincial tax and applies to every stage of the supply chain, i.e., a turnover tax, and is the reason why the rate is lower. IIBB is included in the sales price and cannot be added at the end, whereas VAT is added to the sales price at the end. For example, if the price for a supply is ARS100, IIBB is included in the 100, then VAT is charged on the 100.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Argentina, no services are subject to the "use and enjoyment" provisions. However, for import and export of services, it is relevant to identify a similar concept, which is where the services are "effectively used or exploited." This rule applies to all services imported and exported.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply may be treated as outside the scope of VAT. In Argentina, a TOGC may be treated as outside the scope of VAT for transactions within the same economic group, to the extent the transaction qualifies as "tax-free" in accordance with the Income Tax Law (ITL) regulations.

Transactions between related parties. In Argentina, for a transaction between related parties, the value for VAT purposes is calculated at the market value.

C. Who is liable

A registered taxable person is a business entity or individual who makes taxable supplies of goods or services while doing business in Argentina and who is required to register for VAT.

VAT registration is mandatory in the following circumstances:
- Corporations or other legal entities: on commencement of activities
- Individuals: if annual taxable turnover from supplies of goods exceeds ARS11.37 million and annual taxable turnover from supplies of services exceeds ARS7.99 million

A registered IIBB payer is a business entity or individual who carries out an economic activity in the provincial jurisdiction (i.e., makes taxable supplies of goods or services while doing business in Argentina). Registration is required on commencement of activities. No turnover threshold applies.

Exemption from registration. The VAT law in Argentina does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Argentina does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Group registration. Group VAT registration is not allowed in Argentina.

Fixed establishment. In Argentina there is no legal definition of a fixed establishment for VAT purposes. However, the ITL defines a "permanent establishment" (PE) as a fixed place of business through which a foreign entity carries out its activity in full or in part and includes in particular: a place of management or administration, a branch, an office, a factory, a workshop, among others. A foreign company that triggers a PE should register a local legal vehicle (branch or subsidiary). Such legal vehicle should register as a resident taxable person for the relevant taxes including VAT.

Non-established businesses. Non-established businesses must register as a taxable person for VAT or IIBB (through a local legal vehicle if created) if it makes regular supplies of goods or services in Argentina and if it is required to account for VAT on its supplies.

If a non-established business meets the requirements to register as a local entity, e.g., PE, in Argentina, it must account for the tax on supplies made in Argentina.

If a non-established business carries out taxable activities in the Argentine territory and is not required to register as a local entity, any beneficiaries, recipients, lessees, borrowers, agents and intermediaries of nonresidents acting as substitute taxable persons will pay the VAT (the general rate being 21%) and use the amounts paid as input tax to offset their own output tax. When it is not possible to withhold the VAT, the law states that the substitute taxable person will be responsible for paying the VAT. A similar scheme has been implemented in certain provinces for turnover tax purposes for services rendered by nonresidents.

Tax representatives. Tax representatives are mandatory in Argentina. In the case of corporations or other legal entities, the tax representative is the natural person who uses a "fiscal password" provided by the Federal Administration for Public Revenues (AFIP) to carry out various tasks before the AFIP. The name for this role is "relationship manager." To file the affidavits corresponding to those taxes for which the taxable person has been registered, the relationship manager must access the AFIP's webpage (www.afip.gob.ar) and have a fiscal password with no less than Security Level 3, but it can delegate such activities to other individuals.

Reverse charge. Under the reverse-charge mechanism, the customer must calculate and pay the VAT. This method applies to supplies made outside Argentina if the use or effective exploitation of the supply occurs within Argentina and if the supply is within the scope of VAT. If the reverse charge applies, a non-established supplier is not required to register for VAT. The reverse charge does not apply for IIBB purposes.

Domestic reverse charge. There are no generalized reverse-charge provisions for domestic transactions when the supplier is an Argentine party. Only some specific regimes may involve the buyer assessing the VAT (e.g., for those carrying out habitual purchases of goods to end users).

Digital economy. Digital services received by established VAT-registered taxable persons have to apply the reverse-charge mechanism. For digital services received by Argentine individuals (i.e., nontaxable persons), such services are subject to VAT in Argentina when rendered by foreign parties where the effective use of the services is conducted in Argentina.

Nonresidents who provide electronically supplied services do not need to register for VAT in Argentina. There are no other e-commerce rules for imported goods in Argentina.

The definition of digital services includes, among others: website provision and hosting; digitalized product provision; remote system management and online technical support; web services comprising data storage and online advertising; software as a service (SaaS); access or download of images, text, information, video, music, games (including gambling games), including the use of streaming technology without downloading those items to a storage device; dating websites; internet services provision; e-learning; and data handling and calculation through the internet or other networks.

The list of digital service providers for whom the collection agents must collect the VAT is published and updated by the AFIP.

The responsible party for reporting and paying the VAT is the service recipient. If the recipient is VAT registered it will be responsible for the payment of the tax. However, if it is an end consumer (i.e., not VAT registered), the payment will be made by a resident intermediary (e.g., a credit card company or bank). They are required to act as a collection agent. If more than one intermediary is involved, the one required to act as a collection agent will be the agent with the closest commercial relationship with the digital service provider.

The system does not require the non-established business to register for VAT, only the credit card company would. The AFIP provides a list of companies who are non-established and providing digital services to end consumers in Argentina. Then the credit card companies check this list and apply VAT to supplies made by the companies on the list. The list is updated once per year. The credit card companies charge the VAT onto the end consumer and don't take it out of the selling price from the non-established business.

Online marketplaces and platforms. No specific rules apply for foreign marketplaces and platforms, other than the digital services provision *(see above)*. For local marketplaces, specific rules apply that are aimed at applying certain controls and domestic withholdings to sellers in such marketplaces to ensure appropriate tax collection by the AFIP of transactions routed by such platforms.

Registration procedures. To register for VAT, the taxable person or its legal representative must access AFIP's website and, using the fiscal password, select the option F420/T, *Alta de Impuestos/Regimenes/Alta de Impuestos.* The registration is performed online. The taxable person must be previously registered with the AFIP and have a tax ID number *(clave única de identificación tributaria, [CUIT])*, as described below.

The IIBB is applicable for each of Argentina's 24 local jurisdictions, and the procedure for registering a taxable person varies by jurisdiction. Taxable persons that develop their activities in only one jurisdiction need only register there. For taxable persons that carry out activities in more than one jurisdiction, registration will be governed by the multilateral agreement regime. These taxable persons will register on AFIP's website, using the fiscal password to register in each jurisdiction in which activities will be carried out using the CM01 form. Additional documentation could be requested, depending on the local jurisdictions.

If a taxable person is operating in more than one jurisdiction, the jurisdictions between them must have multilateral agreements in place. They provide guidance on how to account for the VAT and how it is allocated across the jurisdictions. Each jurisdiction has different procedures, e.g., different forms, time frames and regimes.

A corporation's legal representative is the chairman of the board. The request for registration before the AFIP must be filed by the legal representative of the legal entity, with the CUIT number (tax ID) and fiscal password (i.e., Security Level 3). The registration is filed through the web service *Inscripción y Modificación de Personas Jurídicas* available on the AFIP's website.

Deregistration. Taxable persons can deregister from VAT through the AFIP webpage, with the taxable person or the tax representative using the fiscal password.

To deregister from IIBB, the taxable person should comply with the mechanisms established by the local jurisdiction. Taxable persons who wish to deregister from IIBB under the multilateral agreement regime need to file the request online on the AFIP website.

Changes to VAT registration details. Any changes to the taxable person's registration details (name of company, address, type of business, etc.) must be notified to the AFIP within 10 days. The filing must be made utilizing paper forms and accompanying the relevant documentation supporting the changes.

D. Rates

For VAT, term "taxable supplies" refers to supplies of goods and services that are liable to VAT, including supplies at the zero rate.

In Argentina, the following four rates of VAT apply:
- Standard rate: 21%
- Reduced rate: 10.5%
- Increased rate: 27%
- Zero-rate: 0%
- Specific rates (applicable to taxable persons engaged in certain publishing activities, not exceeding certain sales thresholds): 5%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure imposes the increased rate or provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- Exported services

Examples of goods and services taxable at 10.5%

- Interest and commissions on loans made by banks
- Sale, preparation, manufacturing or construction and final import of certain capital assets
- Long-distance passenger transportation (over 100 km)
- Sale or import of newspapers, magazines and similar periodic printed publications

Examples of goods and services taxable at 27%

- Telecommunications not used exclusively in a dwelling
- Supply of gas, electric power and water not used exclusively in a dwelling
- Sewage disposal and drainage services

The term "exempt supplies" is used for supplies of goods and services that are not liable to tax. Exempt supplies do not generate a right of input tax deduction (see *Section F. Recovery of VAT by taxable persons)*.

Examples of exempt supplies of goods and services

- Education
- Rental of real estate under certain conditions
- Books
- Some staples, such as water and milk for specified buyers
- Local passenger transportation rendered by cabs (less than 100 km)
- International transportation
- Interest on preferred shares and equity securities, bonds and other securities issued by the federal government, provinces and municipalities

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Argentina.

For IIBB, the term "taxable supplies" refers to supplies of goods and services that are liable for IIBB, including supplies at the zero rate.

In Argentina, numerous rates of IIBB currently apply. Standard rates between 1% and 4% apply to industrial activities, the medium rates between 2.5% and 5% apply to commercial activities, and the increased rates between 4.9% and 8% apply to commissions and intermediation services. A zero rate applies in some cases.

The following lists provide some examples of supplies that are taxed at various rates of IIBB or that are exempt in the Province of Buenos Aires.

Examples of goods and services taxable at 0%

- Exported goods
- Exports of services in some jurisdictions

Examples of goods and services taxable at between 1% and 4%

- Other manufacturers (not included in exemptions)
- Ship constructions
- Agricultural products

Examples of goods and services taxable at between 2.5% and 5%

- Repairs of engines, machines, locomotives, ships, aircraft, pumps and certain other items
- Electricity distribution
- Hotel services
- Restaurants
- Communications
- Equipment loans
- Sales of goods (in general)
- Sales of machines and equipment

Examples of goods and services taxable at 8%

- Sales of tobacco
- Commissions
- Banks and intermediation

The term "exempt supplies" refers to supplies of goods and services that are not liable to IIBB.

Examples of exempt supplies of goods and services

- Education
- Rental of real estate under certain conditions
- Interest on bank accounts and fixed-term deposits
- Manufacturer activities under certain conditions
- Sales of fixed assets

E. Time of supply

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

Deposits and prepayments. The only provisions in Argentinean VAT law concerning deposits and prepayments are those where a prepayment fixes the payable price. In these situations, the "time of supply" occurs at the moment when the prepayment is made.

The time of supply rule for deposits and prepayments does not differ for supplies of goods or services.

There are no specific rules for where the deposits and prepayments are refundable or nonrefundable, or where the supply does not take place. Therefore, in practice these aspects do not normally change the time of supply rules outlined above.

Continuous supplies of services. For continuous supplies, the time of supply is established by law on a monthly basis. This means that the time of supply is triggered on a monthly basis, i.e., on the last day of each month, such that there is a triggering event each month.

Goods sent on approval for sale or return. There are no special time of supply rules in Argentina for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The measures regarding reverse-charge services apply to VAT, not to IIBB. The time of supply for a reverse-charge service is the earlier of when the service is provided or when the consideration is paid in full or in part.

The recipient of the service must pay the tax within 10 days after the time of supply arises. The amount paid may be treated as input tax (see *Section F. Recovery of VAT by taxable persons*) in the tax period immediately following the tax period when the tax point arose.

Leased assets. The time of supply would generally take place upon the due date or the collection of the rental, whichever occurs first.

Imported goods. The time of supply for imported goods is when the goods clear all customs procedures. At that time, VAT is due along with custom duties.

The VAT rate applies to the normal price defined according to import duties plus the taxes due to the import itself or deriving from it.

F. Recovery of VAT by taxable persons

Note that only VAT is recoverable, as it is based on a credit and debit system. IIBB is not recoverable, as it is cumulative, and there is no credit system. As such, all references in this section to "input tax" is in respect of VAT and not IIBB.

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

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

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

The time limit for a taxable person to reclaim input tax in Argentina is in the monthly period in which it is invoiced. However, in practice, it should also be possible to reclaim input tax for previous periods.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by entrepreneurs). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Accommodation
- Private use of business assets
- Parking
- Restaurants

Examples of items for which input tax is deductible (if related to business use)

- Advertising
- Business gifts
- Purchase, lease or hire of a car, up to a threshold of ARS4,200 (except for cabs)
- Business entertainment
- Purchase, lease or hire of vans and trucks
- Mobile phones
- Travel expenses
- Taxis

Partial exemption. When purchases of goods, final imports, leases and performance of services are used for both taxable and exempt activities, the VAT paid on purchases can only be credited if directly related to taxable activities (including exports). If purchases are used for both taxable and exempt activities, an annual pro rata calculation must be carried out by which the percentage of taxable revenues is compared to total revenues. This percentage is then applied on the input tax on purchases. The result is the amount of creditable input tax, being the remaining portion not creditable. Businesses will have to make provisional estimations of such pro rata during the monthly calendar, and an annual final adjustment is carried out in the last month of the tax year.

Approval from the tax authorities is not required to use the partial exemption standard method in Argentina. Special methods are not allowed in Argentina.

Capital goods. VAT related to the purchase of capital goods can be credited in the month in which the purchase takes place by applying the same rules that would apply for the purchase of any other goods (a special refund mechanism is explained below). If capital goods are used for both taxable and exempt activities, the partial exemption rules *(see above)* will apply. Therefore, if the capital goods are used for both taxable and exempt activities the portion of the taxable activities

over total revenues determines the computable portion (this calculation only impacts the year of acquisition).

Refunds. The taxable person pays monthly on the total amount invoiced, offset by the amount of input tax invoiced to the taxable person during the same period. If the VAT credit is higher than the amount of VAT debit during any tax period, such excess is only credited against future tax liabilities, not refunded, except in the case of exporters who may request a refund.

In addition, the reimbursement of VAT credits resulting from the purchase, manufacture, preparation or import of fixed assets (other than automobiles) that remain as a VAT credit for the taxable person after six months may be requested, under certain conditions.

A taxable person that has paid too much VAT in a period in error may request a refund of the overpaid amount. Interest is paid by the VAT authorities on overpaid tax at the monthly rate published by the AFIP that is updated on a quarterly basis (3.84% monthly for the third quarter of 2023).

If the IIBB tax assessment shows an excess in favor of the taxable person, it will be allocated and deducted in future filings, subject to the compliance of requirements.

Pre-registration costs. Input tax incurred on pre-registration costs in Argentina is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Argentina.

Noneconomic activities. Input tax incurred upon purchases that are used for noneconomic activities (e.g., supplies not related to the business, donations) must be reimbursed through their inclusion as higher output tax.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Argentina is not recoverable.

H. Invoicing

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

The invoicing rules are set at the national level, so typically apply to VAT. IIBB is not separately broken down, and the invoice is a self-assessment on the same price. As such, the VAT sales invoice format is used for all supplies, and the AFIP accepts the VAT sales invoice, set by national rules, not local.

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

Electronic invoicing. Electronic invoicing is mandatory for all taxable persons in Argentina.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Argentina. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Argentina.

There are different options to interact with the AFIP for the purposes of issuing the invoices. One option is the exchange of information between the ERP system of the taxable person and AFIP´s website. Another option is to issue the invoices by manually logging into the AFIP's website with the fiscal password of the taxable person.

Simplified VAT invoices. Sale of goods and provisions of services (among other transactions) must follow strict invoicing requirements. Certain activities expressly stated in the regulations are relieved from complying with such requirements and may issue invoicing according to their particular practices (e.g., banks, passenger transportation activities, sale of tickets for certain entertainment activities, director's fees, judicial fees).

Self-billing. Self-billing is not allowed in Argentina.

Proof of exports. The shipping permit issued for exports is the customs document that formally authorizes the exit of those goods.

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

If services rendered in Argentina are invoiced to a foreign person and if the effective exploitation occurs abroad (i.e., export of services), the services are subject to IIBB in most jurisdictions, except the City of Buenos Aires, Córdoba, Entre Rios, Neuquén, Mendoza and Province of Buenos Aires, under certain circumstances.

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

Supplies to nontaxable persons. Taxable persons are required to issue official invoices or receipts to end consumers. Typically, such invoices are identified by letter "B" and do not show the VAT amount breakdown from the net price (i.e., the "B" invoices only show the total amount including VAT).

Records. In Argentina, examples of what records must be held for VAT purposes include accounting books, such as the journal, inventories and balances, etc. These are required to be archived by commercial regulations. In addition, tax regulations require an archive with all invoices issued and received, including a special record for monthly purchases and sales. In Argentina, VAT books and records must be held within the country.

Record retention period. In general cases, records and documents should be maintained for a period of 10 years, considering tax rules in force and also general civil/commercial law rules.

Electronic archiving. Electronic archiving is allowed in Argentina. Records required by corporate law (i.e., accounting books) can be archived physically (i.e., paper) or also electronically, subject to a special authorization granted by corporate authorities, which may also include the "purchases" and "sales" books. Tax rules allow electronic archiving of electronic invoices issued and received, as well as monthly detail of purchases and sales, which are submitted to the AFIP on a monthly basis.

I. Returns and payment

Periodic returns. VAT and IIBB returns are submitted for monthly periods. Certain entities qualifying as small or medium companies may apply for VAT submissions on a quarterly basis.

Returns are due between the 12th to the 22nd day of the month following the end of the return period. The actual due date depends on the last figure of the taxable person's identification number and the due date may vary from month to month.

Periodic payments. Payment in full is due between the 12th to the 22nd day of the month following the end of the return period. Return liabilities must be paid in Argentine pesos. VAT payments may be offset by a credit balance arising from another tax collected by the Federal Administration for Public Revenues. This measure does not apply to IIBB.

In addition, VAT and IIBB payments may be offset with withholdings of these taxes. If the withholdings generate a credit in favor of the company, the company may ask for reimbursement from the local tax authorities. In the case of VAT, this credit may be used to offset other national taxes or sold to another company.

Electronic filing. Electronic filing is mandatory in Argentina for all taxable persons. VAT and IIBB are submitted on the tax authority's webpage. In general, a copy of those electronically filed tax returns can be viewed and retrieved from the website, but it is highly recommended that taxable persons maintain their own copies in secure storage.

Payments on account. Different rules established by the AFIP and provincial tax authorities establish situations in which the taxable persons are withheld a portion of the taxes (upon collections) and charged additional taxes (when making purchases), being those amounts withheld or charged considered as payments on account of the final tax liability. For instance, withholding regimes on sales (applicable by certain customers) and additional charges upon purchases (applicable by certain suppliers) may be applicable both for VAT and turnover tax purposes. Importation of goods is also subject to VAT and turnover tax additional charges. Furthermore, credits in bank accounts may be subject to a turnover tax withholding system.

All withholdings and additional charges suffered become a payment on account in the related tax returns. In case of an excess, it may be carried forward for future monthly periods or in some cases be used to pay other taxes (belonging to the same jurisdiction) or even reimbursed. Different mechanisms also exist to mitigate the effects of these regimes, by requesting exclusion certificates or a reduction in the local withholding rates.

Taxable persons should also be aware, based on their size, location, amount of revenues, appointment, among others, of the obligation to act as withholding agents in payments to suppliers or invoices to clients, in which case they will have to implement such regimes and submit the withheld amounts to the AFIP in separate tax returns.

Special schemes. *Simplified regime.* Individual taxable persons whose annual taxable turnover from supplies of goods does not exceed ARS11,379,612.01 and annual taxable turnover from supplies of services does not exceed ARS7,996,484.12 can opt for a simplified regime (*Monotributo*) by which through a monthly fixed payment (determined based on several categories) they replace the payment of VAT and income tax, among other simplified characteristics.

Annual returns. For IIBB, taxable persons registered under the multilateral agreement regime must file an annual affidavit – a CM05 form – due in June of the following year. For local taxable persons, some jurisdictions, such as the city of Buenos Aires, require an annual filing.

Supplementary filings. The AFIP requires the monthly filing of a complete detail of all purchases and sales, containing the client/supplier's information, information of the amounts on each invoice, VAT and other taxes withheld or collected, etc. These filings are done electronically on a monthly basis.

Correcting errors in previous returns. Amended tax returns are filed by taxable persons following the same procedure for original returns, through the AFIP's webpage.

Digital tax administration. There are no transactional reporting requirements in Argentina.

J. Penalties

Penalties for late registration. A person that has not been registered for VAT and IIBB with the AFIP cannot perform commercial activities of any kind. Penalties and interest are assessed for late registration or payment, such as when a person developed a commercial activity before registering and paying. Penalties also apply to VAT or IIBB fraud.

Penalties for late payment and filings. For VAT, penalties may include:
- A penalty ranging from ARS200 to ARS400 for failure to file a tax return
- A penalty of up to 200% of the tax due for unpaid VAT
- Fines ranging from two to six times the amount of tax evaded

In addition, interest is assessed at a 5.91% monthly rate on unpaid amounts (compensatory interest rate is updated on a quarterly basis; this rate corresponds to the third quarter of 2023).

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

For IIBB, penalties similar to the VAT penalties outlined above are established in each local jurisdiction as part of IIBB enforcement.

Penalties for errors. Omission penalties may be up to 100% of the omitted tax (or 200% if it corresponds to transactions with foreign parties). If errors are detected and duly amended, the penalties may be reduced by different percentages, depending on the moment of recognition (e.g., no penalty may apply if the error is corrected before any audit by the authorities).

The late notification of or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in the application of fines for noncompliance with formal obligations. In general terms, these fines are not significant. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In the case of fraud, penalties are increased to a range between two and six times the amount of the omitted tax. In addition, depending on the amounts, the tax criminal law may apply.

Personal liability for company officers. Directors, managers and legal representatives of corporate VAT taxable persons can be personally and jointly liable if the company does not pay within 15 days upon receiving a payment request from the authorities. An exception applies if the individuals can prove that they are not personally responsible for the lack of payment.

Statute of limitations. The statute of limitations in Argentina is between five and 10 years. It is 5 years for registered taxpayers and 10 years for non-registered taxpayers. The time limit that the AFIP can go back to review returns, identify errors and impose penalties is five years in the case of registered taxable persons. It is the same time limit for non-registered taxable persons who have no legal obligation to register with the AFIP or who have such obligation to register and have not complied with it, and who may spontaneously choose to regularize their situation. In the case of non-registered taxable persons, the statute of limitation is 10 years.

The statute of limitation will be counted from 1 January of the year following the date the tax return should have been filed or the tax should have been paid.

There is no time limit for taxable persons to voluntarily correct errors in previous VAT returns.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Avelacvats arzheqi hark (AAH)
Date introduced	1 January 2018
Trading bloc membership	Eurasian Economic Union (EAEU)
Administered by	Ministry of Finance (http://www.minfin.am) State Revenue Committee (http://www.src.am)
VAT rates	
Standard	20%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number/1
VAT return periods	Monthly/Quarterly
Thresholds	
Registration	AMD115 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supply of goods if the place of supply of goods is considered to take place in the Republic of Armenia (the RA) (referred to as "Armenia" henceforth in the chapter)
- Performance of works and (or) rendering of services in Armenia
- Importation of goods under the customs procedure "Release for domestic consumption"
- Importation of goods with the status of Eurasian Economic Union (EAEU) product to the territory of Armenia from EAEU member countries

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Armenia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going-concern rules do not apply in Armenia. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets.

Transactions between related parties. In Armenia, for a transaction between related parties, the value for VAT purposes is calculated at arm's length. Transfer pricing regulations do not apply to VAT arising from the transactions made between related parties with a retroactive force from 1 January 2020.

C. Who is liable

Legal entities, individual entrepreneurs and notaries are considered VAT payers. If the sales turnover does not exceed AMD115 million (the VAT registration threshold) in the preceding tax year, depending on the type of business activity, these entities (except for the nonresident legal entities and permanent establishments of nonresident legal entities) and individuals may become turnover taxable persons by submitting an appropriate written statement to the tax authority by 20 February of the tax year. However, if such a statement has been submitted and the sales turnover at any time during the year exceeds the VAT threshold, such entities and individuals will be considered VAT payers from that moment.

Exemption from registration. The tax code of Armenia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. It is possible for a taxable business that is not a VAT payer under the tax code of Armenia to register for VAT on a voluntary basis. Voluntary registration is conducted on the basis of application submitted to the tax authorities in a form established by the government of Armenia. The application can be submitted electronically. The electronic application is submitted through the taxable person's online account.

Group registration. Group VAT registration is not allowed in Armenia.

Fixed establishment. In Armenia there is no legal definition of a fixed establishment for VAT purposes. However, the same permanent establishment rules that apply for direct taxation also apply for VAT purposes. The permanent establishment (PE) of a nonresident organization is a place of business activity that is registered as a taxpayer in the tax authority, and through which a nonresident organization carries out entrepreneurial activity in Armenia, regardless of the duration of the business. The place of business activity includes but is not limited to the following:

- Any place of production, processing, consolidation, re-packaging, packaging and/or supply of goods
- Any place of management
- Any place of geological investigation of the subsurface, exploration, preparatory works for extraction of mineral resources and/or extraction of mineral resources and/or performance of works, provision of supervision and/or monitoring services over exploration and/or extraction of mineral resources
- Any place of conduct of the activity related to the installation, adaptation and exploitation of gaming machines, computer networks and communication channels, amusement rides, as well as related to transport or other infrastructure
- Place of sale of goods in the territory of Armenia
- Any place of performance of construction activities and/or construction and installation works, as well as of provision of supervision services over performance of these works
- Location of the representative office or the branch office, except for the representative office that exclusively performs preparatory or auxiliary activity
- Location of a legal entity or an individual carrying out brokerage activities in Armenia on behalf of a nonresident legal entity or an individual in accordance with the law of Armenia on insurance and insurance activities

A PE is also triggered when works are performed and/or the services are provided by employees and/or other staff hired by a nonresident organization where such activities are carried out in the territory of Armenia for at least 183 calendar days in a tax year, starting from the day of commencement of the entrepreneurial activity within the framework of one or more related projects.

Non-established businesses. A "non-established" business is a foreign business that does not have a fixed establishment in Armenia.

If a non-established business is conducting VAT taxable entrepreneurial activities (including electronic services) in Armenia, but the Armenian persons that have contractual relations with them are not VAT payers (i.e., a business-to-consumer supply (B2C) or business-to-business (B2B), where the customer is a business entity operating under the preferential tax system), the non-established business is responsible for bearing any VAT liability in Armenia according to the terms and procedures established by the tax code. Such businesses must register and account for VAT when making taxable supplies of goods and services in Armenia. The same treatment applies if a non-established business from EAEU is conducting an electronic supply of EAEU goods (electronic trade) to individual customers (B2C) in Armenia.

For business-to-business (B2B) supplies (where the customer is a business entity operating under the general tax system) a non-established business is not required to register and account for VAT in Armenia, as the customer self-accounts for the VAT via the reverse-charge mechanism (see the *Reverse-charge* subsection below).

Tax representatives. Tax representatives are not required in Armenia.

Reverse charge. Reverse-charge VAT generally applies to supplies of goods and services and imports made by non-established businesses in Armenia. Persons considered VAT payers that have contractual relations with foreign businesses are responsible for bearing any VAT liability instead of such non-established businesses according to the terms and procedures established by the tax code.

An Armenian established VAT taxable person engaged in business activities with a non-established business may issue a tax invoice indicating its own tax identification number and VAT number on behalf of a foreign entity that is not registered in Armenia as a person supplying goods or services. This tax invoice shall be considered to be issued by the foreign supplier and accordingly shall allow that person to deduct the amount of VAT from output tax.

Domestic reverse charge. There are no domestic reverse charges in Armenia.

Digital economy. Effective from 1 January 2022, the concept of electronic services and related regulations took effect in the Armenia tax code. According to the code, the provision of electronic services shall be considered the provision of services via an information and telecommunication network (electrical connection), including via the internet, the provision of which is impossible without the use of information technology. The list of electronic services is defined by the respective decree of the government of Armenia and is published on the official webpage of the tax authority.

Nonresident providers of electronically supplied services for B2B supplies (in which the customer is a VAT payer) will not be required to register and account for VAT in Armenia. Instead, the customer self-accounts for the Armenian VAT by way of the reverse-charge mechanism (via issuing a self-invoice) on the invoice amount payable to the supplier. See the *Reverse-charge* subsection above. The self-assessed VAT is eligible for a credit to the extent that the customer's business allows the customer to take input tax credits and the customer has performed all necessary steps defined by the law necessary for VAT credit.

Nonresident providers of electronically supplied services for B2C supplies will be required to register and account for VAT in Armenia. The registration can take place remotely. As the customer cannot be considered a VAT payer, a nonresident business shall be obliged to calculate and pay VAT in Armenia (the same rule applies also to B2B transactions in which the customer is not a VAT payer).

Online marketplaces and platforms. Effective from 1 January 2023, the concept of electronic trade and related regulations took effect in the Armenia tax code. According to the code, electronic trade of goods is the sale of goods via the internet by a nonresident organization or an individual entrepreneur of an EAEU Member State that does not have a permanent establishment in Armenia through an electronic trade platform to an individual in the territory of Armenia who is not an entrepreneur or notary and simultaneously complies with the following conditions:

- Electronic conclusion of transactions on sale of goods
- Noncash payment for the purchase of goods
- Ensures the delivery of goods (directly or through entities who provide courier services and (or) perform postal activities)

An electronic trade platform is a hardware and software complex consisting of organizational, information and technical solutions designed to facilitate electronic trade of goods on the internet, which:

Is used for the purpose of displaying products, presenting the terms of product sales to buyers and concluding contracts for the electronic trade of goods
Is operated by a nonresident organization or individual entrepreneur of another EAEU Member State that does not have a permanent establishment in Armenia (including the owner of the good)
Provides the conditions via electronic means for the sale and purchase of goods with the EAEU status, transportation and delivery from one EAEU Member State to the territory of another EAEU Member State between an organization or an individual entrepreneur of one EAEU Member State and an individual who is not an individual entrepreneur or notary from another Member State
Nonresident providers of electronically supplied goods from the EAEU Member States for B2C supplies will be required to register and account for VAT in Armenia. The registration can take place remotely. As the individual customer cannot be considered a VAT payer, a nonresident business from an EARU Member State shall be obliged to calculate, declare and pay VAT in Armenia.

Nonresident providers of electronically supplied goods from the EAEU Member States for B2B supplies will not be required to register and account for VAT in Armenia. Instead, the customer self-accounts for the Armenian VAT. The self-assessed VAT is eligible for a credit to the extent that the law permits to take input tax credits.

Registration procedures. VAT registration is automatic if the conditions for being considered a VAT payer are met. Generally, taxable persons are given the following options in Armenia. They can either (i) act as a turnover taxable person, (ii) operate under the micro-entrepreneurship system or (iii) act as a VAT payer. Therefore, if the taxable person meets the conditions prescribed by the tax code for being considered a turnover taxable person or an entity operating under the micro-entrepreneurship system, then the taxable person only submits the corresponding form of statement available in the online tax service system on operating under either of the selected tax systems. If this statement is not submitted within the deadlines set forth by the tax code, then the taxable person is automatically considered a VAT payer. Taxable persons working under the turnover tax or micro-entrepreneurship system can submit a statement available in the online tax service system to become VAT payer.

Deregistration. Deregistration is not possible in Armenia. However, in case of meeting certain criteria and submitting respective applications, taxable persons may operate under turnover tax

or micro-entrepreneurship systems starting the year that follows the year when the taxable person was a VAT payer.

For further details on the turnover tax and micro-entrepreneurship schemes, see the Special schemes subsection below, under *Section I. Returns and Payment*.

Changes to VAT registration details. If legal entities that are VAT payers want to make changes to registration details (name of company, address or type of business), they must submit the corresponding documentation to the Agency for State Register of Legal Entities of the Ministry of Justice of Armenia. Documents are submitted in paper form. Thus, registration details are automatically updated and become accessible to the tax authorities. As a result, no separate documents are submitted to the tax authorities.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 20%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Export outside the customs border of Armenia
- Delivery of international transportation services for carriage of consignments, mail and (or) passengers
- For goods imported to Armenia under the customs procedure "Customs Transit," delivery of works and (or) services directly related to transportation of these goods from the customs border of their import to customs border of their export in the Republic of Armenia
- Supply of fuel for airplanes on international flights and supply of goods for consumption during the flights for the staff and passengers of the airplanes
- Supply of goods for passengers of international routes in duty-free shops in Armenia, as well as supply of those goods by other taxable person to the organizer of the duty-free shop
- Supply of maintenance (including navigation, take-off and landing services), repair and re-equipment of the means of transport for international transportation, as well as supply of services for passengers, baggage, cargo and mail on international flights, and supply of services to passengers during the flights
- Supply of services (including those provided by agencies and intermediaries) directly related to the provision of services described in the preceding item
- Performance of works and supply of services for which Armenia is not treated as the place of their delivery
- Supply of goods for the official use of diplomatic representations, consular institutions and international organizations deemed equal thereto, as well as performance of works and supply of services to them
- Transactions on the delivery of services by a telecommunication operator or postal communication operator duly registered in the Republic of Armenia to the respective foreign operators for which amounts payable against reciprocal services as part of international networking services are mutually cleared, pursuant to bylaws of the International Telecommunication Union (ITU) or the World Postal Union accordingly

The term "exempt supplies" refers to supplies of goods or services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Supply of education at secondary schools, vocational schools for qualification and requalification and specialized secondary and higher educational institutions
- Supply of copy books and music books, albums for drawing, children's and school literature, and school educational publications
- Sale of scientific and educational editions published by higher educational institutions, specialized scientific organizations and the National Academy of Sciences of Armenia
- Implementation of scientific and research programs, basic educational programs as well as organization of educational competitions, tournaments and Olympics organized in accordance with the standards established by the government of Armenia
- Supply of services related to the care of children in preschool institutions, care for persons in boarding schools, children's homes, institutions caring for disabled children and invalids and nursing homes, as well as supply of goods produced, and services rendered by the persons living under the care of these institutions
- Supply of newspapers and magazines
- Gratuitous supply of goods by nongovernmental, charitable and religious organizations, gratuitous performance of works and (or) rendering of services
- Supply of insurance and reinsurance, including related services rendered by insurance mediators (third parties who establish insurance relationships between insurers or reinsurers and policyholders and support the implementation of organizational, legal and other activities) and agents
- Supply of pension insurance, including related services rendered by mediators and agents
- Supply of financial services by banks, persons participating in securities' markets, payment and settlement organizations and lending organizations (certain cases)
- Supply of prosthetic and orthopedic items, medical assistance services (including prophylactic diagnostic measures) and goods related to treatment that are prepared within the context of medical assistance by patients in prophylactic enterprises and organizations, and services rendered by them
- Sale of irrigation water by water user associations
- Sale of tobacco products by taxable person who are not manufacturers and (or) importers of tobacco products
- Organization of casinos
- Organization of gambling (including gambling by internet), totalizator and internet totalizator
- Sale of precious and semifinished jewelry products classified under the list specified in the tax code
- Supply of goods and services within humanitarian assistance and charitable projects by foreign states, international intergovernmental organizations, international, foreign and Armenian public organizations (including charities), religious and similar organizations and individual donors, as well as supply of goods and services directly related and essential to the implementation of such projects
- Supply of services to the organizer and operator of a free-economic zone and the supply of goods in the territory of a free-economic zone
- Transactions carried out within the scopes of subsidies, subventions and grant projects if these projects are awarded the endorsement of the professional commission formed by the government of Armenia
- Supply of the right of ownership over a share or unit in the charter or share capital of the organization
- Supply of goods and/or provision of service within the framework of reorganization of the organization carried out as prescribed by law
- Until 31 December 2030, the supply of spacecraft and space equipment, repairs or modernization thereof, the provision of services and (or) performance of works for earth remote monitoring satellite data transmission and processing, and for the management of spacecraft during launch, flight and landing

- The provision of property for leasing (in various forms) based on a leasing contract by banks and lending organizations shall be exempt from VAT if no VAT has been assessed and paid during the acquisition of that property
- Tourism services provided to foreign tourists, as well as agency services provided by travel agencies, if within the framework of these services, the travels, trips, excursions are carried out in the territory of the Republic of Armenia
- Alienation (i.e., transfer of ownership rights over the goods from one person to another) of real estate by the investment fund to the person participating in the given investment fund, if the real estate was previously acquired by the investment fund from the given person as an investment in the investment fund for a unit or a share
- Import from EAEU member countries to the duty-free shops operating in the Republic of Armenia of goods having the status of an EAEU good
- Import of cultural items into the territory of the Republic of Armenia
- Import and/or alienation of electric vehicles classified under the codes listed in the tax code from 1 January 2022 to 1 January 2024

Option to tax for exempt supplies. The taxable person can submit a written statement to the tax authority to obtain a waiver from the VAT exemption.

E. Time of supply

The time when VAT becomes due is called the "tax point." The tax point is the moment when goods are delivered to or accepted by the customer or works or services are performed. For continuous supplies (for example, operating leases), the tax point is the last day of a reporting period.

Deposits and prepayments. There are no special time of supply rules in Armenia for deposits and prepayments. As such, the general time of supply rules (as outlined above) apply.

Continuous supplies of services. In cases of continuous supply of goods, the same rules as mentioned above are applied. In cases of continuous supply of services, the last day of each month is considered to be the time of supply unless the service agreement stipulates other periods (phases) for provision of services (quarter, semester, year, etc.). In the latter case, the last day of respective period is considered to be the time of supply.

Goods sent on approval for sale or return. Time of supply of goods is the time foregoing:

- The moment when the goods are transferred to the buyer, except for cases when, according to supply contract, the ownership over the goods is transferred to the buyer in other point of time. The latter point will be considered as time of supply
- The moment when the goods are accepted by the buyer, except for cases when, according to the sales agreement, the ownership over the goods is transferred to the buyer at another point of time. The latter point will be considered as time of supply

Notably, in cases when the ownership right over the goods is subject to state registration, the time of supply will be considered the time of state registration.

Reverse-charge services. The time of supply for services subject to the reverse-charge rules is determined in accordance with rules that are similar to the standard rules described above.

Leased assets. For asset leasing services, the time of supply is considered to be the last day of each month. However, if the leasing contract stipulates that provision of the leasing services ends before the last day of the reporting period, the time of supply is considered to be the last day the service is rendered.

Imported goods. The tax point for imported goods is the moment of importation of goods into Armenia.

F. Recovery of VAT by taxable persons

A taxable person that performs economic activities in Armenia may generally recover input tax by deducting it from output tax, which is VAT charged on supplies made. Input tax includes the following:

- Amounts of VAT indicated in tax invoices issued by the suppliers of goods, works and services purchased or received during the reporting period in Armenia
- Amounts of VAT paid to customs or tax bodies of Armenia for goods imported into Armenia under the customs procedure "Release for domestic consumption"

The excess amount of input tax over output tax in the reporting period can either be carried forward and offset against output tax in subsequent reporting periods or refunded (see the *Refunds* subsection below).

There is no set time limit for a taxable person to reclaim input tax in Armenia. This mean that effectively the input tax may be carried forward indefinitely until its complete recovery.

Nondeductible input tax. Input tax may not be deducted in the following circumstances:

- The person carrying out entrepreneurial activities is not considered to be a VAT payer.
- VAT was paid for transactions that are exempt from VAT, not subject to VAT or referring to special tax systems.
- The tax invoice was issued without actual supply of goods, works or services.
- VAT was paid for transactions that were recognized as invalid.
- VAT was paid on the purchase or import of passenger cars, except for the cars acquired for the purpose of resale or provision of car rent services.
- Passenger cars used under any leasing contract, except for cases when passenger cars are used for car rental services.

Examples of items for which input tax is nondeductible

- Taxable person conducts an exempt activity. At end of the month, the taxable person receives a tax invoice for electricity. The taxable person cannot deduct the amount of VAT indicated in the tax invoice as the activity that he/she conducts is exempt from VAT.
- Taxable person purchases a passenger car for office use. The taxable person cannot deduct the VAT amount paid for the purchased car. The VAT amount is capitalized in the value of the car and is depreciated during the useful life of it.

Examples of items for which input tax is deductible (if related to a taxable business use)

- Taxable person conducts an activity that is subject to VAT. At the end of the month, the taxable person receives a tax invoice for electricity, rent of office premises and purchased fixed assets. The taxable person deducts the amount of VAT indicated in the invoices after all the requirements of the tax code are met.

Partial exemption. If a taxable person makes both taxable and nontaxable transactions, it may not deduct input tax in full from output tax. It may deduct only the amount of input tax related to the goods and services used in taxable transactions. For this purpose, taxable persons shall maintain separate accounts for taxable and nontaxable transactions, as well as for the services and goods purchased for conducting such transactions.

If it is impossible to maintain separate accounts, the amount of input tax subject to deduction in each reporting period must be prorated based on the ratio of taxable turnover to total turnover (VAT exclusive) of the business in the reporting period.

Approval from the tax authorities is not required to use the partial exemption standard method in Armenia. Special methods are not allowed in Armenia.

Capital goods. An input tax adjustment is required if input tax is deducted for the purchase, construction or importation of fixed assets in a reporting period and if the asset is used in a subsequent reporting period for making supplies of goods or services that are not subject to VAT. The adjustment applies to 20% of the amount of depreciation calculated for the fixed asset.

An adjustment may (i.e., at the taxable person's discretion) also be made if no input tax is deductible in the reporting period in which the acquisition is made because, at the time of acquisition, the fixed asset is directly attributable to making non-VAT taxable supplies and if the asset is subsequently used for making supplies that are subject to VAT.

If the taxable person makes both taxable and exempt supplies, the input tax recovery is based on 16.67% of the amount of depreciation calculated for the fixed asset under the tax code and on the ratio of VAT taxable supplies to all supplies made.

Refunds. Under the Armenian tax code, refunds are available. In cases when a taxable person has a recoverable VAT amount as of the 21st day of the month following each month, this amount can be debited to the taxable person's unified account based on the application of the taxable person and after appropriate tax review made by tax authorities.

Pre-registration costs. Input tax incurred on pre-registration costs in Armenia is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Armenia.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is recoverable in Armenia in certain situations. For example, input tax incurred from acquisitions by a company for nonbusiness purposes, e.g., purchases for charity. Input tax is recoverable irrespective of whether it is incurred in relation to economic or noneconomic activity.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Armenia is not recoverable.

H. Invoicing

VAT invoices. VAT payers supplying goods, works and services to legal entities and individual entrepreneurs must issue tax invoices if these supplies are subject to the standard rate of VAT. VAT invoices are not issued for supplies that are subject to the zero rate of VAT. A VAT invoice must be issued on delivery of goods or completion of supply of works or services to the customer. A VAT invoice is necessary to support a claim for input tax deduction. Tax invoices can be issued electronically only. Depending on the business carried out by the taxable person, tax invoices may be issued in advance, provided the goods are supplied, or the works or services are rendered on the supply date mentioned in the tax invoice.

Credit notes. The tax code in Armenia does not contain any rules with respect to the issuance of credit notes. Instead, the tax code allows issuance of adjusting invoices.

Electronic invoicing. Electronic invoicing is mandatory in Armenia, for certain taxable persons.

Scope of electronic invoicing. For B2B and business-to-government (B2G) supplies, electronic invoicing is mandatory in Armenia. This includes self-invoices issued on behalf of nonresident entities. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Armenia.

Exceptions for mandatory electronic invoicing for B2B and B2G supplies include:

- Information, which is considered confidential or of limited use
- Import or export of goods
- Impossibility to issue an electronic invoice due to the failure in connection or software of the tax authority

In these cases, paper invoices may be raised.

For B2C supplies, electronic invoicing is allowed but not mandatory in Armenia. This includes supplies made in relation to retail, works performed or services rendered to individuals. Electronic invoicing can only be used for these supplies if the buyer requests it.

In terms of how to issue an electronic invoice in Armenia, after state registering in Armenia and receiving a tax identification number, the taxable person applies to the corresponding tax service unit and receives the login information to sign in to the platform for electronic filing of the tax returns (https://file-online.taxservice.am). Then the taxable person then goes to the tab for issuing and accepting invoices by signing them digitally.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Armenia. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Armenia. Taxable persons can only issue self-invoices on behalf of nonresident entities to declare the reverse-charge VAT.

Proof of exports. For export purposes to countries that are not members to the Eurasian Economic Union, appropriate declarations are filed with the customs authority by specialized brokers based on the invoice information issued by the exporter. For export purposes to countries that are members to the Eurasian Economic Union, appropriate tax declarations are filed with the tax authority based on the invoice issued to the recipient. The customs authority grants approval for export after confirming that the invoice data and declarations are consistent and that all necessary documents are presented.

Foreign currency invoices. In general, tax invoices are issued by VAT payers in the domestic currency only, which is the Armenian dram (AMD). However, commercial invoices can be issued in foreign currencies for transactions carried out with non-established businesses. In such cases, the daily foreign currency exchange rates published by the Central Bank of Armenia are taken into consideration.

Supplies to nontaxable persons. VAT invoices are not issued for supplies to nontaxable persons, unless specifically requested by them.

Records. In Armenia, examples of what records must be held for VAT purposes include the documents necessary for the calculation of the tax base and filing of tax calculation reports, as well as documents substantiating the amount of income received/expenses incurred and taxes paid (withheld). In Armenia, VAT books and records must be held within the country. While the tax code does not provide any guidance on the place where such records must be kept, in practice, the records are kept locally in Armenia.

Record retention period. The retention period should be not less than five years starting from the reporting period the documents refer to.

Electronic archiving. Electronic archiving is allowed in Armenia. However, there are no special rules defined by the tax code for electronic archiving. Electronic documents are stored in the server of the tax authority and do not have time limits when it comes to archiving.

I. Returns and payment

Periodic returns. VAT payers must file their VAT and excise tax unified returns monthly by the 20th day of the month following the reporting month.

For electronic services provided to B2C or B2B (in which the customer is not a VAT payer) by nonresident providers, the VAT returns are filed quarterly by the 20th day of the quarter following the reporting quarter.

For electronic trade of goods (B2C supplies) by nonresident providers from EAEU Member States, the VAT returns are filed quarterly by the 20th day of the quarter following the reporting quarter.

Periodic payments. VAT due is payable to the state budget by the 20th day of the month following the reporting month.

For goods imported into Armenia under the customs regime "Release for domestic consumption," VAT must be paid before release of the imported goods under customs regime "Release for domestic consumption."

For goods imported into Armenia from EAEU countries, VAT must be paid by the 20th day of the month following the month of importation.

For electronic services provided to B2C or B2B (in which the customer is not a VAT payer) by nonresident providers, the VAT due is payable to the state budget by the 20th day of the month following the reporting quarter.

For electronic trade of goods (B2C supplies) by nonresident providers from EAEU Member States, the VAT due is payable to the state budget by the 20th day of the month following the reporting quarter.

Electronic filing. Electronic filing is mandatory for all taxable persons in Armenia. All taxable persons must file all returns electronically through their accounts online (https://file-online.taxservice.am). All tax returns are kept electronically in the taxable persons' same accounts online. Nonresident providers of electronic services and nonresident providers of electronic trade from EAEU Member States must file the quarterly returns electronically through their accounts online (https://file-online.taxservice.am/pages/evatuser/evatNonResidentProvidingEServices.jsf). All tax returns are kept electronically in the nonresident providers' same accounts online.

Payments on account. Payments on account are not required in Armenia.

Special schemes. *Turnover tax.* Turnover tax is a substitute for VAT and corporate income tax. To qualify as a turnover taxable person, sales turnover of taxable persons from all types of activities for the preceding tax year and current tax year must not exceed AMD115 million. It only applies to Armenian resident taxable persons. The tax code defines the list of business activities the performance of which are restricted under the turnover tax.

When it comes to the tax base, sales turnover of the transactions considered objects of taxation under the turnover tax is taken. Objects of taxation under the turnover tax system are supply of goods, performance of works and provision of services.

Depending on the type of activity carried out by the turnover taxable person, the tax rates can differ and range from 1.5% to 25%.

The reporting period for preparing and paying the turnover tax is the reporting quarter. Turnover taxable persons must file their reports and transfer the payments to the state budget by the 20th day of the month succeeding every reporting quarter.

Micro-entrepreneurship. In the framework of micro-entrepreneurship, taxable persons are exempted from taxation under VAT, corporate income tax, as well as turnover tax. To qualify for the taxation under the micro-entrepreneurship system, sales turnover of taxable persons from all types of activities for the preceding tax year must not exceed AMD24 million. It also only applies to Armenian resident taxable persons. The tax code defines the list of business activities the performance of which are restricted under the micro-entrepreneurship.

Annual returns. Annual returns are not required in Armenia.

Supplementary filings. To support the set off of any VAT amounts paid for imports made from EAEU Member States to Armenia, taxable persons must submit the import tax declarations to the tax authority.

Correcting errors in previous returns. Errors or omissions from prior periodic filings can be corrected by submitting adjusted electronic returns to the tax authority. Errors are corrected either voluntarily or based on the notifications received from the tax authorities as a result of internal reviews.

Digital tax administration. All invoices must be issued, and all tax reports are prepared and submitted to the tax authority digitally, which are used by the tax authority for tax administration purposes. This is treated as real-time reporting in Armenia.

J. Penalties

Penalties for late registration. Late registration penalties are not applicable because late registration is not possible in Armenia.

Penalties for late payment and filings. The penalty for filing a VAT return late is 5% of the calculated tax for each 15-day period, up to a maximum penalty of the total tax amount.

In addition, interest is charged on late tax payments at a rate of 0.04% of the tax due for each day of delay (up to 730 days).

Penalties for errors. The penalty for understatement of VAT payable equals 50% of the amount not declared. A penalty of 100% of the above amount is applied if a violation is repeated within one year.

The penalty for the violation of instructions established by the government of Armenia for the issuance of tax invoices (including adjusted tax invoices) equals double the amount of the remuneration with respect to the respective tax invoice (including the amount of VAT) but not less than AMD5 million.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The head of the legal entity, sole entrepreneur, individual or other responsible person is punished by a penalty in the amount from 20 to 50 times the monthly income or restriction of freedom from one to three years, or short-term imprisonment from one to two months, or imprisonment from two to five years, if they carry out any of the following crimes:

- Does not submit in the procedure defined by the law or time frames the return, calculation or declaration defined by the law with the aim of not paying taxes, duties or other payments in large amounts
- Does not submit in the procedure defined by the law or time frames another mandatory document giving rise to the obligation to calculate or pay a tax, duty or other payment
- Inserts false information in the return, calculation, declaration or another document giving rise to an obligation to calculate or pay tax, duty or another payment
- Conceals the object of taxation
- Manifests deception

Monthly income is determined as 35% of the average monthly income received by the individual during the 12 months preceding the date of committing the crime. The average monthly income includes the salary and other payments equivalent thereto and passive income (dividends, interest, royalty and rent fee) received by the individual. When calculating the monthly income, the taxes, duties or other fees withheld from them are not considered.

In case there is lack of income or it is impossible to determine the amount thereof for the individual who committed the crime, the amount of penalty is calculated in the amount of the minimum salary at the time of committing the crime (AMD75,000 (net of taxes and mandatory payments) in 2023).

In case due to the calculation, the amount of monthly income of the individual is less than the amount of the minimum salary (AMD75,000 (net of taxes and mandatory payments) in 2023), then the amount of the penalty is determined on the basis of the minimum salary.

Personal liability for company officers. Penalties for fraud apply to and are imposed on the directors and chief accountants of the taxable person company. See the section *Penalties for fraud* above.

In addition, failure by any company officers/officials to file the tax reports and other documents specified in the Armenian tax code and other legal acts with the Armenian tax authorities or reporting false information are punished under an administrative penalty from AMD10,000 to AMD15,000. If the same action leads to tax evasion, a penalty from AMD15,000 to AMD20,000 is imposed.

Statute of limitations. The statute of limitations in Armenia is three years. This is three years from the year the violation of the requirements of the Republic of Armenia laws were made.

Taxable persons cannot make voluntary adjustments of tax returns or deductible amounts if three years have passed from the end of the reporting period to which the adjustments relate.

Aruba

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Note that the government announced to postpone the intended introduction of a VAT system until further notice. It is not expected to be introduced before 2025.

A. At a glance

Name of the taxes	Revenue tax (RT) Health tax (HT) Tax on import of goods *(a new taxable event with effect from 1 August 2023, consisting of three different components (Belasting over bedrijfsomzetten (BBO),* *Belasting additionele voorziening PPS-projecten (BAVP), Bestemmingsheffing AZV (BAZV)*
Local names	Belasting over bedrijfsomzetten – BBO Belasting additionele voorziening PPS-projecten – BAVP Bestemmingsheffing AZV – BAZV
Date introduced	1 January 2007 – BBO 1 July 2018 – BAVP 1 December 2014 – BAZV 1 August 2023 – tax on import of goods (BBO, BAVP, BAZV)
Trading bloc membership	None
Administered by	Departamento di Impuesto (RT and HT) Customs department (tax on import of goods)
RT rates	
Standard	4% (combined rate of BBO (2.5%) and BAVP (1.5%))
Other	Exempt
HT rates	
Standard	3%
Other	Exempt

Tax on import of goods	7% (combined rate 2.5%, 1.5% and 3%)
RT and HT number format	XXXXXXX (7 digits)
RT and HT return periods	Monthly
Thresholds for RT and HT	None
Recovery of RT and HT by non-established businesses	No

B. Scope of the tax

Taxable persons subject to RT and HT are businesses (i.e., taxable persons) that supply goods or provide services in Aruba. The tax base equals the gross revenue (in cash or in kind) generated from the supply of goods or services in Aruba by taxable persons.

As of 1 August 2023, the import of goods into Aruba by taxable persons (businesses and nonbusinesses) is also a taxable event for the tax on import of goods. The tax base equals the customs value, which is the value of the imported goods as per the moment the goods cross the border, which includes all expenses made to import the goods, such as: cost, insurance and freight (CIF value). Imported goods that are exempt from import duties are also exempt from the tax on import of goods (e.g., machinery and raw materials for local producers). Same applies to import of goods for which the import duties are waived (e.g., goods that serve a scientific purpose).The formal requirements for the levy, refund, additional assessments and penal provision of the import duties are also applicable to the tax on import of goods. For instance, a person is entitled to recover any overpaid tax on import of goods (same as import duties) within one year of payment.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for RT and HT in every jurisdiction where it has customers that are not taxable persons. In Aruba, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Aruba. As such, the RT and HT apply to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Aruba, there are no specific rules that indicate the value for RT and HT purposes for transactions between related parties. However, in general an arm's-length compensation should be considered.

C. Who is liable

In principle, for RT and HT purposes, a taxable person is an individual or business entity that delivers goods or performs services (engages in taxable activities) in Aruba. A taxable person can also be regarded as anyone who exploits an asset to realize sustainable revenue. The taxable person that realizes the revenue is subject to RT and HT.

A legal entity is not regarded as a taxable person for RT and HT purposes if it does not participate in economic activities in Aruba and has a foreign exchange license or is exempt from the requirement to hold one.

For the tax on import of goods, a taxable person is anyone that imports goods into Aruba. The taxable person (businesses and nonbusinesses) in whose name goods are imported, is responsible for the payment of the tax on import of goods.

Exemption from registration. The RT and HT laws in Aruba do not contain any provisions for exemption from registration. Companies that have a nonresident status for foreign exchange transaction purposes at the Central Bank of Aruba and that do not participate in the economic sphere of Aruba are not required to register for the RT and HT.

Furthermore, free zone companies are exempt from RT and HT with respect to the rendering of services or the supply of goods to nonresidents.

The revenue of certain oil and gas exploration and exploitation companies is exempt from RT and HT to the extent that the revenue is made with the exploration and exploitation of oil and gas.

Voluntary registration and small businesses. The RT and HT law in Aruba does not contain any provision for voluntary RT and HT registration.

However, private individuals who are regarded as taxable persons for RT and HT purposes and who expect to not exceed a generated annual turnover of AWG50,000, can, in principle, obtain a dispensation for RT and HT. The dispensation implies that, on the generated turnover with the supply of goods or the rendering of services, no RT or HT is due. The taxable person who exploits an asset in order to realize revenue on a continuous basis cannot apply for this dispensation.

Group registration. If a parent company owns 100% of the legal and beneficial rights of shares in a subsidiary established in Aruba, on request a VAT group for RT and HT purposes is recognized and RT and HT are levied on the parent company as if one taxable person exists. Revenue generated by intercompany transactions is disregarded from RT and HT. There is no minimum time period required for the duration of the VAT group. The VAT group starts in the month that the request is filed and ends when the unity no longer meets the 100% ownership requirement.

Members of a RT/HT group in Aruba are not jointly and severally liable for RT/HT debts and penalties. There is no specific legal provision nor policy based on which members are jointly and severally liable for the RT/HT debts and penalties. Based on the RT/HT law, taxes are levied on the parent company as if one taxable person exists, meaning that the other group members are disregarded. This means that they would not be jointly and severally liable for the RT/HT of the group nor individually.

Fixed establishment. In Aruba there is no legal definition of a fixed establishment for RT or HT purposes. However, generally, a fixed establishment is understood to be a business in Aruba of an entity established outside of Aruba, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies and/or to acquire and use services for its own needs. A fixed establishment should be capable of acting as a taxable person independently of the head office.

Non-established business. A "non-established business" is a business that does not have a business or fixed establishment in Aruba. A non-established business that performs taxable supplies of goods or services (e.g., maintenance work on real estate established in Aruba) is, in principle, required to register for RT/HT unless the reverse-charge mechanism is applicable (on specific supplies of services as of 1 January 2023).

Tax representatives. As of 1 January 2023 , taxable persons that supply goods or provide services in Aruba and are neither established in Aruba nor have a permanent establishment in Aruba, can appoint a fiscal representative in Aruba instead of registering at the tax authorities (Departamento di Impuesto) for RT and HT purposes. The fiscal representative acts on behalf of the taxable person and takes care of its filing and payment obligations for RT and HT. The fiscal representative can be assigned by means of a written power of attorney. The Minister of Finance may designate cases for which the appointment of a fiscal representative is mandatory.

Reverse charge. As of 1 January 2023, the reverse charge mechanism should be applied on specific types of services in case these are provided to other businesses (B2B). These services are: electronic, telecommunication, radio and television broadcasting services, services performed in Aruba related to real estate located in Aruba, transportation of persons or goods in Aruba and related services such as loading and unloading of goods and services performed in Aruba related to movable property.

Domestic reverse charge. There are no domestic reverse charges in Aruba.

Digital economy. As of 1 January 2023, the place of supply of electronic, telecommunication and radio and television broadcasting services is the country of establishment or residence of the customer (B2B and B2C).

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for RT/HT in Aruba.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for RT/HT on supplies in Aruba. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Aruba. Goods (e.g., software, clothing, books) that are ordered by Aruba residents via the internet are not considered electronic services and therefore not subject to RT/HT in Aruba. However, tourist levies and environmental levies can be levied from third parties (platforms) that facilitate the rent of a hotel or lodging and that receive the payment from the guest.

Registration procedures. To register for RT and HT, a taxable person, or an authorized representative, must submit a hard copy registration form to the tax authorities to receive a tax identification number. This registration form can be downloaded from the website of the Aruban tax authorities (http://www.impuesto.aw). The documents necessary for registration include original chamber of commerce excerpt; identification of the applicant (in case of a director whose name is identified in the chamber of commerce, a copy of their identification); and, in case the application is being done by a third party, a signed power of attorney. The registration request can be filed by letter or digitally. It takes an average of 10 working days for the tax authorities to complete the registration process.

Deregistration. To deregister for the RT or HT, a written application for deregistration must be submitted to the tax authorities.

Changes to RT and HT registration details. To notify the tax authorities of any changes to the registration details, such as company name or address, the taxable person must submit a letter informing the tax authorities of the applicable changes.

D. Rates

The term "taxable supplies" refers to supplies of goods or services that are subject to a rate of RT and HT.

In Aruba, the term "revenue" refers to all remunerations (in cash or in kind) received by a taxable person for the supply of goods or the rendering of services in the course of its business.

The RT standard rate is 4%. The standard rate of RT applies to revenue realized from performing taxable activities in Aruba, unless a specific measure provides for an exemption. Note that this is a combined rate of BBO (2.5%) and BAVP (1.5%).

The HT rate of 3% applies to revenue realized from performing taxable activities in Aruba, unless a specific measure provides for an exemption.

The standard rate of the tax on import of goods is 7% (combined rate of 2.5%, 1.5% and 3%).

The term "exempt supplies" refers to supplies of goods and services that are not liable to RT and HT.

Examples of exempt supplies of goods and services

- Sale of real estate (to the extent that transfer tax is due)
- Prescription medicines, including certain medical aids
- Renting apartments or hotel rooms (to the extent that room tax is due)
- Providing opportunities to gamble (to the extent that gaming tax is due)
- International transportation of goods and persons by ships or airplanes
- Renting real estate that is used as the renter's own dwelling
- Investment income, such as interest, dividends and capital gains generated from the sale of shares and other stocks
- Services provided by companies established in the free zone to customers outside Aruba
- Revenue generated from the supply of exported goods is exempt from RT and HT. However, to qualify for this exemption, the exports of goods must be substantiated by proof that confirms that the goods have left Aruba. The Minister of Finance may propose additional regulations. *At the time of preparing this chapter, no additional regulations have been adopted.*

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Aruba.

E. Time of supply

RT and HT are levied on a cash basis. However, on request, a taxable person may opt for an invoice (accrual) basis for RT and HT. The tax authorities need to approve this request.

Deposits and prepayments. The tax point for deposits and prepayments arises upon receipt of the payment for the goods or services.

Continuous supplies of services. The tax point arises upon receipt of each payment for the continuously supplied goods or services.

Goods sent on approval for sale or return. There are no special time of supply rules in Aruba for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Aruba for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The tax point arises upon the payment of each lease installment for both operational and financial lease.

Imported goods. The import of goods is a taxable event for taxable persons in whose name the goods are imported. The import of goods is defined as releasing the goods for free circulation in Aruba. Goods are generally considered for free circulation when the corresponding customs declaration is filed, all customs requirements are fulfilled and the goods are no longer under the supervision of the customs authorities.

For RT/HT purposes, the time of supply of imported goods is where the transport originates, i.e., outside of Aruba. However, the foreign supplier would not need to register for RT or HT in Aruba, as no RT or HT is due on the goods upon importation.

F. Recovery of RT, HT and tax on import of goods by taxable persons

RT and HT cannot be recovered in Aruba.

Tax on the import of goods paid by taxable persons for RT and HT purposes (i.e., those engaged in taxable activities and in whose name the goods are imported) for the import of trade goods can, under certain circumstances, be recovered by aforementioned taxable persons. The recovery mechanism applies for "trade goods" only. Trade goods are defined as goods meant for resale. Resale is defined as the reselling of imported goods without further processing, e.g., wholesalers and retailers.

In a Ministerial Regulation of 13 September 2023, the term "trade goods" has been broadened with the following:

- Goods that are imported by a taxable person intended for commercial resale, whereby the goods have remained materially the same and the essential characteristics of the goods have not changed after any treatments or processing of the goods within the company (e.g., imported chicken that is made into a chicken salad).
- Parts that are imported by a taxable person and assembled or processed in the own company into a new trade good that is intended to be resold commercially (e.g., a bike shop that imports the parts of a bike and self-assembles the bikes for sale)
- Any processing operation of the taxable person of food and beverages that are intended to be resold commercially, whereby the supply of food and beverages almost exclusively prevails and is not subordinate to the supply of a service (e.g., fast food restaurants and takeaway restaurants).

The aforementioned taxable person can offset the tax on import of goods only if it fulfills the invoicing/cash register system requirements.

The total tax on import of goods paid to the customs authority in a reporting period (month) will be pre-populated in the RT and HT return in the *Bo Impuesto* (BOi) portal of the taxable person. The amount of tax on import of (trade) goods should be reclaimed by offsetting the amount in the RT and HT return of the reporting period in which the import of these goods took place. The trade goods do not have to be resold when the concerning tax on import of goods is reclaimed. If the amount of the tax on import of goods is higher than the amount of the RT and HT due in a reporting period, the difference ("a refund") will be paid back to the taxable person. Small businesses that are not registered for RT and/HT (see the subsection *Voluntary registration and small businesses* above) are not entitled to reclaim the tax on import of goods.

G. Recovery of RT, HT and tax on import of goods by non-established businesses

RT and HT cannot be recovered in Aruba.

A non-established business (i.e., a business not registered for RT and HT in Aruba) cannot recover tax on import of (trade) goods in Aruba. However, a non-established business that performs taxable supplies of goods or services in Aruba, may in principle recover the tax on import of goods for the import of "trade goods." See the subsection *Recovery of RT, and HT and tax on import of goods by taxable persons* above. The only possible way to recover tax, is the tax on import of trade goods. A non-established business is required to supply goods in Aruba to be eligible for the recovery of import tax. Reciprocity does not apply.

H. Invoicing

RT and HT invoices. A taxable person must issue an invoice for all taxable supplies performed including exports.

Taxable persons are prohibited to carry out the following:
- To state on their invoices and receipts that the RT and HT is levied on the (taxable) turnover
- To offer goods and services (which are taxable) against prices that do not include the RT and HT due

Taxable persons can opt to reflect the RT and HT on their invoices/receipts. There are two permissible ways to do so. The taxable person may:
- Separately state on the invoice/receipt that the price includes BBO/BAZV/BAVP
- Indicate on the invoice/receipt what part of the total price will be remitted as BBO/BAZV/BAVP

The RT and HT percentage to be indicated on the invoice must be 7%.

Credit notes. An RT and HT credit note must be issued when the quantity or remuneration of an initial invoice issued should be updated. In general, credit notes must include the same information as the original RT and HT invoice.

Electronic invoicing. Electronic invoicing is allowed in Aruba, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Aruba. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Aruba. The requirements related to electronic invoicing are the same as those for paper invoicing.

Note there is no specific legislation regarding the application of electronic invoicing in Aruba. However, there are specifications regarding the information presented that all invoices (hard copy or electronic) must adhere to, and all taxable persons are required to insure the authenticity of the electronic invoices. This includes the fact that PDF invoices can be issued in Aruba.

Simplified RT and HT invoices. Simplified RT and HT invoicing is not allowed in Aruba. As such, full RT and HT invoices are required. Taxable persons that use the cash registration system can suffice with only issuing a cash receipt containing certain information.

Self-billing. Self-billing is not allowed in Aruba.

Proof of export. Goods destined for export are exempt from RT and HT. The taxable person must provide documents to prove the goods are destined for export.

Foreign currency invoices. Invoices can be provided in any currency, including the local currency, the Aruban florin (AWG).

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Aruba. As such, full RT and HT invoices are required.

Records. In Aruba, examples of what records must be held for RT/HT purposes include copies of the returns and the underlying documentation. In Aruba, RT/HT books and records can be kept outside of the country. The records do not have to be held physically in Aruba. The legislation allows the records to be held digitally, as well, as long as the digital records are an exact copy to the physical ones. Furthermore, the location is not specified in the legislation, as long as the taxable persons can provide the records to the tax authorities within a reasonable time.

Record retention period. Taxable persons must retain copies of invoices for 10 years.

Electronic archiving. Electronic archiving is allowed in Aruba. However, there are no specific rules on how the invoices should be administrated other than that upon request by the Aruba Tax Inspector, these should be provided, and the information should be clear and definite.

I. Returns and payment

Periodic returns. RT and HT combined returns are generally submitted on a monthly basis. The RT and HT return must be filed within 15 days after the end of the month. The filing of the return of the RT and HT amount can be done separately.

Periodic payments. The RT and HT due must be paid within the same time period as the return, which is within 15 days after the end of the month.

Electronic filing. Electronic filing is mandatory in Aruba for all taxable persons. Filing is done via the online portal *BO impuesto* (BOi). All companies who could be liable for RT and HT tax are requested to register in the BOi system. The documents necessary to register are a copy of a previously filed RT and HT, original chamber of commerce abstract, identification of the applicant (in case of a director whose name is identified in the chamber of commerce, a copy of their identification), tax authorities' template of authorization form and a username.

Payments on account. Payments on account are not required in Aruba.

Special schemes. No special schemes are available in Aruba.

Annual returns. Annual returns are not required in Aruba.

Supplementary filings. No supplementary filings are required in Aruba.

Correcting errors in previous returns. Errors of previous returns can be corrected by filing an objection within two months of the payment of the RT and HT returns. A RT and HT correction can be filed within seven days via the BOi online portal. If the correction is made after seven days, a correction request letter must be sent via email to the tax authorities (info@impuesto.aw).

Digital tax administration. There are no transactional reporting requirements in Aruba.

J. Penalties

Aruba's strict penalty system punishes the following two categories of infraction:
- Omissions
- Gross negligence or intent

The penal provisions of the import duties are also applicable to the tax on import of goods.

Penalties for late registration. In general, an Aruba taxable person who starts performing economic activities must register with the tax authorities in Aruba. Since there is no specific deadline for registration, no penalty is imposed for late registration.

Penalties for late payment and filings. However, if the late registration results in the late payment of RT or HT or the late submission of RT or HT returns, administrative penalties may be imposed.

The tax authorities can impose penalties for not filing the RT and HT return on time, for not paying the amount due on time, for not paying or partially paying the amount due and for noncompliance with the prohibition mentioned under Section H for RT and HT on the invoice. As to the latter penalty, it is our understanding that this penalty will not be imposed during a transitional period. These penalties can, however, accumulate. The following are the maximum penalties that can be applied, which vary depending on the number of omissions:
- Not filing return on time: maximum penalty of AWG250
- Not paying on time: maximum penalty of AWG10,000
- Not paying or only partially paying: maximum penalty of AWG10,000
- Not including the RT and HT in the remuneration of the (taxable) supply of goods and/or services: maximum penalty of AWG10,000
- Stating the RT and HT in the calculation of the final price: maximum penalty of AWG10,000

If the late payment is caused by gross negligence or intent, penalties ranging from 25% to 100% of the RT and HT payable may be imposed.

Penalties for errors. The penalties for errors are the same as those for late filing and late payment (as outlined above).

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's RT/HT registration details. For further details, see the subsection *Changes to RT and HT registration details* above.

Penalties for fraud. Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct. If the invoicing requirements are not met and a proper administration is not in place, criminal penalties consisting of a penalty of AWG25,000 or a jail sentence for the maximum duration of six months may be imposed.

Should gross negligence or intent be constituted, the amount of the penalty will be AWG100,000 and the jail sentence up to six years.

There are, in principle, no consequences for the tax advisor, provided that the tax advisor did not contribute to fraud.

Personal liability for company officers. In the Aruban tax legislation, the company is liable for filing and payment of the RT and HT returns correctly. However, a (former) director is jointly and severally liable for unpaid RT and HT, including any penalty and collection fees due by the legal entity.

Statute of limitations. The statute of limitations in Aruba is five years. For the RT and HT, there is a five-year statute of limitation period for the tax authorities to review the filed RT and HT returns and impose an additional assessment. The five-year period begins as of the end of the calendar year in which the tax liability originated. In case of bad faith by the taxable person upon filing of the RT and HT return and/or upon payment of the RT and/or HT due, the statute of limitation period is extended to 10 years.

In principle, the taxable person can file a voluntary correction within this period insofar as the tax authorities is not yet aware of any errors in the RT and HT returns or payments. Should the tax authorities inform the taxpayer of any audits or possible errors known by the tax authorities, the taxpayer cannot voluntarily correct any errors.

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A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Goods and services tax (GST)
Date introduced	1 July 2000
Trading bloc membership	Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Pacific Agreement on Closer Economic Relations Plus (PACER Plus)
Administered by	Australian Taxation Office (ATO) (www.ato.gov.au)
GST rates	
Standard	10%
Other	GST-free (zero-rated, 0%) and input taxed (exempt)
GST number format	Australian Business Number (ABN) 12345678901
GST return periods	Monthly (turnover in excess of AUD20 million; optional for all other registered persons) Quarterly (turnover below AUD20 million) Annual with quarterly payments (turnover below AUD2 million) Annual (turnover below AUD75,000)
Thresholds	
Registration	AUD75,000 (AUD150,000 for nonprofit bodies)
Recovery of GST by non-established businesses	No

B. Scope of the tax

GST applies to the following transactions:

- Taxable supplies of goods and services, which are supplies connected with the "indirect tax zone" (i.e., Australia) and made for consideration in the course of a business enterprise by an entity that is registered or that is required to be registered for GST.
- Reverse charge applies to offshore acquisitions made by a registered entity in Australia if the supply is not connected with Australia and if the recipient of the supply does not make the acquisition solely for a creditable purpose. Effective 1 July 2017, offshore intangibles supplied to Australian non-registered consumers (e.g., digital supplies and services) may be subject to GST with the offshore supplier liable to remit this GST.
- Taxable importations of goods into Australia, regardless of the status of the importer; importations of low value goods (e.g., AUD1,000 or less) are subject to GST with the nonresident suppliers, operators of online marketplaces (i.e., electronic distribution platforms) and/or re-deliverers to consumers in Australia liable to remit that GST to the Commissioner of Taxation.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for GST in that jurisdiction where it has customers that are not taxable persons. In Australia, the place of effective use or enjoyment of a supply is only taken into account in relation to the consumption outside Australia of supplies of things other than goods or real property. A supply can be GST-free when made to a recipient who is outside Australia when the thing supplied is done, and the effective use or enjoyment takes place outside Australia, other than a supply of work physically performed on goods in Australia when the thing supplied is done, or a supply directly connected with real property in Australia. A supply is also taken to be made to a recipient who is not in Australia if it is a supply made under an agreement entered into, whether directly or indirectly, with an Australian resident, and the supply is provided, or the agreement requires it to be provided, to another entity outside Australia.

Transfer of a going concern. Normally the sale of the assets of a GST-registered or GST-registrable business will be subject to GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of GST. In Australia, a TOGC is treated as outside the scope of GST where the following conditions are met:

- The supply must occur under an arrangement.
- The supplier supplies to the recipient all the things necessary for the continued operation of an enterprise.
- The supplier carries on, or will carry on, the enterprise until the day of supply (whether or not part of a larger enterprise carried on by the supplier).
- The supply is for consideration.
- The recipient is registered or required to be registered.
- The supplier and the recipient have agreed in writing that the supply is of a going concern.

Transactions between related parties. In Australia, a transaction between related parties will ordinarily be subject to the normal GST rules where a taxable supply is made. However, where a supply occurs between related parties that are defined as associates under Australian income tax rules, special associate rules will apply.

Where a taxable supply to an associate is made without consideration, and the associate is not registered or required to be registered, or if registered, the associate does not acquire the thing supplied solely for a creditable purpose, GST should be applied at a rate of 10% of the GST-exclusive market value of the supply.

Where a taxable supply is made to an associate for consideration that is less than the GST-inclusive market value of the supply, and the associate is not registered or required to be registered, or if registered, does not acquire the thing supplied solely for a creditable purpose, GST should be applied at 10% of the GST-exclusive market value of the supply.

There is no distinction between the supply of goods or services under the associate rules.

C. Who is liable

The GST registration threshold is AUD75,000 (AUD150,000 for nonprofit bodies). The threshold applies, retrospectively and prospectively, based on either of the following:

- Current GST turnover, which is the value of all supplies made or likely to be made in the current month plus the preceding 11 months
- Projected GST turnover, which is the value of all supplies made or likely to be made in the current month plus the next 11 months

To calculate turnover for the above purposes, turnover from input-taxed (exempt) supplies, supplies that are not connected with Australia and certain other types of supplies are excluded.

Sales of residential property. Purchasers of new residential premises (or subdivisions) must pay the GST on the purchase price directly to the Australian Tax Office (ATO) as part of the settlement. Suppliers are required to provide the purchaser with a notification in writing before making the supply, providing the supplier's Australian Business Number (ABN) and the amount required to be withheld. Purchasers are required to provide the ATO with a notification through the submission of a form, which is completed and lodged online to the ATO prior to settlement. Once this form has been lodged, the ATO will provide the purchaser with a payment reference number and lodgement reference number. The final GST liability is to be resolved as part of the Business Activity Statement (BAS) cycle, whereby the supplier will be entitled to a credit for the amount of payment made to the ATO in the BAS for the tax period to which the supply is attributed.

Withholding by purchasers applies to supplies of new residential premises or subdivisions for which consideration (other than a deposit) is first provided on or after 1 July 2018.

Exemption from registration. The GST law in Australia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. An entity with a turnover below the registration threshold may apply to register for GST voluntarily if the entity is carrying on an enterprise.

Group registration. Subject to certain requirements, two or more entities that are closely related may form a GST group. The effect of GST grouping is to treat the group members as a single entity for certain purposes. In general, all GST liabilities and input tax credit entitlements for group members are attributed to a representative member of the group, and the group submits a single GST return (incorporated as part of the BAS; see *Section I. Returns and payment*). The representative member of the group must be an Australian resident. However, nonresidents may be included in a GST group as members. Transactions between group members are not considered taxable for GST purposes and consequently are effectively ignored.

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

An independent branch of a company may be registered separately as a GST branch, with its own GST number. Certain requirements must be met relating to the nature of the activities and accounting systems of proposed GST branches. In addition, a branch of a registered entity may not be registered as a GST branch if the entity is a member of a GST group.

There is no minimum time period required for the duration of a GST group.

Members of a GST group will be jointly and severally liable for GST debts and penalties of the GST group. The individual liability of a GST group member, including the representative member, can be reasonably allocated if the group members enter an Indirect Tax Sharing Agreement. This amount can be a fixed contribution amount or based on a method of allocation.

Fixed establishment. In Australia there is no legal definition of fixed establishment for GST purposes. However, an entity may be required to register for GST if it is carrying on an enterprise in Australia, whereby the enterprise is carried on by one or more individuals in Australia, and any of the following applies:

- The enterprise is carried on through a fixed place.
- The enterprise has been carried on through one or more places in Australia for more than 183 days in a 12-month period.
- The entity intends to carry on the enterprise through one or more places in Australia for more than 183 days in a 12-month period.

It does matter whether the entity has exclusive use of a place, or the entity owns, leases or has any other claim or interest in relation to the place.

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

As an alternative to registration, some nonresidents may agree with the recipient of the supply for the recipient to account for the GST liability under the voluntary reverse-charge procedure.

Certain business-to-business (B2B) transactions (other than supplies of goods or real property) between nonresident suppliers and Australian-based business recipients will no longer be "connected" with Australia. Subject to certain conditions and transitional rules being satisfied, GST will not apply to these supplies and consequently a nonresident supplier that may have previously been required to be registered for GST in Australia could deregister.

These rules do not apply where the nonresident supplier is carrying on an enterprise in Australia. The concept of an entity carrying on an enterprise is broadly consistent with Australia's current tax treaty approach for determining a permanent establishment and incorporates the "183-day" and "fixed-place" rules.

Nonresident entities may register for GST in a "limited" capacity to reduce their compliance burden if they have made one or more inbound intangible consumer supplies (effectively business-to-consumer [B2C] supplies). This limited GST registration allows nonresidents to collect and remit GST on a quarterly basis without the ability to claim any input tax credits for GST included within associated expenses. Nonresident suppliers of low value goods to Australian consumers can also elect to obtain a limited registration.

Tax representatives. Tax representatives are not required in Australia.

Reverse charge. GST on a taxable supply is payable by the recipient and not by the supplier if all the following conditions are met:
- The supplier is a nonresident.
- The supplier does not make the supply through an enterprise that it carries on in Australia.
- The recipient is registered (or is required to be registered) for GST.
- The supplier and recipient agree that the GST is payable by the recipient.

The voluntary reverse charge does not apply if either of the following circumstances exists:
- The compulsory reverse charge applies.
- The supply is made by the nonresident through a resident agent.

A compulsory reverse charge applies in the following circumstances:

There is a supply of anything other than goods or real property (e.g., digital products, services, rights) that is either (a) not connected with Australia or (b) connected with Australia because it is a supply made through an enterprise carried on outside of Australia and it is a supply of a right or option to acquire something that would be connected with Australia.
- The recipient of the supply is registered (or required to be registered).
- The supply is for consideration.
- The recipient acquires the supply solely or partly for the purpose of a business enterprise carried on by it in Australia.
- The acquisition is not solely for a creditable purpose (that is, it is not eligible for full input tax credits), and the supply is not input taxed or GST-free.

Where a supply of low-value goods, or a supply of anything other than goods or real property was not subject to GST because the supplier incorrectly believed the recipient was not an Australian consumer, a compulsory reverse charge applies where the acquisition is not solely acquired for a creditable purpose and the supply is not input taxed or GST-free.

The compulsory reverse charge applies primarily to businesses that make input-taxed (exempt) supplies (e.g., financial institutions) and to acquisitions made for a partly private or domestic purpose. The reverse charge does not apply to private consumers who are not registered or required to be registered for GST.

Domestic reverse charge. There is a mandatory reverse charge to taxable supplies of valuable metals (i.e., goods consisting wholly or partly of gold, silver, platinum or any other substance specified in the regulations for the purposes of the definition of a "precious metal").

Subject to certain exceptions, the mandatory reverse charge occurs where:
- The market value of the goods does not exceed the valuable metal threshold.
- The recipient is registered or required to be registered.

If the mandatory reverse charge does not apply, suppliers and recipients may also agree in writing to voluntarily reverse charge taxable supplies containing valuable metal.

Digital economy. The supply by nonresident suppliers of intangibles, including anything other than goods or real property (e.g., digital products, services, rights), to an Australian non-registered consumer will be taken to have the necessary connection with Australia and may be subject to GST unless otherwise exempted (including the supplier meeting the GST registration threshold). The onus is on the supplier to determine that its customer is not an Australian consumer. A supplier must have sufficient evidence that would enable a person who is independent of the transaction to reasonably conclude that its customer is not an Australian consumer (e.g., customer residency and their GST registration status and purpose of acquisition).

The supply of low value imported goods of AUD1,000 or less to an Australian non-registered consumer will be taken to have necessary connection with Australia and may be subject to GST unless otherwise exempted (including the supplier meeting the GST registration threshold). Nonresident suppliers and/or re-deliverers to consumers in Australia are liable to remit that GST to the Commissioner of Taxation.

Online marketplaces and platforms. In some circumstances, the responsibility for the GST liability that arises under the amendments may be shifted to the operator of an electronic distribution platform rather than the supplier of the intangible supply.

The legislation treats supplies of digital currency alike to supplies of money. GST is generally not payable on supplies and purchases of digital currency.

Registration procedures. To register for GST in Australia, an entity needs to first apply for an ABN. To apply for an ABN or apply to have an ABN previously held reissued, the taxable person can apply online through the Australian Business Register (ABR) or through its registered tax agent or BAS agent. Nonresidents have additional requirements for providing identity evidence for ABN registrations, including certified copies of original proof of identity documents for the business and associated individuals of the business, usually directors. Documents need to be translated into English before being submitted with the application, and this can be done by an authorized translator, and it must be certified that the translation is a true and correct copy of the original.

Once an entity has an ABN, it can register for GST. An entity can register for GST via the ATO online services for business, by phone to the ATO or through its registered tax agent or BAS agent.

Nonresidents may also register for GST. The types of GST registration available to nonresidents are:
- Simplified GST registration, which is a two-step process where an entity first gets an ABN and then registers for Simplified GST.
- Standard GST registration with an ABN where an entity applies for an ABN and GST.
- Standard claim only (GST-only), which can be applied for online. Documents showing that the business is registered with an equivalent corporate, market and/or financial regulator in the entity's country of origin and a letter issued by a revenue authority of a comparable taxing regime stating that the entity exists in their records and carry on an enterprise are also required.

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

Changes to GST registration details. It is a legal requirement to notify the Registrar of the ABR within 28 days of any changes in a taxable person's registered business details. These include, but are not limited to, changes to postal, email or business address, associates, main business activity, key personnel (such as directors or public officer) or authorized contacts. A taxable person can update its details online through the ABR or Business Portal, by phone, by lodging a form, or through its registered tax agent or BAS agent.

D. Rates

The terms "taxable supplies" and "taxable importations" refer to supplies of goods, real property, and services and importations that are liable to GST and give rise to a right to claim input tax credits for GST included in acquisitions related to the supply.

The GST rates are:
- Standard rate: 10%
- Zero-rate: 0%

The standard rate of GST applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

"GST-free supplies" are supplies not liable for GST but that nevertheless do give rise to a right to claim input tax credits for GST included in acquisitions related to the supply.

Examples of goods and services taxable at 0% (i.e., GST-free)

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

The term "input-taxed supplies" refers to supplies not liable for GST (i.e., exempt) that do not give rise to a right to claim input tax credits for GST included in acquisitions related to the supply.

Examples of exempt supplies of goods and services (i.e., input-taxed)

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

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Australia.

E. Time of supply

Australia does not have time of supply rules. Instead, it has attribution rules with respect to the timing of when GST is payable, or an input tax credit is claimable. The time when GST is payable on a supply depends on whether the taxable person accounts for GST on a cash basis or on an accrual basis.

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

Security deposits are not considered to constitute payment of the consideration for a supply until the deposit is applied as partial payment toward the consideration for the supply. GST is payable on a security deposit that is forfeited.

Continuous supplies of services. If a supply is made continuously over a period of time for consideration that is either paid progressively or periodically, the supply is treated as if each component of the progressive or periodic supply is a separate supply.

Goods sent on approval for sale or return. Australia does not have time of supply rules. In these circumstances, the general attribution rules should apply such that the supplier has a GST liability on the earlier of the invoice being issued or the receipt of any consideration.

Reverse-charge services. Australia does not have time of supply rules. For reverse-charge supplies, the general attribution rules should apply such that the supplier has a GST liability on the earlier of the invoice being issued or the receipt of any consideration. Where reverse charge is applied on supplies between associates for no consideration, GST is payable on the supply and the input tax credit on the acquisition is attributable in the tax period in which the thing supplied starts to be done.

Leased assets. Australia does not have time of supply rules. Refer to the subsection above, *Continuous supplies of services,* for how to treat the supply of leased assets.

Imported goods. GST is payable for imported goods at the time of importation. For an importer registered under the GST-deferral scheme, GST is payable on the due date for the importer's next BAS (see *Section I. Returns and payment*).

F. Recovery of GST by registered entities

A registered entity may claim input tax credits for the GST included in the consideration for goods and services acquired within Australia, GST paid on importations of goods and GST paid under reverse-charge arrangements to the extent that the acquisition is a creditable acquisition. Input tax credits are generally recovered by being offset against GST payable on taxable supplies.

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

The time limit for a taxable person to reclaim input tax in Australia is four years. The input tax credit claim must be made within four years after the day on which the GST return would have been due for the earliest tax period in which the entity would have been able to claim the input tax credit (setting aside any requirement to hold a tax invoice).

Nonresident entities registered for GST in a limited capacity do not have the ability to claim any input tax credits for GST incurred on Australian acquisitions.

Nondeductible input tax. Nondeductible purchases are also known as "Non-creditable acquisitions" in Australia. In addition, input tax credits are blocked or reduced for some items of business expenditure.

However, acquisitions related to making financial supplies remain creditable if the entity does not exceed the financial acquisitions threshold. An entity exceeds the financial acquisitions threshold if, in the current month and the preceding 11 months, or in the current month and the next 11 months, the GST on acquisitions related to financial supplies (i.e., "financial acquisitions") exceeds, or will exceed, either the lesser of AUD150,000 or 10% of the total input tax credits an entity incurs. In calculating the amount of GST on financial acquisitions, financial acquisitions related to borrowings and importations are excluded. Acquisitions related to borrowings (that are not used to make input-taxed supplies) and importations remain creditable. An entity that exceeds the financial acquisitions threshold may be entitled to reduced input tax credits (at a rate of 75% or 55%) in specific circumstances.

The following lists provide some examples of items of expenditure for which input tax deductions are not available (non-creditable acquisitions) and examples of items for which input tax deductions are available if the expenditure is related to the entity's taxable business use (creditable acquisitions).

Examples of items for which input tax is nondeductible

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

Examples of items for which input tax is deductible (if related to a taxable business use)

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

Partial exemption. A creditable acquisition is an acquisition of goods or services used by a registered entity in its business enterprise. However, input tax credits are generally not available for GST included in acquisitions that are used for making input-taxed (exempt) supplies, subject to whether an entity exceeds the financial acquisitions threshold.

In general, the amount of the input tax credit available for a creditable acquisition is the amount of GST payable on the supply. However, the amount of the input tax credit is reduced if the

acquisition is only partly creditable. An acquisition is partly creditable if either of the following conditions applies:
- The acquisition is made only partly for a creditable purpose (e.g., it partly relates to input-taxed supplies).
- The taxable person provides, or is liable to provide, part of the consideration for the acquisition.

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

The ATO requires that the extent to which an acquisition is made for a creditable purpose is determined based on the planned use of the acquisition "on a reasonable basis."

Approval from the ATO is not required to use the partial exemption standard method or special methods in Australia.

Direct allocation methods are preferred if possible. However, indirect allocation methods (i.e., special methods) are acceptable if it is not feasible to use a direct method. Examples of common indirect methods include the following:
- A pro rata calculation based on the cost of acquisitions used to make taxable supplies compared with the total cost of all acquisitions.
- A pro rata calculation based on the total value of taxable supplies made compared with the total value of all supplies made.

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

Capital goods. The GST Act does not define the term "capital goods." Generally, capital goods refer to those goods that make up the profit yielding subject of an enterprise. Where acquisitions of capital goods are made partly for a "creditable purpose," an input tax credit can be claimed to the extent to which the acquisition is made for a creditable purpose.

Generally, the time limit for claiming input tax credits is four years.

The calculation for claiming input tax credits on acquisitions is:
- (Full input tax credit) x (Extent of creditable purpose) x (Extent of consideration)

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

Pre-registration costs. Input tax incurred on pre-registration costs in Australia is not recoverable.

Bad debts. An entity can recover the GST it has remitted in respect of unpaid invoices if either:
- The debt is written off as bad.
- The debt has been overdue for 12 months or more.

If an entity makes a bona fide commercial decision that the debt is unlikely to be recovered, the Commissioner of Taxation will accept that the debt is bad for the purposes of GST. There must be some written record that evidences the decision to write off the debt.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Australia.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in Australia is not recoverable.

Only entities that are registered for GST may claim refunds of GST incurred on Australian acquisitions. In general, entities (including nonresidents) that make acquisitions in Australia for the purposes of their enterprises may register for GST if necessary, although they are not required to be making supplies in Australia to have the entitlement to a refund. However, the nonresident entities electing "limited registration" are unable to recover any GST incurred on Australian acquisitions.

H. Invoicing

GST invoices. A registered person must generally provide a tax invoice for all taxable supplies made if requested to do so by the recipient of a supply. A tax invoice is not required for supplies with a GST-inclusive amount of AUD82.50 or less.

A tax invoice is generally necessary to support claims for input tax credits. Those nonresidents making supplies to Australian consumers and have "limited registration" for GST are not required to issue tax invoices.

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

Electronic invoicing. Electronic invoicing is allowed in Australia, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Australia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Australia. The requirements related to electronic invoicing are the same as those for paper invoicing.

For electronic invoices, recipients need to be able to reproduce the tax invoice when requested by the Commissioner of Taxation in support of any input tax credit claims.

At the time of preparing this chapter, there is currently no mandate for businesses to use electronic invoicing. Commonwealth Government agencies are mandated to be able to receive electronic invoices. The government is pursuing an organic adoption of electronic invoicing.

Simplified GST invoices. There are no simplified GST invoices in Australia. However, for supplies of AUD1,000 or more, the tax invoice also needs to show the buyer's identity or ABN.

Self-billing. Self-billing is allowed in Australia. There are three classes of invoices that may be issued by a recipient of a taxable supply, rather than the supplier. These invoices are known as Recipient Created Tax Invoices (RCTI). The three broad classes are:

1. Tax invoices for taxable supplies of agricultural products made to registered recipients
2. Tax invoices for taxable supplies made to registered government-related entities
3. Tax invoices for taxable supplies made to registered recipients that have a GST turnover (including input taxed supplies) of at least AUD20 million annually or are members of a group of companies, partnerships or trusts, or a joint venture operator, in which one or more members of that group or participants in that joint venture have such a GST turnover

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

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

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Australia. As such, full GST invoices are required.

Records. In Australia, examples of what records must be held for GST purposes include records that explain all GST transactions, including any supply, acquisition or entitlement. In Australia, GST books and records can be kept outside the country. There are no requirements for the records to be kept locally in Australia; however, the records must be in English or readily accessible and convertible into English and must enable a business's liabilities and entitlements to GST and input tax credits to be readily ascertained.

Record retention period. Records of indirect tax transactions need to be retained for five years after the completion of the GST transaction to which they relate.

Electronic archiving. Electronic archiving is allowed in Australia. Records relating to GST transactions can be stored electronically. Electronic records are subject to the same record-keeping requirements as paper records.

I. Returns and payment

Periodic returns. GST liabilities are reported using a BAS. Registered persons whose annual turnover equals or exceeds AUD20 million must complete a BAS each month, which must be filed electronically. Monthly returns are due by the 21st day of the month following the end of the return period.

Registered persons whose annual turnover for GST purposes does not exceed AUD20 million must submit a BAS each quarter or they may opt to submit monthly. These registered persons may also choose to report some information annually. Quarterly returns and payments are generally due by the 28th day of the month following the end of the relevant return period but may be made by 28 February for the December quarter.

Registered persons whose turnover for GST purposes does not exceed AUD2 million may opt to file an annual BAS in quarterly installments.

Persons whose turnover for GST purposes does not exceed AUD75,000 and who have elected to report GST and pay (or claim a refund) annually or who elect to pay GST by installments may apply to file BASs annually. The annual GST return and payment will be due at the same time as the entity's income tax return. Where an entity is not required to lodge an income tax return, it must lodge its annual GST return with payment by 28 February. An entity must assess its eligibility to report and pay GST annually on 31 July each financial year. Where an entity is no longer eligible to report and pay GST annually, it must advise the ATO who will change the entity's GST reporting cycle to monthly or quarterly with effect from 1 July of that same financial year.

Entities that register for a "limited" registration must submit a BAS each quarter but will not have the ability to claim any input tax credits on the BAS. Therefore, these returns only include GST liabilities.

Periodic payments. Registered persons whose annual turnover equals or exceeds AUD20 million must pay any net GST liability. Payments are due by the 21st day of the month following the end of the period.

Registered persons whose turnover for GST purposes does not exceed AUD2 million may opt to pay GST in quarterly installments.

Persons whose turnover for GST purposes does not exceed AUD75,000 and who voluntarily opt to register for GST, may apply to pay GST annually.

GST liabilities must be paid in Australian dollars.

Electronic filing. Electronic filing is mandatory in Australia for certain taxable persons. Taxable persons whose annual turnover equals or exceeds AUD20 million must file their BAS electronically. For other taxable persons, electronic filing is optional.

Payments on account. Payments on account are generally not required in Australia, except for certain taxable persons. Generally, an entity will be required to report and pay GST on a monthly or quarterly basis. However, if an entity meets certain eligibility requirements that allow it to elect to pay GST by installments, it will pay a quarterly amount calculated by the ATO and report its actual GST information on an annual GST return. The ATO will calculate the installment amount based on the net GST amounts the entity most recently reported, generally for the prior year, depending on how long it has been registered for GST.

Special schemes. *Cash accounting.* Entities may choose to account on a cash basis only under limited circumstances, which involve, among other conditions, consideration as to whether an entity satisfies certain income tax definitions.

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

Accrual basis. For businesses that account for GST on an accrual basis, GST is payable with respect to a taxable supply for the tax period in which the invoice is issued or when any of the consideration is received for the supply, whichever is earlier.

Small business concessions. A small business may be eligible for GST and excise concessions. The turnover threshold for these concessions is AUD10 million. These include:
- Accounting for GST on a cash basis (explained above)
- Paying GST by installments, which are calculated by the ATO and may be varied by the small business each quarter if it chooses. A small business must contact the ATO to access this concession
- Annual apportionment of GST input tax credits, whereby if an item is purchased that is used partly for private purposes, the small business can choose to claim the full GST credits for these items on its BAS and make a single adjustment to account for the private use percentage after the end of its income year
- Excise concessions, where an eligible small business can apply to defer settlement of its excise duty and excise equivalent customs duty from a weekly to a monthly reporting cycle. To access this concession, an application must be made to the ATO in writing

Not-for-profit organization concessions. GST concessions are available to not-for-profit organizations. Additional GST concessions are available to:
- Australian Charity and not-for-profits Commission (ACNC) registered charities that are endorsed to access GST charity concessions
- Gift deductible entities
- Government schools

Food retailers. Simplified accounting methods (SAMs) are available for food retailers that buy and sell a mixture of products, where some are taxable and some are GST-free, and whose relevant turnover is not more than AUD2 million.

Secondhand goods. An entity can claim GST credits for its purchase of secondhand goods even if the price it paid did not include GST. That is, this can be done for secondhand goods that an entity purchases for resale from sellers who do not charge GST in the price of the goods. An entity can calculate its GST credits using either a direct approach or a global accounting method, depending on whether it sells the secondhand goods as a single item or divides them into separate parts.

Annual returns. Annual returns are not required in Australia.

Supplementary filings. No supplementary filings are required in Australia. However, entities can revise previously lodged BASs to correct errors or omissions.

Correcting errors in previous returns. The two types of GST errors a taxable person can make are a credit error or a debit error. A credit error is when a taxable person makes an error calculating its net GST amount, resulting in reporting/paying too much GST. A taxable person can correct a credit error on a later BAS if it is within the credit error time limit (four years and one day later than the day it lodged the original BAS). Credit errors are not subject to value limits.

A debit error occurs when a taxable person makes an error calculating the net amount, resulting in reporting/paying too little GST. A taxable person can correct a debit error on a later BAS given the debit error is within the debit error time limit (based on current GST turnover), the net sum of the debit errors is within the debit error value limit (based on current GST turnover) and the debit error is not a result of recklessness or intentional disregard of a GST law.

A taxable person can make a voluntary disclosure to the tax authorities in relation to any false or misleading information, mistakes or omissions it has made in the BASs. When making a voluntary disclosure, the taxable person is not required to admit liability; however, the taxable person is still required to pay the tax owed and interest and penalties the tax authorities apply.

In the instance the taxable person can correct the error on a later BAS, it must keep a record of the reporting period the error occurred in, the BAS it was corrected on and other relevant information to explain the correction/error.

If a taxable person is not eligible to correct the GST error on a later BAS, it may need to complete a revised BAS. This can be done online or by paper.

Digital tax administration. There are no transactional reporting requirements in Australia.

J. Penalties

Penalties for late registration. Penalties may be imposed if an entity fails to apply to register for GST when required by the GST Act, or if it is registered, to apply to cancel a GST registration as required.

Failure to comply with its registration obligations results in an entity being liable to an administrative penalty of 20 penalty units, with the current value of a penalty unit being AUD313. The ATO will give written notice to the entity of the entity's liability to pay the penalty and of the reasons why the entity is liable to pay the penalty.

These penalties may be remitted in specific circumstances. The particular facts of each case will determine whether or not the ATO exercises the discretion to remit.

Penalties for late payment and filings. A late lodgment penalty may be imposed for the late filing of a BAS. The penalty applies for each 28-day period, or part thereof, that the BAS remains overdue, up to a maximum of five periods.

The amount of the penalty is one penalty unit for each period (a penalty unit is currently AUD313) for every 28 days (or part thereof) that the BAS is late, up to a maximum of five penalty units. However, this may be increased depending on the size of the entity's business:

- For a medium entity the penalty is multiplied by two. A "medium entity" is a medium withholder for PAYG withholding purposes or has assessable income or current GST turnover of more than AUD1 million and less than AUD20 million.
- For a large entity the penalty is multiplied by five. A "large entity" is a large withholder for PAYG withholding purposes or has assessable income or current GST turnover of AUD20 million or more.
- For "significant global entities" (SGE) (e.g., an entity or consolidated group with annual global turnover equal to or greater than AUD1 billion), failure to lodge penalties are increased by a factor of up to 500 (i.e., for BASs lodged more than 112 days after the due date, the penalty is AUD782,500).

Where an entity receives a penalty notice for failing to lodge a return or statement on time, it can apply to the ATO to have the penalty remitted in full or in part if there are extenuating circumstances. Registered tax agents can also request remission on behalf of their clients.

General interest charges (GIC) may also be imposed on late payments of GST. The rate changes quarterly. It is around the range of 8% to 11% per year, compounded daily.

It is a legal requirement to notify the Registrar of the ABR within 28 days of any changes in a taxable person's registered business details. Taxable persons can be liable to penalties if they fail to meet this obligation.

Penalties for errors. A GST error is a mistake made in working out the GST net amount on the BAS that would result in reporting or paying too much GST (credit error) or reporting or paying too little GST (debit error).

If an entity makes a GST error when reporting GST on a BAS, it can correct that error on a later BAS if it meets certain conditions, including:

- For credit errors, a "credit error time limit"
- For debit errors, a "debit error time limit" and a "debit error value limit"

If an entity corrects a GST error on a later BAS, it should keep a note to record the reporting period when the error was made and the BAS it was corrected on. It must also keep records and other relevant information to explain the correction.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's GST registration details. For further details, see the subsection *Changes to GST registration details* above.

Penalties for false or misleading statements. An entity will be liable for a penalty if it makes a false or misleading statement that results in it having a shortfall amount. The shortfall amount is the difference between the correct tax liability or credit entitlement and the liability or entitlement worked out using the information it provided.

The base penalty is a percentage of the shortfall amount. The percentage used is determined by the behavior that led to the shortfall amount:

- Failure to take reasonable care: The base penalty is 25% of the shortfall amount. Generally, an entity will fail to take reasonable care if it has not done what a reasonable person in the same circumstances would have done.
- Recklessness: The base penalty is 50% of the shortfall amount. An entity is reckless if a reasonable person in its circumstances would have been aware that there was a real risk of a shortfall amount arising and it disregarded, or showed indifference to, that risk.

- Intentional disregard: The base penalty is 75% of the shortfall amount. An entity intentionally disregards the law if it is fully aware of a clear tax obligation, and it disregards the obligation with the intention of bringing about certain results (underpaying tax or overclaiming an entitlement).

The penalty percentages are doubled for this penalty if an entity is a SGE.

The base penalty amount can be increased or reduced if there are aggravating or mitigating circumstances or remitted where it is fair and reasonable to do so.

The penalty will not be imposed if either of the following apply:
- The entity took reasonable care in making the statement (it may still be subject to another penalty provision, such as taking a position that is not reasonably arguable).
- The entity's statement accords with ATO advice, published statements or general administrative practices in relation to a tax law.

Under the safe harbor provisions, an entity may not be penalized if the incorrect statement was made by an entity's agent when it provided them with the relevant, correct information.

An entity is liable for a penalty if it makes a false or misleading statement (e.g., in an objection, private ruling request or during an audit) that does not result in it having a shortfall amount.

The base penalty is calculated as a multiple of a penalty unit. The multiple used is determined by the behavior that led to the false or misleading statement:
- Failure to take reasonable care – the base penalty is 20 penalty units.
- Recklessness – the base penalty is 40 penalty units.
- Intentional disregard – the base penalty is 60 penalty units. A penalty multiplier will apply to double this penalty if an entity is an SGE.

The base penalty amount can be increased or reduced if there are aggravating or mitigating circumstances or remitted where it is fair and reasonable to do so.

The penalty will not be applied if:
- The entity took reasonable care in making the statement.
- The entity's statement accords with ATO advice, published statements or general administrative practices in relation to a tax law.

Penalties for fraud. Those who disregard the law, make fraudulent claims and deliberately avoid their GST obligations will face serious consequences, including interest, penalties and, where appropriate, prosecution or referral to the Commonwealth Director of Public Prosecutions. This includes taxable persons who:
- Deliberately do not register for GST when they are required to
- Intentionally fail to report, or consistently underreport, their tax obligations
- Collude with others to evade or avoid tax obligations
- Intentionally fail to meet their tax obligations
- Try to obtain a refund that they are not entitled to persistently and repeatedly exploit bankruptcy

Personal liability for company officers. As of 1 April 2020, directors can be held personally liable for unpaid GST in certain instances. The personal liability can be avoided if the company pays the debt to the tax authorities. If not, the tax authority collects the debts by issuing a director penalty notice to recover proceeds owed, which is payable by directors of the company. The director penalty can be remitted if the director complies with the obligation before the notice is issued or within 21 days of the day the notice is issued.

Statute of limitations. The statute of limitations in Australia is four years. This applies to federal taxes and is generally four years. A four-year period of review applies where the ATO may amend

an assessment for GST amounts on the BAS. The period of review starts on the day on which the ATO first gives notice of the assessment. In most cases, this will be the same day the registered entity lodges its BAS. The period of review ends four years from the day after the notice of assessment is given.

After the period of review ends, an amendment will only be made by the ATO in limited circumstances:

- To give effect to an application already received
- Where an assessment has been disputed

  Or
- Where there is fraud or evasion

A taxable person can make a voluntary disclosure to the ATO in relation to any false or misleading information, mistakes or omissions it has made in the BAS within the period of four years since a BAS was lodged. When making a voluntary disclosure, the taxable person is not required to admit liability; however, the taxable person is still required to pay the tax owed and interest and penalties the ATO applies.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Umsatzsteuer (USt)
Date introduced	1 January 1973
Trading bloc membership	European Union (EU)
Administered by	Federal Ministry of Finance (http://www.bmf.gv.at)
VAT rates	
Standard	19%, 20%
Reduced	10%, 13%
Other	Zero-rated (0%) and exempt
VAT number format	ATU 1 2 3 4 5 6 7 8
VAT return periods	Monthly (turnover in preceding year greater than EUR100,000) Quarterly (turnover in preceding year below EUR100,000) Annually (all businesses)
Thresholds	
Registration	
Established	EUR35,000
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR11,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
• The supply of goods or services made in Austria by a taxable person

- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the EU chapter*)
- Reverse-charge services received by a taxable person in Austria (that is, services for which the VAT liability shifts to the recipient of the service)
- Self supplies of goods and services used for nonbusiness purposes and supplies of goods without consideration
- The importation of goods from outside the EU, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The Quick Fixes were implemented in Austria, based on EU Directives 2018/1910 and 2018/1912, and came into effect on 1 January 2020. This led to changes in the regulations for intra-EU chain transactions, consignment stock and prerequisites for intra-Community supplies.

Intra-EU Chain transactions:

- The intra-Community goods transport can only be attributed to one supply in the chain and only this supply can be treated as exempt intra-Community supply. The party "intermediary" is a supplier within the chain (except the first supplier) who transports or dispatches the goods. Basically, the intra-Community supply is assigned to the supply to the party who arranges for the transport of the goods. This is different if the transport is arranged by an intermediary supplier and that intermediary provides to their supplier a VAT identification number issued by the Member State in which the transport starts. In this case, the intermediary instead of their supplier is deemed to perform the intra-Community supply. Supplies in the chain taking place before the intra-Community supply, as well as the intra-Community supply itself, are taxable in the country of dispatch, supplies taking place after the intra-Community supply are taxable in the country of destination. In deviation to the EU provisions, chain transactions with connection to third countries are comprised as well.

EU triangular transactions:

- In case of a cross-border EU chain transaction ending in Austria, the simplification for triangular transactions applies if the following prerequisites are fulfilled:
  - The party effecting the intra-Community acquisition (party B) does neither operate its business in Austria, nor has a fixed establishment in Austria and does not use its Austrian VAT ID number or its VAT ID number of the country from where the transport starts
  - The intra-Community acquisition is affected for the purpose of performing a subsequent supply in Austria by party B to party B's customer
  - Party B's customer is a taxable person, or a public body registered for VAT in Austria
  - The VAT liability for the supply of party B shifts to party B's customer

Austrian VAT law has set very strict formal requirements for the invoice issued by party B (e.g., shift of VAT liability must be explicitly mentioned on the invoice, as well as the fact that a triangular transaction has taken place). As from 1 January 2023, the simplification for triangular transactions is also applicable within a chain transaction with more than three parties, provided that the abovementioned prerequisites are fulfilled.

Simplified treatment for call-off stock:

- The transfer of goods from an EU country to a warehouse in Austria does not lead to a deemed intra-Community supply and a deemed acquisition if the following prerequisites are met:
  - Goods are transported/dispatched by a supplier to Austria to be delivered to another taxable person at a later point in time and who is entitled to purchase the goods according to a contract in place (intended recipient of the goods)

- The supplier is not established in Austria
- The supplier knows the identity and the VAT-ID number of the intended recipient of the goods at the beginning of the transport/dispatch process and they declare this planned supply in their EC Sales list
- The supplier registers the transaction (i.e., transport of the goods to the stock) in the call-off stock-register

The recipient must withdraw the goods from the warehouse within 12 months and this leads to an intra-Community supply and the respective acquisition.

If a supplier does not comply with all the conditions for call-off stock, they must in principle still register for VAT purposes. As examples given, a registration is required in case of expiration of the 12-months deadline, sales to other customers, movement to another Member State, damage or loss of the goods (if exceeding a 5% tolerance).

Prerequisites for intra-Community supplies:

- The use of a valid VAT ID that the customer communicated to the supplier is a material requirement for applying the zero VAT rate to intra-Community supplies. Otherwise, it will not be possible to apply the zero VAT rate. In case the acquirer provides the supplier with the VAT number at a later stage, it is still possible to correct the invoice under certain circumstances. Furthermore, as a condition for applying the zero VAT rate, the taxable person must file a correct EC Sales List. The VAT exemption is not lost in case the supplier acts in good faith, which means that defaults concerning the EC Sales list are justified and corrected sufficiently toward the respective tax authorities.
- Harmonized proof of intra-Community supplies: Art 45a EU Council Implementing Regulation (EU) 282/2011, which is directly applicable in Austria, foresees a consistent proof of dispatch of goods to another EU Member State for the application of the VAT exemption for intra-Community supplies. According to this provision, there is a rebuttable presumption of transport to another EU Member State if the supplier can provide at least two noncontradictory evidential documents prepared by parties independent from one another and independent from supplier and customer. This may include signed consignment (CMR) documents, together with a copy of payment for transport issued by the bank. In case of customer pick-up, further requirements are applicable. In addition, it is possible to follow the Austrian national provisions for proving dispatch of goods to another EU Member State.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.* In Austria, the following services are subject to the "use and enjoyment" provisions:

- Place of supply shifts from Austria to non-EU country
  - Renting out means of transportation in certain cases, when they are used in the non-EU country
  - Provision of personnel working in a non-EU country
- Place of supply shifts from non-EU country to Austria
  - Telecommunication services, radio and television broadcasting services
  - Renting out of goods, except of means of transport
  - Sport betting and certain gambling transactions
  - Certain services (e.g., processing of data, certain advisory services) to a public legal entity that is not seen as entrepreneur

Transfer of a going concern. Transfer of going concern rules do not apply in Austria. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets. Austria has not implemented the transfer of a going concern (TOGC) rules. Only transactions covered by the Austrian *Umgründungssteuergesetz* (law regarding restructuring of legal entities), e.g., certain mergers, demergers or contributions in kind, the transfer/restructuring are outside the scope of Austrian VAT. Other transactions in course of the transfer of a going concern are taxable under the general VAT rules in Austria.

Transactions between related parties. For transactions (services and supplies of goods) where the remuneration is not the open market value due to nonbusiness reasons (i.e., related parties, group structure, family relations, shareholders) or for the use of the personnel of the business, the open market value represents the tax base in the following cases:

- If the payment was lower than the open market value and the recipient of the supply/service is not (fully) entitled to input tax deduction
- If the payment was lower than the open market value and the supplier is not (fully) entitled to input tax deduction and specific VAT-exempt services are at hand
- If the payment was higher than the open market value and the supplier is not (fully) entitled to input tax deduction

Open market value shall mean the full amount that, to obtain the goods or services in question at that time, a customer at the same marketing stage at which the supply of goods or services take place would have to pay under conditions of fair competition to a supplier at arm's length within the territory of the Member State in which the supply is subject to tax.

C. Who is liable

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

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

Exemption from registration. If a business that is established in Austria has annual turnover of EUR35,000 or less and does not have to pay VAT for the calendar year, it does not need to register for a tax number or file a VAT return.

Voluntary registration and small businesses. If an Austrian taxable person's annual turnover does not exceed EUR35,000, it qualifies as a "small business," and its Austrian supplies are exempt from VAT (with no input tax credit; *see Section F*). However, the small business may opt to voluntarily register for VAT, charge VAT on its supplies and recover input tax on its purchases. The option is binding for five years.

The turnover of EUR35,000 represents the actual turnover of the respective current year without VAT (net amount). Most exempt supplies, as well as the sale of investment goods do not have to be considered for calculating the threshold. In case the small business does not opt for VAT, no VAT needs to be paid in the current year. For details on the registration process, see the subsection *Registration procedure* below.

Group registration. In Austria, group registration applies to entities that are closely bound by financial, economic and organizational ties. A group consists of a controlling entity and one or more entities that it controls. The controlling entity may be any taxable person, but the controlled entities must all be corporate bodies. A mere holding company may be used to establish financial ties but can itself neither be a controlling nor a controlled entity. A controlled entity may also be a partnership where either all partners, besides the controlling entity, are financially integrated into the controlling entity or it can be proven that the controlling entity is able to enforce its will

if the remaining conditions for VAT grouping are fulfilled. The effects of VAT grouping are restricted to the parts of the business that are located in Austria.

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

- Financial integration: Although financial integration equals capital domination of the controlling group member over the controlled companies, the decisive condition is not only the size of shareholding but also the voting rights resulting from it. Assuming that the articles of association do not establish higher voting rights than the ones stipulated by law, the controlling group member must own at least 75% of the shares of the controlled companies. If the share ownership is between 50% and 75%, the companies may be considered to satisfy the financial integration test if the other conditions are strongly met.
- Economic integration: The controlled company's activities support or complement the activities of the controlling entity, and they have a continuous business relationship.
- Organizational integration: The management of the controlled company is fully dependent on the will of the controlling company.

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

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

The VAT group comes into effect automatically as soon as all prerequisites are met. The same goes for the omission of prerequisites, i.e., the end of the group. There is no option to form or dissolve a VAT group. As such, there is no minimum time period required for the duration of a VAT group.

All members of a VAT group in Austria are jointly and severally liable for VAT debts and penalties. A single VAT return is filed for the VAT group under the registration of the controlling entity, and as such, in principle, the controlling entity is responsible for declaration and payment of VAT for the entire VAT group. However, each member of the VAT group is liable for VAT debts and penalties resulting from the activities of the member itself.

Holding companies. A holding company can be included in a VAT group if the prerequisites outlined above are met.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been implemented in Austria for certain businesses in the medical and financial sector. This provides an option to exempt support services that the cost-sharing group supplies to its members, provided certain conditions are met (in accordance with specific requirements laid out in Austrian VAT law).

This exemption is implemented in Austrian VAT law for entities that mainly perform banking, insurance and pension funds transactions under certain conditions. As this is not in line with recent European Court of Justice (ECJ) judicature, this exemption might be abolished in the future.

Fixed establishment. There is no legal definition in Austrian VAT law for a fixed establishment. As such, the definition according to the ECJ and the Council Implementing Regulation (EU) 282/2011 is used instead. Therefore, a fixed establishment is an establishment characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide or receive services.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Austria. No VAT registration threshold applies to taxable supplies made in Austria by a foreign or non-established business.

If a non-established business makes no supplies or exclusively makes supplies in Austria subject to the reverse charge and does not receive services subject to the reverse charge, it does not need to register for VAT.

A non-established business must register for VAT in Austria if it makes any of the following supplies:
- Supplies of goods located in Austria at the time of supply
- Intra-Community acquisitions (see the EU chapter)
- Distance sales (exception for distance sellers using the One-Stop Shop (OSS) or micro-entrepreneurs with less than EUR10,000 accumulated turnover per year of intra-Community distance sales and electronically supplied services)
- Supplies of services that are not covered by the reverse charge (for example, services supplied to private persons unless these are reported using the OSS – see the subsection *Digital economy* below)

If the customer is a taxable person (regardless of where it is established) or a public body, it is required to withhold the Austrian VAT due on the supply. The customer must pay the withheld VAT on behalf of the supplier to the supplier's tax account at the Austrian general tax office. If the customer does not comply with this requirement, the customer may be held liable for the VAT due on the supply. Renting out of premises; fees for usage of federal roads; and entrance fees for cultural, artistic, scientific, tutoring, sporting, entertaining and similar events are not covered by this withholding requirement.

A non-established business is not required to register for VAT if all its supplies in Austria fall under the reverse-charge system (under which the customer accounts for the VAT due). If the reverse charge applies to supplies made by a non-established business, the business may recover VAT incurred in Austria under the EU 13th Directive or Directive 2008/9 refund provisions (see *Section G*), provided the business does not receive services in Austria that are subject to the reverse-charge system.

Under Prescript 2003/584 for chain transactions, the supply of goods to the last customer in Austria made by a non-established business is exempt from VAT.

If goods come from a non-EU Member State to Austria in the course of a chain transaction and if the last party in the chain owes the VAT payable on their importation, it is the last party who is entitled to deduct the import VAT and not the person that disposed of the goods at the time of import. This mechanism applies if the following conditions are met:
- The supply to the last party in the chain is made by a non-established business that is not registered for VAT purposes in Austria.
- The final customer has the right to deduct the full amount of input tax.
- No VAT is shown on the invoice.

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

Tax representatives. A business established in a country outside the EU must appoint a tax representative to register for VAT in Austria unless the customer is required to withhold Austrian VAT on the supplier's behalf. The tax representative must be resident in Austria.

A business established in another EU Member State is not required to appoint a tax representative in order to register for VAT.

For non-EU businesses, the Austrian tax authorities require a postal address in Austria to which correspondence may be sent. For EU businesses, it is not mandatory, but it is recommended that an Austrian postal address be provided.

As of 1 January 2023, a fiscal representative no longer has to be appointed if the special regulation pursuant to Art. 369a to 369k of Directive 2006/112/EC is used in another Member State and a fiscal representative obligation exists there.

Reverse charge. The reverse-charge system applies to all supplies of services, except for road tolls and entrance fees for trade fairs, conventions and seminars in Austria that are organized by non-Austrian companies (i.e., neither operating their business in Austria nor having a fixed establishment in Austria involved in the supply). It also applies to "work performance contracts" undertaken by a supplier neither operating its business in Austria nor having a fixed establishment in Austria that intervenes in the supply. Under the reverse-charge mechanism, the recipient (i.e., a taxable person or public body) of a supply is liable for the VAT due. Renting out of premises is not covered by the reverse charge according to the Austrian VAT Act, so non-Austrian lessors are required to register for VAT in Austria. Supplies of services are all taxable transactions that are not supplies of goods. For purposes of the reverse-charge system, "work performance contracts" are supplies involving the installation of goods that are fixed to the customer's premises. The reverse-charge system also applies in the circumstances mentioned above if the customer is a non-established business (that is, the Austrian VAT liability may also shift from a non-established supplier to a non-established customer).

If a foreign business exclusively makes supplies in Austria subject to the reverse charge and does not receive services subject to the reverse charge, it may not register for VAT. If the reverse-charge mechanism applies, invoices must be issued without VAT. The invoice must include a reference to the applicable reverse charge and the VAT identification numbers of the supplier and the customer.

Domestic reverse charge. A domestic reverse-charge mechanism applies in the following cases:

- If construction or building work is performed by a subcontractor to a general contractor, the liability to pay the VAT shifts from the supplier (subcontractor) to the customer (general contractor). To determine whether to apply the reverse-charge mechanism, the customer must provide the supplier with a written notification that the VAT liability in such case will shift to the recipient of the construction service. If the construction work is performed for a building contractor or another business that typically performs construction or building works the VAT liability shifts automatically to the customer, without any notification.
- The domestic reverse charge for construction or building works also applies to charges for building cleaning services if the services are performed for a building contractor or other business that typically performs construction or building works or if the building cleaning services are performed by a subcontractor for a general contractor.
- The reverse charge applies to the supply of goods provided as security by one taxable person to another in execution of that security, the supply of goods following the cession of the reservation of ownership to an assignee and the exercise of this right by the assignee and the supply of immovable property in the course of the judicial sale.
- The reverse charge applies to supplies of used material, used material that cannot be reused in the same state, scrap, industrial and nonindustrial waste, recyclable waste, part processed waste and certain goods and services, as listed in Annex VI of Directive 2006/112/EC.
- The reverse charge applies to supplies of greenhouse gas emission certificates.
- The reverse charge applies to the supply of mobile radio units (for example, mobile phones) and integrated circuits, provided that the net consideration is at least EUR5,000. For purposes of this rule, the amount per invoice is decisive. The liability to pay VAT also shifts to the recipient if the supplier is an Austrian business. To avoid problems in defining relevant products, the definition of "mobile radio units" and "integrated circuits" is in accordance with the combined nomenclature of the customs tariff.

The reverse charge furthermore applies to:
- Supplies of video game consoles, laptops and tablet computers, where the amount of consideration shown on the invoice is at least EUR5,000
- Supplies of gas and electrical power to entrepreneurs whose primary business regarding the procurement of these items relates to the resale thereof and whose own use of these items is of secondary importance
- Transfer of gas and electricity certificates
- Certain supplies of metal
- Taxable supplies of investment gold

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States. These rules apply to all direct sales to non-taxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the EU chapter.

An e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Austria, there are no additional specific local rules that apply.

One-Stop Shop. A supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies that fall under the OSS.

In Austria, the application for the use of the EU-OSS must be made online via the online portal of the Austrian tax authorities (FinanzOnline). Regarding the non-EU-OSS, the application request must be made online (https://noneumossevat.bmf.gv.at/).

For more details about the operation of the OSS, see the EU chapter.

Import One-Stop Shop. The Import One-Stop Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Austria, there are no additional specific local rules that apply.

For more details about the IOSS, see the EU chapter.

Use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Austria, there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the EU VAT e-commerce rules, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Austria, the application process for VAT registration for online marketplaces and platforms is the same as those for the OSS (see the *One-Stop Shop* subsection above).

In Austria, the facilitator (platform) is required to keep records of the supplies made via the platform in a grade of detail that enables the tax authorities to verify if the VAT due was calculated

correctly. Records must generally be retained for 10 years. Records must be delivered electronically to the responsible authorities upon request.

In cases where the facilitators (platforms) are not seen as a taxable person, they are obliged to keep records of such transactions for 10 years as well. Further, in case the revenues to be recorded exceed EUR1 million per year, the records must be submitted electronically to the tax authorities by 31 January of the following year.

The facilitator (platform) is liable for VAT for certain supplies it facilitates, provided that a violation of the obligation to exercise diligence is at hand, the facilitator is not the taxable person itself and the annual sales (including those supplies for which the VAT is due for the facilitator itself) exceed EUR1 million. Under certain circumstances also other entrepreneurs involved in those supplies may be held liable for VAT.

Independent of this Austrian platform reporting obligation for VAT purposes, as of 1 January 2023, operators of digital platforms are additionally subject to reporting obligations under the "DAC7" regime (based on EU Directive 2021/514) if the relevant preconditions are fulfilled (e.g., the platform is accessible by users and allowing sellers to connect with users for the purpose of directly or indirectly carrying out so-called relevant activities (rental of immovable property, personal services, sale of goods, rental of means of transport) to those users).

For more details about the rules for online marketplaces, see the EU chapter.

Vouchers. Vouchers are categorized as follows:
- Single-purpose vouchers (SPV): place of supply and tax liability concerning respective voucher can be determined with certainty upon issue of voucher. In this case, it is known upon issuance of the voucher what VAT amount is due in which Member State. The sale of a SPV is generally treated as VAT-liable turnover, whereas redeeming the voucher later on is not subject to VAT. The tax is owed by the taxable person obliged by the voucher. Not only the issuance itself, but also any transfer of a SPV by a third party who acts in their own name (e.g., in the course of marketing operations) represents a taxable event.
- Multi-purpose vouchers (MPV): any voucher that is not a SPV. Sale of a MPV is not subject to VAT. VAT is owed for redeeming the voucher later on.

Registration procedures. Resident companies must complete the following documents and have them signed by the managing directors of the respective entity:
- Questionnaire
- Specimen signature document
- Power of attorney

The forms must in general be filled out in German (the questionnaire is also available in English) and filed with the Finanzamt Oesterreich (or in specific cases the Finanzamt fuer Grossbetriebe) via regular mail together with the following:
- Excerpt from the register of companies
- Copy of the articles of association
- Opening balance sheet
- Proof the business will make supplies or is doing so already, such as copies outgoing invoices
- Copy of each managing director's passport

All documents must be filed via regular mail. It generally takes from four to six weeks until the registration is completed by the Austrian tax authorities.

To register a foreign company without seat or permanent establishment in Austria, the following documents have to be completed and signed by the managing directors of the respective entity:
- Questionnaire
- Specimen signature document
- Power of attorney

The forms must in general be filled out in German (the questionnaire is also available in English) and filed with the Finanzamt Oesterreich via regular mail together with the following:
- Excerpt from the register of companies
- Copy of the articles of association
- Confirmation by the local tax authorities that the company is registered for tax purposes in their country, in original and not older than one year

This process also takes approximately four to six weeks for the tax authorities to complete.

Deregistration. With regard to deregistration, no specific form has to be submitted to the Austrian tax authorities. A general application for deregistration can be sent to the Austrian tax authorities anytime during the year. However, all transactions have to be settled and all VAT returns have to be filed in order to proceed with the deregistration process. Basically, the annual VAT return should comprise the entire year, but as soon as all transactions are settled, the annual VAT return can be submitted earlier. Usually a tax clearance certification (issued by the tax authorities) is required. It is possible that a tax audit will be performed before issuing this certificate.

Changes to VAT registration details. Taxable persons must notify the Austrian tax authorities about changes in their VAT registration details. Changes can be communicated via the online platform (FinanzOnline) of the tax authorities or via ordinary mail. Changes that may impact the granting of the Austrian VAT ID number (i.e., being VAT registered in Austria) must be communicated to the tax authorities within one calendar month.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 19% (for the regions of Jungholz and Mittelberg), 20% (rest of Austria)
- Reduced rates: 10%, 13%
- Zero-rate: 0%

The standard VAT rate applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

Some supplies are classified as "exempt-with-credit" (i.e., zero-rated). This means that VAT is chargeable at 0%, and the supplier may recover related input tax.

Due to COVID-19, a reduced VAT rate of 5% was implemented for gastronomy, cultural sectors, books and for accommodation (for the hotel sector) from 1 July 2020 to 31 December 2021 and 5% for the publishing sector (newspapers and other periodical prints and their electronic publications) until 31 December 2020. From 1 January 2021 till 30 June 2023, there was a temporary zero rate (0%) for COVID-19 vaccines and in-vitro diagnostics and the supply of services directly connected with those goods. Also, the VAT rate was reduced to 0% for supplies and intra-Community acquisitions of protective masks beginning 22 January 2021 and is effective until 30 June 2023.

Examples of goods and services taxable at 0% (i.e., exempt-with-credit)

- Exports of goods and related services to non-EU countries
- Intra-Community supplies of goods and related services to taxable persons established in the EU
- Turnovers supporting ocean shipping and aviation
- Cross-border transportation of goods under certain conditions
- International passenger transport by plane or rail (with effect from 1 January 2023)

- Supply, intra-Community acquisition, import and installation of photovoltaic devices (*in effect from 2024 to 2026*), subject to meeting the following conditions:
  - Transaction is effected toward the operator of the device
  - Peak performance of the photovoltaic system must not exceed 35 kilowatts
  - Operated on or in the vicinity of specified buildings (for example, buildings used for residential purposes)
  - A public subsidy has not been granted for the device

Examples of goods and services taxable at 10%

- Most foodstuffs
- Books (including e-books)
- Hotel accommodation
- Restaurant meals
- Domestic passenger transport (except flights)
- Residential apartment rental
- Supplies made by private hospitals and charitable organizations
- Pharmaceuticals
- Repairs of bikes, shoes, clothes and leather goods
- Feminine monthly hygiene products

Examples of goods and services taxable at 13%

- Entrance fees for sporting events
- Entrance fees for cultural events
- Domestic flights
- Animal feed
- Seeds
- Supplies made by artists
- Certain wine sales made by the producer

The term "exempt supplies" is used for supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Supplies by businesses with annual turnover not exceeding EUR35,000
- Certain postal services provided by universal postal services suppliers
- Most finance services
- Insurance
- Sales and rental of immovable property for commercial uses with some exceptions (The landlord may opt for taxation of the rent, with the restriction that the tenant must provide services that are eligible for the input tax deduction. This restriction is only applicable on tenancies beginning on or after 1 September 2012. If the landlord constructed the building prior to 1 September 2012 or if construction by a providing entrepreneur started prior to 1 September 2012, the restriction is not applicable.)
- Medical services

Option to tax for exempt supplies. It is permitted to opt for regular taxation for some exempt supplies, such as the sale of immovable property, certain rentals of immovable property for commercial use, certain services in relation to the credit card business and interest relating to installment purchases as well as supplies performed by small businesses.

E. Time of supply

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

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

Continuous supplies of services. In specific cases it is possible to determine the tax point according to the payments or invoices issued.

Goods sent on approval or for sale or return. The time of supply for goods sent on approval or for sale or return is the date on which the customer adopts the goods. If the goods are sent on sale or return terms, the time of supply is the date on which the goods are sent. If the goods are returned, the supply is canceled.

Reverse-charge services. There are no special time of supply rules in Austria for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above), which is the end of the calendar month in which the service is performed. However, for reverse-charge services, the time of supply cannot be postponed by one month by issuing the invoice for the supply after the end of the month in which the supply took place. Under Article 44 of EU Directive 2006/112 (general business-to-business rule), this postponement does not apply to services subject to reverse charge. Reverse-charge invoices under Article 196 of the EU Directive must be issued within 15 days of the month following the supply.

Leased assets. There are no special time of supply rules in Austria for supply of leased assets. As such, the general time of supply rules apply (as outlined above).

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

Intra-Community acquisitions. For intra-Community acquisitions of goods, the time of supply is the date on which the invoice is issued, or at the latest, the 15th day of the month following the arrival of the goods. Invoices for the intra-Community supply of goods must be issued within 15 days of the month following the supply.

Intra-Community supplies of goods. The time of supply for intra-Community supplies is the end of the calendar month in which goods are supplied or services performed. The time of supply may be postponed by one month by issuing the invoice for the supply after the end of the month in which the supply took place. However, invoices must be issued by the 15th day of the month following the supply.

Distance sales. The time of supply for distance sales is the end of the calendar month in which payment is received.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax can also be deducted if the business purpose is finally not performed, provided that the expenses were caused merely by the intended business purpose. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Austria, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services.

A valid VAT invoice or customs document is required for an input tax deduction.

There is no set time limit for a taxable person to reclaim input tax in Austria. Taxable persons must recover input tax in the course of the monthly/quarterly VAT returns and the annual VAT returns in the correct period. In case input tax from previous periods has not been claimed in the

initial annual VAT return of the respective period, it would have to be checked on a case-by-case basis whether a correction of the annual VAT return is still possible from a procedural perspective.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by entrepreneurs). In Austria, input tax may be claimed in full for business assets that are used primarily for private purposes (minimum 10% business use), but the taxable person must account for output tax with respect to the private use of the assets. In addition, input tax may not be recovered for some items of business expenditure.

The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible.

Examples of items for which input tax is nondeductible

- Expenditure on the purchase, lease, hire or maintenance of cars or motorcycles (except certain vehicles used for business purposes, such as vehicles without CO2 emission)
- Fuel expenses for a car or motorcycle (except certain vehicles used for business purposes, such as vehicles without CO2 emission)
- Private expenditure
- Business gifts disallowed for direct tax purposes
- Parking expenses for a car or motorcycles (except certain vehicles used for business purposes, such as vehicles without CO2 emission)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Accommodation
- Mobile phone costs
- Books
- Small business gifts, if allowed for direct tax purposes (but gifts are subject to output tax if they exceed a value of EUR40)
- Purchase, lease, hire, maintenance and fuel for vans and trucks and certain other vehicles used for business purposes, such as cars or motorcycles without CO2 emission
- Entertainment of business partners (restaurant expenses), if predominantly for marketing purposes
- Taxis
- Business travel

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

The general partial exemption calculation is performed in the following two stages:

- The first stage identifies the input tax that may be directly allocated to exempt and to taxable supplies. Supplies that are exempt with credit are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies without credit is not deductible, while input tax directly allocated to taxable supplies is deductible.
- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies without credit and cannot be directly allocated, in order to allocate a portion to taxable supplies. For example, this treatment applies to the input tax related to general business overhead. In Austria, the pro rata calculation is based on the value of taxable supplies compared to the total value of supplies made. The pro rata recovery percentage is normally taken to two decimal places.

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

Approval from the tax authorities is not required to use the partial exemption standard method in Austria.

The use of special methods is allowed in Austria, provided that an accurate allocation of input tax from an economical perspective is documented. Note that any special method calculations may be challenged by the Austrian tax authorities during an audit.

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

In Austria, the capital goods adjustment applies to the following assets for the number of years indicated, if the amount by which input tax would be corrected exceeds EUR60 per annum and per asset:

- Land, buildings, additions to buildings; basic alterations and major repairs to buildings (adjustment period of 10 years)
- Immovable property used in capital assets for first time after 31 March 2012 (adjustment period of 20 years)
- Other fixed assets (adjustment period of five years)

The adjustment is applied each year following the acquisition, to a fraction of the total input tax (1/10 or 1/20, respectively, for land and buildings and 1/5 for other movable capital assets). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

In Austria, the capital goods scheme also applies to current assets and all kind of services if the criteria for deducting input tax changes. For example, the type of business carried on changes from fully taxable to exempt. In this respect there is no adjustment period; it is decisive whether the purchased current assets or services are used for a different purpose than initially intended and thus, the criteria for input tax changes or not.

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

Pre-registration costs. VAT incurred on pre-registration costs can be deducted when the costs directly relate to subsequent taxable business activities. Input tax deduction is made based on the general rules for pre-registration costs that represent advance services relating to planned/intended business operations. Regarding time restraints, the general statutes of limitation apply (5 years and a maximum 10 years under certain circumstances).

Bad debts. If a customer is unable to pay a supplier for supplies on which the supplier has paid VAT, the supplier can claim bad debt relief, but the supplier must have exhausted all customary procedures for collecting the debt.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Austria.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Austria is recoverable. Austria refunds VAT incurred by businesses that are neither established in Austria nor registered for VAT there. Non-established businesses may claim Austrian VAT refunds to the same extent as VAT-registered businesses. However, Austria does not allow voluntary VAT registration for the sole purpose of recovering input tax.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Austria during the refund period (excluding supplies covered by the reverse charge). *For full details, see the EU chapter*.

Find below specific rules for Austria:
- The tax authority may demand additional information, such as original ingoing invoices, in the course of the refund procedure.
- Claims must be submitted in German and must be accompanied by the appropriate documentation.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the EU chapter*.

Austria does not generally exclude any non-EU country from the refund scheme. However, as from 15 January 2021, non-EU businesses are not eligible for a refund of VAT on fuel. The VAT refund procedure under the EU 13th VAT Directive may be used only if the business did not perform any taxable supplies in Austria during the refund period (excluding supplies covered by the reverse charge).

The deadline for non-EU claimants is 30 June of the year following the year in which the input tax was incurred.

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

The appointment of a fiscal representative in Austria for a VAT refund claim is not required. However, claimants from non-EU countries must provide an address in Austria to which the Austrian tax authorities may send correspondence.

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

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

Finanzamt Oesterreich
Dienststelle Graz-Stadt
Conrad-von-Hoetzendorfstr. 14-18
A-8010 Graz
Austria

Late payment interest. For EU non-established businesses claiming a VAT refund, late payment interest must be paid by the tax authorities in case of late refund payments. The interest is generally 2% and applies if the refund has not been made within 4 months and 10 working days after the receipt of the VAT refund claim unless the tax authorities ask for more information. In the latter case, the time for the refund is prolonged.

For non-EU non-established businesses, no interest is paid by the tax authorities in case of late refund payments. However, due to a recent case law, interest may be applied for, and a case-by-case analysis is recommended.

H. Invoicing

VAT invoices. An Austrian taxable person must generally provide a VAT invoice for all taxable supplies, including exports and intra-Community supplies. VAT invoices are not automatically required for retail transactions with private customers, unless requested by the customer (see the subsection *Supplies to nontaxable persons* below for more details).

Taxable businesses (specific exemptions can apply) are generally required to issue receipts to all customers for cash transactions at the time of the payment. The term "cash transactions" includes payments in cash, by bank cards, credit cards, debit cards, comparable electronic payments (e.g., payments via mobile phone), vouchers, tokens, etc. This obligation exists regardless of the turnover and is equally applicable to VAT exempt supplies.

Furthermore, an electronic cash register is mandatory for "business operations" (according to Austrian Income Tax Law) with a net annual turnover of EUR15,000 if their "cash transactions" exceed EUR7,500. The cash register has to be protected against manipulation by a tamper proof technical security device with electronic signature creation.

A VAT invoice is necessary for input tax deduction or a refund under the EU 13th Directive or Directive 2008/9 refund schemes (*see the EU chapter*). Hence, in addition to the VAT indication, VAT invoices must contain all details necessary to determine whether the requirements of input tax deduction are met.

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

Credit notes issued by self-billing recipients of a supply must explicitly refer to the status of a self-billing invoice (e.g., "Gutschrift") on the invoicing document.

Electronic invoicing. Electronic invoicing is mandatory in Austria, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Austria.

For B2G supplies, electronic invoicing is mandatory in Austria. This is in line with EU Directive 2014/55/EU (*see the EU chapter*). Specifically electronic invoicing in a structured format is mandatory for B2G supplies when the recipient of the supplies is the federal republic of Austria itself (e.g., governmental departments). Electronic invoicing is not mandatory for B2G supplies when supplying other public administration bodies (e.g., federal states, cities and municipalities).

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory, in Austria. This is in line with EU Directive 2010/45/EU (*see the EU chapter*). There is no threshold beyond which taxable persons can voluntarily adopt electronic invoicing in Austria.

The requirements related to electronic invoicing are the same as those for paper invoicing. Electronic invoices are only deemed as valid VAT invoices, within the meaning of the Austrian VAT

Act, if the authenticity of the invoices' origin, the integrity of their content, as well as their legibility are guaranteed.

Pending implementation of VAT in the Digital Age (ViDA) proposals, for electronic invoicing it is still necessary that the recipient agrees with this type of invoicing, and the consent is not bound to any specific form. *For EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.*

Simplified VAT invoices. A less detailed tax invoice can be issued for supplies with values not exceeding EUR400.

Self-billing. Self-billing is allowed in Austria. This is subject to the following conditions:
- The taxable person supplying goods or services must be entitled to issue invoices.
- There must be an agreement on self-billing the supplied goods or services between the taxable person and its customer (no special formal requirements).
- Self-billing invoices must meet the general requirements for invoices and must explicitly refer to their own status. They can either use the Austrian term (Gutschrift) or the respective term used in any other language version of the EU Directive 2010/45/EU (e.g., self-billing).
- The self-billing invoice must be delivered to the taxable person supplying the goods or services.

Proof of exports and intra-Community supplies. Austrian VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the EU chapter). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence proving that the goods have left Austria. With regard to intra-Community supplies, refer to the above subsection *Quick Fixes*.
Acceptable proof includes the following documentation:
- For an export, the export document, officially validated by customs, showing the supplier as the exporter, freight documents or the export advice according to Article 796e of the Commission Regulation 1875/2006 is required.
- For an intra-Community supply, a range of commercial documentation is needed, including an invoice indicating the supplier's and customer's EU VAT identification numbers and a statement that the transaction is an intra-Community supply that is exempt from VAT and freight documents (for example, proof of receipt of the goods by the customer). If the customer picks up the goods at the place of the supplier with the customer's own means of transport, additional documentation is required (for example, proof of identity of the person collecting the goods, power of attorney signed by the customer that this person is entitled to collect the goods and the original signed confirmation of the customer that the goods will be transported to another EU Member State).

In Austria, the supplier must maintain records of all transactions, including full details as to why a VAT exemption applies (for example, because the supply is an export or an intra-Community supply). The evidence can also be provided in electronic form (e.g., by transmitting a pdf file). No special documentation applies in Austria for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, the foreign currency used must be clearly indicated. All VAT and customs duty amounts must be converted to the domestic currency, which is the euro (EUR), either by using the current exchange rate (proof from bank required) or the exchange rates issued monthly by the Austrian Ministry of Finance. If an invoice is issued in a foreign currency, the tax amount must be additionally stated in euros. In addition to the average rate published on the Austrian Ministry of Finance homepage, the most recent exchange rate published by the European Central Bank (ECB) can alternatively be used or the exchange rate proven using bank notifications or a stock exchange list. The same exchange rates apply to the deduction of input tax by the recipient.

Supplies to nontaxable persons. VAT invoices are not mandatory for retail transactions with private customers, unless requested by the customer.

In case of work performance supplies/services related to immovable property, distance selling and electronic platforms involved in the supply, invoices must be issued.

Further, taxable businesses are generally required to issue receipts to all customers for cash transactions at the time of the payment (specific exemptions can apply).

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, no full VAT invoice is required unless requested.

Records. Generally, any taxable person is obliged to keep all relevant records to determine the tax and the basis of its calculation on an ongoing basis. In Austria, examples of what records must be held for VAT purposes include:
- Supplies of goods and services
- Remuneration separated by rate of taxation
- Day of supply separated by taxable and exempt from taxation
- Self-supplies
- Input tax
- Import of goods
- Prepayments
- Payments for turnovers that are subject to reverse charge (these must be recorded separately)

In Austria, VAT books and records can be kept outside the country. Taxable persons are, however, required to be able to produce any records the Austrian tax authorities require in a readable form and within a reasonable period of time at a mutually agreed place.

Record retention period. Generally, records must be kept for a duration of seven years. The retention period is longer if the business is subject to an administrative procedure. Special rules apply to real estate, application of a one-stop shop and electronic platforms.

Electronic archiving. Electronic archiving is allowed in Austria. Records can be stored on electronic devices if the complete, chronological, identical and true reproduction is guaranteed at any time. The Austrian tax authorities may request that supporting devices to make such electronically stored records readable are provided and that a permanent reproduction that is readable without a supporting device is provided. Such permanent reproductions shall be provided on electronic devices. The records must be stored seven years or longer if they are relevant for pending proceedings regarding tax. Longer periods apply for real estate.

Based on EU Directive 2020/284, the CESOP Implementation Act 2023 implemented a new provision into the Austrian VAT law, which contains recording, notification, as well as archiving obligations for payment service providers regarding certain cross-border payments.

I. Returns and payment

Periodic returns. VAT returns are submitted monthly if taxable turnover exceeded EUR100,000 in the preceding year. If a business begins operations, it must submit monthly returns if its turnover will exceed EUR100,000 in the first year. If turnover is less than EUR100,000, VAT returns may be submitted quarterly. In addition, all taxable persons must submit an annual VAT return.

If the taxable turnover in the preceding calendar year did not exceed EUR35,000 and if the payment is made on time, the VAT return form itself does not need to be submitted, unless the VAT authorities demand it. However, the monthly VAT return form must be submitted if a company that is in a repayment position wants to claim the repayment.

Both monthly and quarterly VAT returns must be submitted by the 15th day of the second month following the return period. If the day of submission due is a Saturday, Sunday or public holiday, the due date shifts automatically to the next working day.

Periodic payments. For both monthly and quarterly VAT returns, full payment must be made by the 15th day of the second month following the return period. If the day of payment due is a Saturday, Sunday or public holiday, the due date shifts automatically to the next working day.

Payment must be made to the bank account of the respective tax office responsible for VAT. In case a credit balance exists on the tax account and is not used otherwise, it can be offset against the debit of the respective VAT return and no (or less) payment would be required in this case. In general, payment must be made via electronic bank transfer to the bank account of the tax office – using the feature "Finanzamtszahlung" if it is offered in the electronic banking system of the bank of the respective taxable person. Alternatively, or via the feature "eps" ("e-paymentstandard") in the online portal of the Austrian tax authorities (FinanzOnline). Only where a transfer via electronic banking is not possible for the taxable person, other methods are acceptable, e.g., payment slip.

Electronic filing. Electronic filing is mandatory in Austria for all taxable persons. VAT returns must be filed electronically via FinanzOnline (the online portal of the Austrian tax authorities). Companies can either apply for access codes to FinanzOnline to submit the VAT returns themselves or assign a tax representative in Austria to submit returns on their behalf.

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

Payments on account. Payments on account are not required in Austria.

Special schemes. *Cash accounting.* Austria operates a cash accounting scheme for certain businesses.

Activities of free professions and activities of professionally recognized corporations and legally recognized associations that supply services typical of the free professions, and other businesses without bookkeeping obligations or transactions below a certain threshold, must account for VAT on the basis of the consideration received. Upon application, businesses can opt out from the cash accounting. If the free professions account for VAT on the basis of the consideration received, they must do so in respect of all supplies affected by them, even if the particular supply is not related to the activity typical of the free profession.

If a threshold of EUR2 million turnover is not exceeded, input tax can only be deducted if the payment was made (in addition to a correct invoice). In cases in which the VAT is paid with a transfer of funds from one tax account to another tax account, the payment of the invoice amount is not required for input tax deduction, provided the business's revenues do not exceed EUR2 million.

Farmers and forestry. Businesses with supplies that are performed in the course of a farming or forestry business below the threshold of EUR600,000 and who are not legally obliged to keep records, have the option to calculate the VAT as a lump sum. However, the scheme is optional, and the normal VAT rules can be used instead.

Art dealers and secondhand goods, including cars. Businesses that deal in art and secondhand goods (including cars) can opt into this scheme, where in specific cases, VAT is calculated from the difference of the sales price to the purchase price (i.e., margin taxation). However, the scheme is optional and the normal VAT rules can be used instead.

Tour operators (travel services). There is a margin taxation in place to calculate VAT with regard to certain travel services. From 1 January 2022, the procurement of such services for both B2C and B2B recipients is covered by the tour operator margin scheme.

Consolidation with a lump sum. According to Austrian income tax law, there is a scheme for consolidation with a lump sum available. Input tax consolidation with a lump sum is also available.

Annual returns. In Austria, it is required to submit an annual VAT return in addition to the monthly VAT returns. The due date for submission of the annual VAT return is generally 30 June of the following year if the annual return is filed electronically. This due date may be postponed when the business is represented by a tax representative until 31 March of the second following consecutive year. At their discretion, the tax authorities may also grant a subsequent extension of one month tolerance period. Nevertheless, the tax authorities can request submission at any time after 30 June of the following year. For annual reporting periods starting after 31 December 2022, the abovementioned tolerance period no longer applies. However, the tax authorities may extend the filing due date individually till 30 June of the second following consecutive year.

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

Distance sellers registered for VAT purposes in Austria selling goods to customers in Austria must file Intrastat Arrival returns if the respective threshold is exceeded.

The threshold for submitting Intrastat statistical reports is EUR1.1 million in annual value of intra-Community dispatches or acquisitions.

The Intrastat declaration must be submitted electronically using the Reporting Tool Intra Collect (RTIC). The returns must be completed in EUR. The Intrastat return period is monthly after the threshold has been exceeded (that is, it is also necessary to file nil returns). The submission deadline is the 10th business day of the month following the return period.

EU Sales Lists. Under Article 44 of EU Directive 2006/112 (general business-to-business rule), if an Austrian taxable person makes intra-Community supplies of goods or performs intra-Community services for which the place of supply is located in another EU Member State, it must submit an EU Sales List (ESL) to the Austrian VAT authorities. An ESL is not required for any period in which intra-Community supplies are not made.

For businesses submitting VAT returns quarterly, ESLs are submitted monthly or quarterly. The due date is the last day of the month following the end of the ESL period.

Correcting errors in previous returns. A correction of the monthly/quarterly VAT return can be made electronically once; further corrections must be filed via ordinary mail (paper). Corrections of the annual VAT return must be filed via ordinary mail (in case the administrative decision was not issued yet) or in the course of an appeal against the administrative decision of the respective annual return. EC Sales Lists can be corrected electronically. Depending on the circumstances of the error, it must be considered for each single case whether a voluntarily self-disclosure should be filed to avoid consequences based on Fiscal Criminal Law.

Digital tax administration. There are no transactional reporting requirements in Austria.

J. Penalties

Penalties for late registration. There is no specific penalty in Austria for the late registration of VAT. However, the tax authorities may impose the penalties outlined in the subsections below. The VAT law allows the VAT authorities to impose a penalty of EUR5,000 if the deadline for VAT

registration is intentionally not observed. Further fiscal criminal law consequences might arise, depending on the facts and circumstances.

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

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

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

The VAT law allows the VAT authorities to impose a penalty of EUR5,000 if the deadline is intentionally not observed. Further fiscal criminal law consequences need to be checked on a case-to-case basis.

In case of noncompliance with the obligations to issue receipts and/or to have a cash register, a business could expose itself to fiscal criminal investigations, which could lead to pecuniary penalties or financial criminal proceedings.

For Intrastat penalties may be incurred if Intrastat declarations are persistently late, missing or inaccurate.

For ESLs, late submissions may lead to a penalty of up to 1% of the amount of intra-Community supplies, determined at the discretion of the tax authorities. However, the penalty may not exceed EUR2,200 per ESL.

The failure to submit ESLs may be considered an offense against the law and may lead to a penalty of up to EUR5,000.

Interest. In 2022, interest on VAT credits and debits was implemented in the Austrian Fiscal Federal Code. The interest rate amounts to 2% per annum above the base interest rate. VAT interest not reaching an amount of EUR50 will not be assessed. Whether interest can be claimed or imposed needs to be checked on a case-to-case basis. Generally, the following applies:

- Interest may be claimed
  - For credits reported in a periodic VAT return from the 91st day after submission of the return till the credit is booked on the taxable person's tax account with the Austrian tax authorities or until the credit is assessed via administrative assessment
  - For credits resulting from an annual VAT return from the 91st day after submission of the return until the credit is assessed via administrative assessment
- Interest may be imposed
  - For debits in a belatedly submitted periodic VAT return from the 91st day after the due date until submission of the return
  - For debits assessed via administrative decision from the 91st day after the VAT payment was due until the administrative decision is issued
  - Debits assessed based on an annual VAT return from 1 October of the following year until the administrative decision is issued. The new interest rule in such a case is applicable starting with annual VAT returns 2022

Penalties for errors. There are no specific penalties in Austria for errors. The general regulations according to Austrian Fiscal Criminal Law might be applicable. However, these regulations are quite complex and must be analyzed on a case-by-case basis. Tax advisors might also be subject to Austrian Fiscal Criminal Law.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may be seen as a financial offense that could be punished with a fine up to EUR5,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. There are no specific penalties in Austria for fraud. The general regulations according to Austrian Fiscal Criminal Law might be applicable. However, these regulations are quite complex and have to be analyzed on a case-by-case basis. Tax advisors might also be subject to Austrian Fiscal Criminal Law.

Personal liability for company officers. In case Austrian Fiscal Criminal Law applies, also individual persons (e.g., directors, employees) can be held liable. However, these regulations are quite complex and must be analyzed on a case-by-case basis.

Statute of limitations. The statute of limitations in Austria is five years. Any official act of the Austrian tax authorities referring to the VAT of a respective year and performed within the five-year limitation period, if it is clearly recognizable from outside (e.g., VAT audit, assessment of VAT (*Umsatzsteuerbescheid*) or input tax refund claim), extends the statute of limitation by one year ("prolongation year"). If such actions are taken during the "prolongation year," an extension for one more year is added each time. The absolute statute of limitation is 10 years.

The rules for the statute of limitation also apply to years that already have been audited by the tax authorities. The statute of limitation might be longer in case of fiscal criminal offense.

Azerbaijan

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Əlavə Dəyər Vergisi (ƏDV)
Date introduced	1 January 1992
Trading bloc membership	None
Administered by	State Tax Service, under the Ministry of Economy (http://www.taxes.gov.az)
Rates	
Standard	18%
Others	Zero-rated (0%) and exempt
VAT number format	Tax identification number (TIN) with 10 digits
VAT return periods	Monthly
Thresholds	
Registration	AZN200,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods, works and services performed in Azerbaijan
- The importation of goods

The transfer of goods is deemed to occur at the place where they are made available. If the conditions for the supply involve lifting and transporting the goods, the transfer is deemed to occur where the lifting or transportation of the goods begins. However, if the supplier is to install the goods, the transfer is considered to occur at the place where the goods are installed.

The following are the rules for determining the place where works are performed or services are rendered:

- The place where immovable property is located if the works (services) are directly connected with that property, such as construction, assembly, repair, reconstruction works, agency and expert services with respect to real property and similar works (services)
- The place where works (services) are rendered if they are connected with movable property
- The place where services are rendered if they are rendered in the areas of culture, arts, physical fitness or sports, or in similar areas
- The place where the transportation occurs if the works (services) are connected with such transportation
- The place where the purchaser of works or services is located or registered, established, or, if the services are directly associated with the permanent establishment of the purchaser, where the permanent establishment is located

The place of location, registration or establishment of the recipient of the following services:

- Transfer or assignment, as well as granting rights of use on patents, licenses, trademarks, copyrights and other similar rights
- Rendering of consulting, legal, accounting, engineering, advertisement, data processing and other similar services
- Services involving the providing of personnel (when employees work at the place where the recipient of these services operates)
- Rental of movable property (except for vehicles belonging to transportation enterprises)
- Services rendered by an agent engaging a person to provide taxable services on behalf of a principal
- Provision of telecommunication services (receipt, distribution, transmission of signals, documents, pictures, sounds or any type of information through telegraph, radio, optical or other electromagnetic systems, including granting or acquisition of such transmission, receipt or distribution rights)
- Radio and television broadcasting, and provision of postal services
- Provision of services through computers, the internet and other electronic networks, email and other similar applications, or granting rights for the use of such networks or services
- Provision of works and services by vendors (suppliers) of e-commerce, as well as conducting lotteries and other competitions organized electronically

The place of works or services that cannot be determined based on the above tests is deemed to be the place where the person performing a work or rendering a service conducts the activity.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Azerbaijan, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Azerbaijan, a TOGC is treated as outside the scope of VAT where both parties providing and purchasing the enterprise inform the tax authority in writing on application of respective Article of Tax Code of Azerbaijan not later than within 10 days from the provision of enterprise.

Transactions between related parties. In Azerbaijan, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the general tax code of Azerbaijan envisages market price application for barter transactions, including between related parties.

C. Who is liable

Persons who are registering in Azerbaijan for tax purposes are either registered as a simplified taxpayer or VAT payer (i.e., a taxable person). A simplified taxpayer is liable to pay a certain percentage of income tax from its total turnover and should not charge VAT on top of their invoices, whereas registered VAT payers should do so. VAT-registered taxpayers are liable for ordinary corporate income tax and VAT. The basic rule for determination of whether the person should be registered for VAT purposes is the total turnover during the year.

Persons that are engaged in an entrepreneurial activity and that have taxable turnover during a period of 12 consecutive months exceeding AZN200,000 must register with the tax authorities as a taxpayer within 10 days following the end of the 12-month period.

A taxpayer is any individual entrepreneur or legal entity that makes taxable supplies of goods (works or services) or that conveys goods across the customs border of Azerbaijan in an amount exceeding AZN200,000. Moreover, if a taxpayer performs one single transaction in an amount exceeding AZN200,000, then the taxpayer is liable for VAT registration with the tax authorities before the transaction is performed.

Exemption from registration. In general, exemption from registration is not envisaged under the tax code. As outlined above, any persons that are engaged in an entrepreneurial activity with its taxable turnover exceeding AZN200,000 within a period of 12 consecutive months is obliged to register for VAT. Alternatively, in the case where a taxpayer ceases to conduct economic activity that is subject to VAT, it is obligated to cancel its VAT registration.

Voluntary registration and small businesses. A person engaged in entrepreneurial activity who is not subject to mandatory registration and who is not obligated to be a payer of simplified tax as envisaged under the tax code may voluntarily register with the state tax authorities as a taxpayer. See the section above for more information on simplified tax.

Group registration. Group VAT registration is not allowed in Azerbaijan.

Fixed establishment. In Azerbaijan, there is no legal definition of a fixed establishment for VAT purposes. However, permanent establishment rules may apply for VAT as well. The permanent establishment of a non-established business or individual in Azerbaijan is the place in which such an individual or business themselves or via their authorized representatives fully or partially conduct their entrepreneurial activities in Azerbaijan for the cumulative period of not less than 90 days within any 12 months.

Non-established businesses. The provision of services in Azerbaijan by a foreign legal entity that does not have a permanent establishment in Azerbaijan (a non-established business) and that is not registered for VAT in Azerbaijan to a person registered or to be registered for VAT purposes in Azerbaijan (tax agent) is subject to VAT based on the reverse-charge mechanism (business-to-business (B2B) supply). In such a case, the tax agent must calculate and pay VAT from the amount to be paid to the non-established business. The tax agent should be able to recover the reverse-charge VAT paid on services/works purchased from nonresident suppliers if it is registered as a taxpayer and if the nature of the transaction is recoverable for VAT purposes.

If a non-established business supplies services to a person not registered or not required to be registered for VAT purposes in Azerbaijan (business-to-consumer (B2C)), it would be required to calculate and pay reverse-charge VAT on the amount to be paid to the non-established business

within seven days and before the 20th of the following month. The respective transactions do not create any obligation for the taxpayer, i.e., recipient of the services, to be registered for VAT purposes. The amount payable to a nonresident for the provision of works and services rendered in an e-commerce manner by persons who are not registered with the tax authorities shall be also subject to reverse-charge VAT. However, the respective reverse-charge VAT will be calculated and paid to the state budget by branches of the local or foreign bank in Azerbaijan processing payments to a nonresident, at the expense of the customer funds. Note that the respective withholding of reverse-charge VAT by banks occurs if the buyer who is not registered with the tax authorities received works and services by way of e-commerce, organized electronically outside the Republic of Azerbaijan.

Tax representatives. Tax representatives are not required in Azerbaijan.

Reverse charge. Whenever a domestic taxpayer purchases services from a non-established business, which, in accordance with the rules on the determination of location of taxable transactions is provided in Azerbaijan, the reverse-charge mechanism applies. In this case, the purchaser should self-assess VAT at 18% and report/remit the amount to the budget during the month when payment for the received services is made. See the subsection *Non-established businesses* above for more detail.

A special reverse charge applies to the provision of e-commerce services supplied by nonresident businesses that are purchased online and via bank cards by non-VAT-registered customers based in Azerbaijan. It is the responsibility of the bank coordinating the transaction (via the bank card purchase) to charge the customer the VAT and account for the VAT to the tax authorities in Azerbaijan, on behalf of the nonresident supplier.

Domestic reverse charge. There are no domestic reverse charges in Azerbaijan.

Digital economy. Special rules have recently been developed and introduced in the law in respect of e-commerce. "E-commerce" is defined as the provision of works/services and goods by means of a global information network (including e-books, music, audio-video, images and graphics, games, software solutions, online advertisements and similar).

As noted above, the place of supply of the e-commerce services should be considered the place where the customer is located. Therefore, VAT should be charged whenever services are purchased via e-commerce by customers in the Republic of Azerbaijan.

Nonresident providers of electronically supplied services for B2C supplies are not required to register and account for VAT on supplies in Azerbaijan. Instead, the customer is required to self-account for the VAT by way of a special reverse charge. This is where the bank coordinating the transaction will charge the customer VAT and account for VAT to the tax authorities (see the subsection *Reverse charge* above). Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Azerbaijan. Instead the tax agent is subject to VAT based on the reverse-charge mechanism (see the *Non-established businesses* subsection above).

There are no other specific e-commerce rules for imported goods in Azerbaijan.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Azerbaijan.

Registration procedures. To register for VAT purposes in Azerbaijan, a taxpayer should file a specific application form for VAT registration either online or in paper format. No other documentation is required for this purpose. The registration process should be completed within five days upon the submission of the application.

Deregistration. If a taxpayer ceases its activity in connection with VAT, then the taxpayer shall be obliged to place an application to terminate its VAT registration. The termination shall enter into force from the date VAT-related activities ceased.

Changes to VAT registration details. The taxpayer is obliged to inform the tax authorities about any changes in registration details (including change of a company name, legal address, type of business, shareholders, etc.). Such changes should be registered within 40 days via submission of application.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Goods and services intended for the official use of the diplomatic and consular representative offices of international agencies and foreign states accredited in the Republic of Azerbaijan, as well as for the personal use of the diplomatic, administrative and technical personnel of these representative offices (including family members living with them), who are not citizens of the Republic of Azerbaijan
- Exportation of consulting, legal, accounting, engineering, advertisement and other services
- Importation of goods, supply of goods, performance of works and provision of services to recipients under grants, with the proceeds of grants received from abroad
- International or transit transportation of cargo or passengers; provision of works or services that are directly connected with international or transit flights, except for international postal services

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Provision of financial services
- Contribution of property to an enterprise's charter fund (capital) in the form of participation share, except for imported property (if the contribution of property in the form of a participation share is not directly connected to the acquisition of other property in exchange)
- Sale or purchase of all types of mass media products and the publishing of mass media products (except for advertising activities)
- Transportation of passengers by subway
- Production of textbooks for schools, literature for children and state publications funded by the state budget
- Provision of paid educational services (except for the provision of services in connection with other activities)

If it is stipulated that specific production needs cannot be met by local resources for a specific period, the relevant executive authority shall be entitled to grant a VAT exemption for imported goods and equipment to meet those needs.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Azerbaijan.

E. Time of supply

The tax point of a taxable transaction is the date of payment of a principal amount (net of VAT). If more than one payment is made under the same transaction, each payment is considered a separate transaction for VAT purposes.

The date of payment for VAT purposes is defined as the following:
- Date when cash or cashless payment is received
- Date of offset
- In case of accounts receivable – claim expiration date
- In case of in-kind payment or barter transactions – date when the asset is made available
- In case of gratuitous transfer – date when transfer takes place
- In case the taxpayer is engaged in taxable operations and also provides a loan to the same customer:
  - VAT should be recognized on the date loan is made available – if loan is granted after the date of transaction
  - On the date of transaction – if loan is granted before the date of transaction

Deposits and prepayments. Azerbaijani tax law does not differ in the treatment of deposits and prepayments for VAT purposes.

For advance payments, the taxable transaction is considered to occur at the time of payment. If two or more payments are made with respect to a taxable activity, each payment is deemed to be a separate transaction, up to the limits of the payment amounts.

As per refundable deposit/prepayment, it will not have any VAT effect for the recipient of goods/services who initially paid such amount to the supplier. Yet, the supplier would be obliged to adjust its taxable turnover accordingly. This is because when it is refunded to the customer, the amount should be refunded with VAT if it accounted for VAT on the original payment. Moreover, where the prepayment or deposit was paid with VAT, the customer has no right to offset/recover the VAT until the performance of the services or the delivery of goods.

Continuous supplies of services. If services are rendered on a regular or continuous basis, the time of rendering services is when an electronic invoice is issued for any part of the operation. If payment has been made first, the time of rendering services is when payment is made for any part of the operation. There are currently no longstop dates in relation to the continuous supply of services.

Goods sent on approval for sale or return. There are no specific rules under the local legislation for goods sent on approval for sale or return. The VAT liability arises only when the actual sale of goods/services occurs.

Reverse-charge services. For reverse-charge services, the recipient of the services shall submit to the tax authority a VAT declaration in the format established by the relevant executive authority and make the respective payment no later than the 20th of the month following the month of payment made to the nonresident business.

There are no reverse-charge VAT implications for the separate sale of goods (i.e., when goods are not part of the service).

Leased assets. Financial lease of assets, which implies transfer of ownership, is not subject to VAT both for local and foreign operations. Regarding operational leases, there are no special time of supply rules. Therefore, the general rules described above should apply.

Imported goods. For taxable importations, the time of a taxable operation is when the use or consumption of the imported goods begins.

F. Recovery of VAT by taxable persons

If VAT is paid through an electronic transfer (no payments in cash) to a VAT deposit account directly from a deposit account or bank account of a taxpayer, in accordance with the electronic invoices, the electronic invoices serve as the basis for a VAT credit. The VAT credit should be allowed only in case the principal amount for the supplies of goods or the provision of services is paid. This means that input tax can only be claimed by using an electronic invoice when the invoice amount has been paid, and then once these requirements are met the input tax can be claimed in the next VAT return or carried forward.

There is no set time limit for a taxpayer to reclaim input tax in Azerbaijan. This means that effectively the input tax (VAT credit) may be carried forward indefinitely until its complete recovery.

In addition, import documents issued by customs authorities that substantiate the amount of import VAT paid, regardless of the form of payment, serve as grounds for a VAT credit.

Nondeductible input tax. In general, no credit of input tax paid is allowed with respect to entertainment and food expenses (except for expenses for healthful and dietary meals, milk and other similar products and for food expenses for ship personnel in sea transport within norms set by the relevant executive authority) or for expenses connected with the accommodation of employees and other expenses of a social nature.

VAT paid that is not recoverable may be deductible for profit tax purposes in cases where the nature of the transaction is deductible. Moreover, if the taxpayer qualifies for only a partial exemption (see the subsection below), the unrecoverable input tax can be deductible for-profit tax purposes in case the nature of the transaction is also deductible.

Examples of items for which input tax is nondeductible

- Entertainment expenses
- Meal expenses
- Accommodation expenses
- Other expenses of a social nature
- Expenses not related to commercial activities

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising expenses
- Rental expenses
- Telecommunication expenses
- Purchase of goods/materials
- Other expenses related to commercial activity

Partial exemption. If a taxable person conducts both taxable operations and exempt operations (i.e., mixed supplies) in the same reporting period, the VAT credit is determined on the basis of the proportion between the taxable and total turnover. However, in case the taxable person keeps separate accounting records (and supporting documents) for the respective taxable and exempt supplies made, the input tax incurred on the taxable and exempt supplies may be able to be clearly identified and separated. Then the amount of input tax incurred that directly relates to the taxable operations can be claimed in full.

In addition, any supplies made by the taxable person to which VAT is charged at the zero-rate are also considered as a taxable supply. This means that zero-rated supplies must be included in total taxable supplies for the partial exemption calculation. And any input tax incurred that directly relates to the zero-rated taxable supplies can also be recovered in full.

Approval from the tax authorities is not required to use the partial exemption standard method in Azerbaijan. Special methods are not allowed in Azerbaijan.

Capital goods. There are no specific rules in relation to the capital goods input tax recovery under Azerbaijani tax legislation. Input tax incurred on capital goods can be recovered in accordance with general rules.

Refunds. An excess of a VAT credit amount over the output tax amount charged during the accounting period is refunded no later than four months after the taxpayer's application for a refund.

Pre-registration costs. Input tax incurred on pre-registration costs in Azerbaijan is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Azerbaijan.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Azerbaijan.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Azerbaijan is not recoverable.

H. Invoicing

VAT invoices. In general, persons registered for VAT and conducting taxable transactions must issue electronic invoices to the persons to whom they provide goods or services. A taxpayer must prepare and issue to a purchaser of goods or services an electronic invoice within five days after the delivery of goods or provision of services.

Credit notes. The VAT turnover should be adjusted by a taxpayer in the period in which the credit note is issued. There is no special form for VAT credit notes. In case the amount of the transaction is credited, there should be an adjustment to the previously submitted electronic invoice.

Electronic invoicing. Electronic invoicing is mandatory in Azerbaijan, for certain taxable persons.

Scope of electronic invoicing. For B2B and business-to-government (B2G) supplies, electronic invoicing is mandatory in Azerbaijan. For B2C supplies, electronic invoicing is allowed but not mandatory in Azerbaijan.

The issuance of an electronic invoice, based on the provision of goods and services, is obligatory for every type of business transaction except B2C transactions where electronic invoices are issued but not necessarily required by the legislation.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Azerbaijan. A taxable person must prepare and issue to a purchaser of goods or services an electronic invoice within five days after the delivery of goods or provision of services.

The electronic invoice as described by the tax authority is the only electronic invoice format allowed.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Azerbaijan. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Azerbaijan.

Proof of exports. The invoice, delivery note and agreement serve as proof of export.

Foreign currency invoices. For tax purposes, the payment to the supplier must be recalculated in the domestic currency, which is the Azerbaijani manat (AZN), at the exchange rate established by the Central Bank of the Azerbaijan Republic for the date when the taxable event took place.

Supplies to nontaxable person. In the case of a supply of goods or provision of services from a VAT registered business to private consumers (that are not taxpayers), for retail supplies only, a cash receipt or electronic delivery note may be issued instead of a full electronic invoice.

Records. There are no specific rules in relation to the record-keeping requirements for VAT purposes, except for the record retention period requirement set forth below. In Azerbaijan, examples of what records must be held for VAT purposes include any documentation supporting taxable transactions, including agreements, invoices, acceptance acts, electronic invoices, etc. In Azerbaijan, VAT books and records can be kept outside the country. This is as long as the records can be made readily available for the tax authorities upon their request.

Record retention period. In accordance with the requirements set under the Azerbaijani Tax Code, accounting documentation, including information in electronic and (or) paper form, must be kept in full readability for at least five years.

Electronic archiving. Electronic archiving is allowed in Azerbaijan. Paper archiving is also allowed.

I. Returns and payments

Periodic returns. Each taxpayer must file a VAT return on a monthly basis. The return must be filed by the 20th day of the month following the accounting month.

VAT on imports must be calculated and collected by customs authorities at the time of importation.

Periodic payments. The payment of VAT must be made by the same day as the return submission deadline. This is by the 20th day of the month following the accounting month.

Electronic filing. Electronic filing is allowed in Azerbaijan, but not mandatory. Generally, both electronic and hard copy filing are possible. In case of e-submission, taxpayers must use an e-signature or ASAN-signature for the submission of tax returns via a specific online tax system. All tax returns submitted through this system are electronically archived and are easily retrievable from the system.

Payments on account. Payments on account are not required in Azerbaijan.

Special schemes. No special schemes are available in Azerbaijan.

Annual returns. Annual returns are not required in Azerbaijan.

Supplementary filings. No supplementary filings are required in Azerbaijan.

Correcting errors in previous returns. In case errors or omissions are identified under VAT returns of previous periods, taxpayers may prepare adjusted reports with corrected figures and submit them to the tax office. However, submission of adjusted reports is not possible if the concerned period is under on-site tax audit or has been finalized.

Digital tax administration. There are no transactional reporting requirements in Azerbaijan.

J. Penalties

Penalties for late registration. If a taxpayer that is required to be VAT registered does not register for VAT purposes and carries out taxable activities, the taxpayer is subject to a financial sanction equaling 50% of the VAT amount payable to the state budget for the entire period during which the taxpayer carried out activities without VAT registration.

Penalties for late payment and filings. Late submission of a VAT return is subject to a financial sanction in an amount of AZN40.

If the VAT amount indicated on a VAT return is understated or VAT payable to the state budget is evaded by failure to submit the VAT return, the taxpayer is subject to a fine equal to 50% of that understated or evaded tax. An additional amount may be calculated by the tax authorities as part of an audit.

Failure to notify the tax authorities about any changes in a taxpayer's VAT registration details may result in administrative sanctions of AZN2,500-3,000 for the company and/or AZN1,000-2,000 for the company officers.

If a taxable person fails to pay the VAT due within one working day after the principal payment for goods, works or services, the taxable person will be subject to a financial sanction of 50% of the unpaid VAT amount.

Penalties for errors. The penalty for the understatement of a VAT liability is 50% as outlined above. In addition, penalties are applied for the absence of electronic invoices confirming sales and purchase of goods. The penalty for the first violation during the calendar year is 10%; for the second – 20%; for the third and further – 40%.

There are no specific penalties associated with the late notification or failure to notify of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. There are no specific penalties in Azerbaijan for fraud. Other penalties outlined above should apply.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Azerbaijan.

Statute of limitations. The statute of limitations in Azerbaijan is three years. The tax authorities can calculate and recalculate taxes, penalties and financial sanctions of the taxpayer for the period of latest three years effective from the last closed out period under the respective VAT return.

A taxpayer has a five-year period to amend any refunds or calculations for sums of taxes, penalties and financial sanctions due. This should be performed within five years after termination of last taxable reporting period.

Corrected filings or filings not submitted in a timely manner can be furnished by the taxpayer before the date of decision on implementation of on-site tax inspection. Where the taxpayer has overpaid taxes, interest shall be paid to the taxpayer at the rate of 0.1% of relevant amounts beginning from the date that an application on the refund of the excess amount is placed up to the date that such amount is refunded. The taxpayer is eligible to receive interest only in the cases if the tax authorities fail to return funds during timelines set under local legislation. The reason for overpayment or overcharge is not a basis for application of interest.

At the same time, the legal entity registered as taxpayer has the opportunity to perform voluntary correction of VAT returns.

Bahamas

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 2015
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Department of Inland Revenue (DIR)
VAT rates	
Standard	10%
Special	0.1%, 1%, 2.5%, 4%, 6%, 6.5%, 8%, 9%, 10%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (TIN) – 123456789
VAT return periods	Monthly and quarterly
Thresholds	
Registration	BSD100,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the taxable supply of goods and services, including imported goods and services. VAT is applicable on the supply of goods and services at the standard rate of 10%, except in cases where the supply of goods and services is deemed to be either zero-rated or tax-exempt or applies to real estate transaction where reduced rates may apply.

In the Bahamas, a taxable person is defined as a person that carries on a taxable activity who is registered or required to register for VAT as per the VAT Act. The term taxable activity refers to activity in the form of a business being carried on in the Bahamas continuously and for consideration which involves or is intended to involve the supply of taxable supplies.

Insurance proceeds. For taxable persons that receive payment in the form of reimbursement, recovery or indemnification under a contract for taxable insurance services, in respect of loss of or damage to goods or services acquired for the use in the course of furtherance of a taxable

activity carried on by the registrant, the following applies: (a) the registrant is deemed to have made a taxable supply; (b) the payment is deemed to be the consideration for that supply; and (c) the payments received by the VAT registrant are deemed to be VAT inclusive.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In the Bahamas, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. The sale of the assets of a VAT-registered or VAT-registrable business was previously subject to VAT at the standard rate. However, a transfer of a business as a going concern (TOGC) is now only subject to stamp duty. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. As of 1 July 2022, transactions relating to the disposition of a business were removed from the VAT Act and returned to the Stamp Act. When a business is sold or ownership otherwise is transferred to another unrelated party, such a transfer is subject to stamp duty at a rate of 6%. The tax is applied to the assets of the business with the exception of cash, deposit accounts and real property. Where such transfers of a business occur that include the transfer of real property, there is VAT levied on the real property at the following rates:

- Transfers of real property to a foreign person are subject to 10% VAT
- Transfers of real property to a Bahamian company or other Bahamian entity are subject to VAT at the following rates:
  - 2.5% where the value does not exceed BSD100,000
  - 10% where the value exceeds BSD100,000
- Transfers of real property to a Bahamian individual or a Bahamian company that is used solely by the owner for holding real property and does not conduct business are subject to VAT at the following rates:
  - 2.5% where the value does not exceed BSD100,000
  - 4% where the value exceeds BSD100,000 but does not exceed BSD300,000
  - 6% where the value exceeds BSD300,000 but does not exceed BSD500,000
  - 8% where the value exceeds BSD500,000, but does not exceed BSD700,000
  - 9% where the value exceeds BSD700,000 but does not exceed BSD1 million
  - 10% where the value exceeds BSD1 million

VAT payments due and owing relative to the stand-alone transfer of real property or the disposition of a business that includes the transfer of real property are payable to the VAT Comptroller of the VAT Department within 90 days of the completion of the transaction. Relative to the VAT amounts due and owing for real estate transfers as part of the disposition of a business, the liability for payment of said amounts is shared between the parties, jointly and severally.

Transactions between related parties. In the Bahamas, for a transaction between related parties the value for VAT purposes is calculated at an arm's-length value. This is unless the collective group of related parties have been approved as a VAT group by the VAT Comptroller. Related-party transactions between members of an approved VAT group are not deemed as arm's length and are not deemed as the provision of taxable supplies.

C. Who is liable

VAT applies to goods or services supplied by a taxable person undertaking, by way of business, a "taxable activity." In most cases, the taxable supplies must also exceed the annual threshold of

BSD100,000 in value. However, there are certain instances where the mandatory registration for VAT is required irrespective of the threshold; these include:

- Where a person or business is domiciled within or outside the Bahamas to the extent that they provide, direct or through an agent, telecommunication service or electronic commerce to persons for the use, enjoyment, benefit or advantage within the Bahamas
- A hotel, condos, residential accommodations that forms a pool or other collective rental agreements
- A marketplace for vacation home rental
- A non-Bahamian homeowner, who supplies a vacation rental and does not utilize a marketplace for the supply of the rental

Exemption from registration. Exemption from registration applies to charitable organizations or a port licensee under certain circumstance in which. prior to making the claim for a refund, must apply for registration. It is possible for certain zero-rated suppliers, mainly in the financial services industry to be exempted from VAT registration. Businesses are required to apply to "opt out" of registering for VAT and this is assessed on a case-by-case basis. Where an exemption is granted, a business cannot recover VAT on costs, as it will not be registered for VAT.

Voluntary registration and small businesses. For businesses that make taxable supplies or taxable importations in the course of conducting taxable activity that do not meet the VAT registration threshold but wish to legally charge and collect VAT, there is a voluntary registration mechanism. Taxable persons that register voluntarily have the same obligations as taxable persons that were required by law to register including but not limited to periodic reporting and remittance of VAT liabilities to the tax authorities.

Group registration. Businesses that operate as a group or are managed as a group can apply for VAT group registration. Where the group registration is approved, the group will use the taxable person identification number (TIN) of the taxable person selected as the controller of the group.

Members of the group are all jointly and severally liable for the liabilities of the group, which include VAT debts and penalties as well as other related taxes levied by the government of the Bahamas.

There is no minimum time period required for the duration of a VAT group.

Fixed establishment. In the Bahamas there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. If a company undertakes a taxable or other business activity such as employing persons that work in the Bahamas or deriving income from activities undertaken in the Bahamas, the company is deemed to be a resident/non-established business in the Bahamas.

Non-established businesses are subject to mandatory registration if they make domestic sales of goods and if they specifically sell digital services to consumers in the jurisdiction (i.e., telecommunication services/electronic commerce business). Such non-established businesses are required to apply for VAT registration regardless of the taxable turnover threshold.

Tax representatives. Businesses can appoint a third-party representative, such as an accountant or business advisor, to submit a VAT registration form on behalf of the taxable person. It is also possible to delegate responsibility to manage certain aspects of the taxable person's account.

Reverse charge. Under the reverse-charge mechanism (known as "self-account" under the Bahamas VAT law), persons that import services, which would ordinarily be subject to VAT if supplied by a local business, generally must account for and pay VAT due. However, the place of supply rules would need to be examined. The VAT Act provides that in the case of imported services,

both parties, the importer and the recipient, are jointly and severally liable for VAT arising on the transaction.

Domestic reverse charge. There are no domestic reverse charges in the Bahamas.

Digital economy. No special provisions apply to the digital economy. In practice, a non-established business providing digital (i.e., e-commerce) services would generally be required to register for VAT and charge VAT on their supplies where the services are physically performed or where the benefit is experienced in the Bahamas. While the business license registration requirements for nonresident entities providing digital services are less than the registration requirements for a resident entity, the VAT registration requirements for these entities are the same as resident entities providing similar taxable supplies.

No special additional e-commerce rules exist for supplies of imported goods.

Online marketplaces and platforms. The VAT law outlines guidelines for professional services, which includes similar services of electronic commerce and the supply of internet access. A person must apply for registration where such person, in the course or furtherance of a taxable activity carried on by them, makes taxable supplies or taxable importations and is domiciled within or outside the Bahamas to the extent such person provides, through an agent, telecommunication services or electronic commerce to persons for use, enjoyment, benefit or advantage within the Bahamas, regardless of the registration threshold.

Registration procedures. There are three types of VAT registration that apply in the Bahamas:
- Mandatory, where businesses or operations meet or exceed the VAT registration threshold
- Voluntary, where businesses do not meet the VAT registration threshold but wish to charge and collect VAT
- Forced registration, where businesses meet the registration threshold but fail to register

A person or business liable for VAT must apply to the VAT authorities for registration within 14 days of meeting the requirements. Registration is completed strictly online using the Department of Inland Revenue's Online Tax Administration System (OTAS) portal. Failure to apply for registration can result in forcible registration by the comptroller and penalties. If applying separately for a business license application, the non-exhaustive list of items required to apply to be deemed a VAT registrant include, but are not limited to, a valid business license issued by the Department of Inland Revenue, NIB number, taxable person contacts (name, address, phone number, email address), listing of directors/partners/shareholders, and the business representative authorization and contact details (name, address, phone number, email address). However, note that additional information and/or approvals may be required based on the review of the application by the Department of Inland Revenue (DIR).

Deregistration. One can apply to cancel the VAT registration where a number of conditions are met. Typically, a company will need to wait two years from the date of registering for VAT before applying to cancel the VAT registration. The conditions do not apply in circumstances where the business effectively ceases to exist.

Changes to VAT registration details. To make corrections to any registration details, the taxable person is required to submit a contact update request, known as a "change of circumstances" through the OTAS portal providing the updated information in the appropriate boxes of the form and including any documentation in support of the request. A representative of the DIR would then review the request and advise of next steps to approve the request or indicate the reason of the tax authority's denial of the request. All corrections are to be submitted through DIR's OTAS portal.

There are no specific time limits to notify such changes.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 10%
- Special rates: 0.1%, 1%, 2.5%, 4%, 6%, 6.5%, 8%, 9%, 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption. The standard rate was reduced from 12% to 10% as of 1 January 2022.

Examples of goods and services taxable at 0%

- Services that relate to land and property situated outside of the Bahamas
- Goods physically removed from the Bahamas or outside the Bahamas at the time of supply
- Certain professional, financial and insurance services where the benefit is obtained outside the Bahamas
- Transfer of a business as a going concern by a registrant supplier to a registrant recipient where certain conditions are met
- Services of a foreign-going vessel providing international commercial services, where the supply is made directly and not through an agent or other person.

Examples of goods and services taxable at special rates

- Flat-rate scheme provides that VAT is charged and collected on supplies at the standard rate. However, rather than calculating the input tax each VAT period, the taxable person applies the flat rate of 6.5% to VAT inclusive sales and pays this amount to the comptroller.
- A reconveyance of real property from a mortgagee to a borrower or mortgagor only, is subject to VAT at 0.10% of mortgage amount
- A mortgage or transfer of mortgage of real property is subject to VAT at a rate of 1% of mortgage or transfer of mortgage amount
- Transfers of real property to a foreign person are subject to 10% VAT
- Transfers of real property to a Bahamian company or other Bahamian entity are subject to VAT at the following rates:
  - 2.5% where the value does not exceed BSD100,000
  - 10% where the value exceeds BSD100,000
- Transfers of real property to a Bahamian individual or a Bahamian company that is used solely by the owner for holding real property and does not conduct business are subject to VAT at the following rates:
  - 2.5% where the value does not exceed BSD100,000
  - 4% where the value exceeds BSD100,000 but does not exceed BSD300,000
  - 6% where the value exceeds BSD300,000 but does not exceed BSD500,000
  - 8% where the value exceeds BSD500,000, but does not exceed BSD700,000
  - 9% where the value exceeds BSD700,000 but does not exceed BSD1 million
  - 10% where the value exceeds BSD1 million

The term "exempt supplies" refers to supplies of goods and services that are not liable for VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Services directly and not through an agent or other person to a person resident outside the Bahamas who is not a taxable person (only applicable to certain circumstances)

- Certain insurance services, specifically life insurance, annuities and savings products, and insurance contracts on dwellings that are owner-occupied
- Medical services provided by a public health care facility to a public patient
- Rental of a dwelling meant to be a primary place of residence

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the Bahamas.

E. Time of supply

The time of supply is the date when a sale is considered to take place for VAT purposes. The time of supply is the earliest of:

- The date an invoice is issued
- Receipt of payment
- The date goods are delivered or made available to the recipient
- The date the performance of service is completed

Deposits and prepayments. Where a deposit or prepayment is received, regulations provide that a tax point is created, and VAT (in the form of output tax) will become due on the amount of the deposit or prepayment. The amount of VAT due is typically calculated using the VAT fraction. The VAT fraction is calculated in accordance with the formula (R/(1+R)) where R is the rate of VAT expressed as a percentage applicable to the price of the taxable supply.

If the deposit is held in an escrow account, i.e., one the taxable person does not have access to, this is not considered a payment. The output tax does not need to be declared until the amount is released.

Where the deposit is nonrefundable, and the customer does not buy the goods or services on which the deposit was paid, this is considered a payment subject to VAT at the applicable rate.

Finally, if the deposit is intended to be refunded, the legislation does not require the taxable person to treat the payment as consideration and therefore, there is no need to declare VAT on the payment. However, if at some later time, it is determined that the taxable person is entitled to keep the deposit, then this is a supply and VAT must be declared.

Continuous supplies of services. Where there is a continuous contract for services and payment is required at certain stages, a VAT invoice should be issued when each payment is due. The invoice should detail the charge for that particular stage and the amount of VAT charged.

Goods sent on approval or for sale or return. The tax point occurs when the title to the goods is transferred. Therefore, if a supplier transfers inventory to a customer with the agreement that the title is retained by the supplier until the customer sells or uses the inventory, a tax point is not created, and any unused inventory can be returned to the supplier and will not be subject to VAT.

Reverse-charge services. There is no special time of supply rule in the Bahamas for reverse-charge services. As such, the normal time of supply rules apply.

Leased assets. The time of supply for the supply leased assets (providing for periodic payments) is when a payment becomes due or when payment is received, whichever comes earlier.

Imported goods. Import VAT may apply to goods entering the Bahamas. The importer of a taxable importation must, on entry of the goods, submit an import declaration to the comptroller of customs and pay the VAT due.

F. Recovery of VAT by taxable persons

Generally, input tax can be reclaimed when the VAT was paid on purchases that relate to supplies liable to VAT at the standard rate or the zero rate, i.e., taxable supplies.

The time limit for a taxable person to reclaim input tax in the Bahamas is three years. A claim for a refund must be made within three years after VAT reporting. Currently, the OTAS portal automatically applies available input tax credits (VAT credits) to the next tax period where there is a VAT liability and allows the remaining credits to be carried forward.

Nondeductible input tax. Input tax credit is not recoverable if the VAT was paid on goods or services that are not used, or intended to be used, in the course or furtherance of a taxable activity. Where goods have a business and personal use, the taxable person must apportion the VAT to the business and nonbusiness uses, claiming input credit only for the business portion.

Examples of items for which input tax is nondeductible

- Fees or subscriptions for membership of any club, association or society of sporting, social or recreational nature.
- Petroleum and similar products that are used for nonbusiness purposes.
- A passenger vehicle where the claimant does not carry on the taxable activity of providing transportation services. Even where the claimant does carry on this taxable activity, no input tax credit is allowed if the vehicle was not acquired for the purposes of this taxable activity.
- Entertainment, unless the claimant is in the business of providing entertainment or the entertainment is wholly for all employees as part of a reward for services rendered or it is an expense directly related to the creation of a taxable activity ("entertainment" means food, beverages, tobacco, accommodation, amusement, recreation or other hospitality of any kind)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Entertainment expenses incurred wholly for the employees as part of a reward for services provided
- VAT paid on utility bills related to the business

Partial exemption. A partial recovery calculation is required where costs incurred relate to both taxable and exempt supplies. Regulations provide a standard method of apportionment to calculate the amount of input tax the taxable person is entitled to claim.

The standard method of appointment is calculated as follows:

$$A \times B/C$$

- A is the total amount of the input tax payable in respect of supplies and imports received during the period, less the sum of the input tax attributable to supplies or imports acquired or made, which are directly allocable to the making of taxable supplies and in respect of deductions that are disallowed under the VAT Act.
- B is the total amount of taxable supplies made by the taxable person during the period
- C is the total amount of all supplies made by the taxable person during the period.

A taxable person may, where the fraction B/C is more than 0.90, deduct the total amount of the input tax on the supplies/imports acquired or made during the period.

A taxable person may not, where the fraction B/C is less than 0.10, claim input tax deduction on taxable supplies made during the period.

The above does not apply to a financial institution making both taxable and exempt supplies during a period.

The Comptroller may use an alternative basis to determine the amount of input tax permitted. This is determined on a case-by-case basis.

Approval from the tax authorities is not required to use the partial exemption standard method in the Bahamas. Special methods are not allowed in the Bahamas.

Capital goods. In the Bahamas there are no special input tax recovery rules for capital goods. The normal rules outlined above apply.

Refunds. A refund may be due when the VAT paid on a taxable person's purchases (input tax) is greater than the VAT charged on a taxable person's sales (output tax). You may also carry forward the excess and use it to offset any VAT due in the following tax period. Refund applications vary depending on the filing intervals of the taxable person's VAT returns. All claims for a refund must exceed BSD500.

Pre-registration costs. If goods or services were purchased during the 24 months before registration, and those are used to make supplies subject to VAT after registration, it is possible to reclaim input tax paid on those pre-registration purchases.

Bad debts. A VAT registrant is entitled to claim an input tax deduction for sales made with respect to a taxable supply written off as a bad debt, i.e., when the amount owed is written off in accounting records, the taxable person can make an adjustment by claiming as input tax the amount previously declared as output tax.

Noneconomic activities. VAT paid on purchases of goods or services that are used or intended to be used for nonbusiness purposes are not recoverable.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Bahamas is not recoverable.

H. Invoicing

VAT invoices. For all taxable supplies, the supplier must provide the buyer, if they are VAT registered, a VAT invoice within 60 calendar days of the supply. In order for a VAT invoice to be valid, it must show certain information as outlined in VAT law.

Credit notes. A tax credit note is required to be issued by a registered supplier to a purchaser when a VAT invoice previously issued charged VAT in excess of the tax properly chargeable. The credit note must be in the form and contain the information as specified in VAT law.

Electronic invoicing. Electronic invoicing is allowed in the Bahamas, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the Bahamas. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the Bahamas. The requirements related to electronic invoicing are the same as those for paper invoicing.

Simplified VAT invoices. Simplified VAT billing is allowed for retail sales in the Bahamas. For retail sales, a taxable person can issue a VAT sales receipt, whereby items subject to VAT (or not subject to VAT) can be identified on the receipt with a symbol such as an asterisk, provided the total amount of VAT is clearly shown on the receipt. The method of identification must be clearly displayed so that customers can determine what is subject to VAT and at what rate before they pay for the goods. The unit price of each item on a sales receipt may be VAT inclusive or exclusive.

Self-billing. Self-billing is not allowed in the Bahamas.

Proof of exports. When goods or services are transported or transferred from within the Bahamas to a country or place outside the Bahamas where the use, benefit or advantage of the goods or

services is obtained or enjoyed outside of the Bahamas, the zero-rate applies. Zero rating maybe applicable to exports out of the Bahamas, if the VAT registrant meets the following conditions:

- The registered supplier, i.e., the entity registered for VAT, has entered the goods for export in accordance with the Customs Management Act, and the goods are, in fact, exported by the registered supplier.
- The comptroller is satisfied that the goods have been exported from the Bahamas and were not used after they were entered for export except such use as was necessary for, or incidental to, the export of the goods.
- The taxable person must have the relevant documentation to prove it is the exporter of record.

Foreign currency invoices. The VAT Act and Regulations do not specify which currency is to be stated on invoices. The official currency is the Bahamian dollar (BSD) and its exchange rate is USD 1:1. As per the VAT Act, invoices are to be denominated in money, which is defined as the currency used or circulating in the Bahamas. In practice, within the Bahamas, it is permissible to issue invoices in any currency. However, the ability to retain foreign currencies in the Bahamas requires explicit permission from the Central Bank of The Bahamas.

Supplies to nontaxable persons. If a VAT-registered supplier makes retail sales, it can issue a simplified VAT invoice or a VAT sales receipt, whereby items subject to VAT (or not subject to VAT) can be identified on the receipt with a symbol such as an asterisk, provided the total amount of VAT is clearly shown on the receipt. The method of identification must be clearly displayed so that customers can determine what is subject to VAT and at what rate, before they pay for the goods. The unit price of each item may be VAT inclusive or exclusive.

Records. Reliable accounting records in the English language must be maintained; however, there is not a legal requirement that stipulates the records to be physically maintained within the Bahamas. In the Bahamas, examples of what records must be held for VAT purposes include records of all supplies and purchases, i.e., a copy of all sales invoices, debit and credit notes, receipts and all purchase invoices either in paper or electronic form. If a taxable person does not possess a copy of an invoice on which VAT was paid or import documents showing the VAT amount, the VAT is not recoverable. In the Bahamas, VAT books and records can be kept outside the country. However, while records are not required to be physically maintained within the Bahamas, a taxable person's records should be readily accessible should the tax authorities request to view them.

Record retention period. Records are required to be kept for five years after the end of the tax period of which the taxable person ceases to be a registrant and where the occurrence of the taxable transaction to which the records relate. Notwithstanding, the statute of limitations is seven years.

Electronic archiving. Electronic archiving is allowed in the Bahamas. Records must be kept for all supplies and purchases. This means keeping a copy of all sales invoices, debit and credit notes, receipts and all purchase invoices either in paper or electronic form. All sales invoices must be sequentially numbered so if a taxable person spoils an invoice and has to issue a new one, the taxable person must keep a copy of the spoiled invoice. If a taxable person does not hold a copy of an invoice on which it has paid VAT or import documents showing the VAT amount, it is not entitled to recover the VAT on these costs, so it is very important to keep such documents. The records a taxable person keeps must be such that the comptroller can determine, with reasonable accuracy at any time, the liability of the taxable person to pay tax.

I. Returns and payment

Periodic returns. The timelines for filing VAT returns are as follows:

- Taxable persons with an annual turnover greater than BSD5 million are required to file a monthly VAT return.
- Taxable persons with an annual turnover of less than BSD5 million are required to file a quarterly VAT return.

The VAT return should show:
- The VAT charged on sales in the period (output tax)
- The VAT paid on purchases (input tax)

VAT returns are due 21 days following the previous month. Further, should the filing due date fall on a weekend or public holiday, the VAT return is due on the following business day (which would typically be the Monday following the weekend, provided that the Monday is not observed as a public holiday).

Periodic payments. Where the amount of output tax is greater than the input tax, the difference must be paid to the comptroller. It is required to pay any VAT due to the comptroller within 21 days after the end of the VAT period so effectively the taxable person needs to file the VAT return and pay any amount due by the 21st day of the month following the last day of a VAT period.

VAT can be paid in the following ways:
- Using a debit or credit card via the online portal
- Via a taxable person's online banking service
- Paying over-the-counter at the taxable person's bank
- Presenting cash/manager's check at any bank

All payments must include the related tax identification number (TIN) and reach the VAT Department by the due date.

Electronic filing. Electronic filing is mandatory in the Bahamas for all taxable persons. The OTAS portal was developed to assist taxable persons to manage their VAT accounts. This system allows registered taxable persons to file VAT returns and payments electronically. Other services available online may include taxable person inquiries, payments and refunds. The OTAS portal is the only method in which VAT reporting can be completed and submitted to the tax authority. Paper submissions are not permitted.

Payments on account. Payments on account are not required in the Bahamas.

Special schemes. *Flat rate scheme.* The flat rate scheme is for small businesses with annual taxable turnover of BSD400,000 or less. The flat rate scheme provides that VAT is charged and collected on supplies at the standard rate. However, rather than calculating the input tax each VAT period, the taxable person applies the flat rate of 6.5% to gross sales and pays this amount to the comptroller.

Cash accounting. Businesses are permitted to account for VAT on a cash basis in certain circumstances. Suppliers declare output tax on the VAT return in the same period during which customers pay. Similarly, a taxable person using the cash basis, would only declare and reclaim input tax on the VAT return in the period when it has paid its suppliers.

Annual returns. Annual returns are not required in the Bahamas.

Supplementary filings. No supplementary filings are required in the Bahamas.

Correcting errors in previous returns. To make corrections to any errors or omissions on VAT returns, taxable persons are expected to prepare an amended VAT return for the impacted period, if it is within the preceding year. For any corrections for a period outside of the preceding year, the taxable person is required to submit an enquiry through the OTAS portal outlining the correction being requested, the value of the correct, the impacted period and any documentation in support of the request. A representative of the DIR would then review the request and advise of next steps to approve the request or indicate the reason of the tax authority's denial of the request. All corrections are to be submitted through DIR's OTAS portal.

Digital tax administration. There are no transactional reporting requirements in the Bahamas.

J. Penalties

Penalties for late registration. There is no specific penalty in the Bahamas for late registration of VAT. However, if a taxable person fails to apply for registration, that person commits an offense and is liable to a fixed penalty up to BSD150,000 or imprisoned for a term not exceeding 12 months or both. The law also prescribes, the taxable person who failed to become a VAT registrant will be liable for any VAT owed on taxable supplies, at the standard rate appliable for each period plus interest accrued on the late payment at a rate of prime plus 1%.

Penalties for late payment and filings. Regulations impose heavy penalties for noncompliance. An offense is committed when VAT is not paid when due for two or more consecutive or nonconsecutive tax periods. One can potentially be liable on conviction in court to a fine not exceeding BSD10,000 and imprisonment for a term not exceeding six months or both. In case of nonpayment or late payment of tax pursuant to a VAT return or notice of assessment, the taxable person shall be subject to 10% of the amount of tax owed. Interest in respect of the outstanding amount at a rate of prime plus 1%.

A registrant shall be subject to a fine in case of late filing of their VAT return. In case of the filing of a late VAT return, non-filing of a VAT return or failure to file a VAT return in the prescribed form, the fine imposed on the registrant shall be the greater of the sum of BSD100 or 2% of the tax payable.

Penalties for errors. Errors in the declared VAT amounts, whether input or output tax, can be adjusted on the next VAT return provided the error does not exceed BSD500. Where the error exceeds this amount, the taxable person should notify the comptroller. If the error is not discovered promptly and is not considered deliberate, the taxable person may only be charged interest on amounts owed and the associated fine may be waived.

There are no specific penalties associated with the late notification or failure to notify of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. An unregistered or nontaxable person collecting, advertising or quoting VAT in respect of a taxable supply made to another person is liable on conviction to a fine not exceeding BSD70,000.

A taxable person submitting statements to the comptroller or VAT officer that are falsified, omit information or are misleading are liable on conviction to the sum of BSD150,000.

A taxable person who includes a false taxable person identification number on a document is liable on conviction to a fine not exceeding BSD150,000.

Personal liability for company officers. For taxable persons, directors or similar officers, pursuant to Section 76, the fixed penalties that can be assessed on these representatives for failure to comply with Sections 73 (duties of receivers/liquidators) and 74 (tax representatives) of the VAT legislation, amount to a maximum of BSD100,000 and BSD30,000, respectively. Tax representatives can also be held liable for contraventions of Section 92 (false or misleading statements), the fixed penalty for which is BSD150,000.

Statute of limitations. The statute of limitations in the Bahamas is seven years. However, there are other factors that may shorten or lengthen this period, which is determined at the discretion of the VAT Comptroller. If not due to fraud or willful misstatement, the tax authorities must bring forth any assessments and/or audits within five years after the date the VAT return was filed. The VAT Act does not provide a statute of limitations for the tax authorities to bring forth any assessments and/or audits for instances of fraud or willful misstatement.

No time limit exists for taxable persons to voluntarily correct errors in previous VAT returns. The OTAS portal will allow for the completion of an amended VAT return for up to 12 months prior to the date of the submission. For any amendments to periods prior to 12 months, an enquiry will need to be submitted through the OTAS portal requesting permission to have such an amendment to be processed. The enquiry will need to detail the reason for the request and clearly identify the changes to be made to the previously submitted VAT return. In the case of amended returns, the comptroller or other representative of the Department of Inland Revenue can subsequently elect to perform an audit of the taxable person.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	ضريبة القيمة المضافة (الضريبة)
Date introduced	1 January 2019
Trading bloc membership	Gulf Cooperation Council (GCC)
Administered by	National Bureau for Revenue (NBR) (https://www.nbr.gov.bh)
VAT rates	
Standard	10%
Other	Zero-rated (0%) and exempt
VAT number format	Numeric (15 digits)
VAT return periods	Monthly (if annual supplies greater than BHD3 million) Quarterly (if annual supplies are less than BHD3 million) Annually (if annual supplies are less than BHD100,000)
Thresholds	
Registration	
Mandatory	Greater than BHD37,500
Voluntary	Greater than BHD18,750
Deregistration	
Mandatory	Less than BHD18,750
Voluntary	Between BHD18,750 and BHD37,500
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services made in Bahrain by a taxable person
- The receipt of goods and services by a taxable person in Bahrain from a non-established person
- The importation of goods from outside the GCC implementing states into Bahrain

There are no designated zones in Bahrain.

GCC countries that implemented VAT shall be treated as non-implementing states if they do not treat Bahrain as an implementing state in their local tax legislation and they are not fully compliant with the provisions of the GCC VAT Agreement. The supply of goods and services from non-implementing states shall be considered as made from outside the GCC territory and the person's residence in such countries shall be treated as non-GCC residents.

Intra-GCC supplies involving the shipment of goods from Bahrain to another GCC Member State shall be considered as an export of goods until the establishment of the electronic services system in all GCC Member States.

Contracts silent on VAT, that have been entered into prior to the VAT implementation date in Bahrain but straddle such date, should in general be treated as VAT-inclusive.

An exception to the above is for contracts entered into with the government (i.e., Bahrain Ministries, government agencies, institutions and public bodies), where VAT at the zero-rate can be applied until the earlier of the contract expiry date, contract renewal date or 31 December 2023. This is in accordance with Article 76(B) of the Bahrain VAT law.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Bahrain only telecommunications and electronic services are subject to the "use and enjoyment" provisions (i.e., B2B, B2C).

The National Bureau for Revenue (NBR) has issued a public clarification on the place of supply rules for telecommunication services. As set out in the guidance from the NBR, with effect from 1 February 2021, the place of use and enjoyment of telecommunications services will be determined as follows:

- For telecommunications services that require the customer to be physically present in a specific location to use them (such as a Wi-Fi hotspot or an internet café), the place of use and enjoyment is that specific location. There is no change to the place of supply for such services and suppliers of such services should continue to charge Bahrain VAT where such services are provided from a location in Bahrain.
- For all other telecommunications services, the place of use and enjoyment is the place of residence of the customer. The supplier of the service should determine the place of residence of the customer.

Where the place of residence of the customer is Bahrain, the place of supply of the services will be Bahrain. Where the services are provided by a taxable person under Bahrain VAT law, 10% VAT will apply.

Where a customer's place of residence is in another country, that other country will be treated as the place of residence for the purposes of determining the place of supply of the telecommunications services.

For further details on telecommunications and electronic services, see the subsection *Digital economy* below.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where

the sale meets the conditions, the supply is treated as outside the scope of VAT. In Bahrain, a TOGC is treated as outside the scope of VAT where the following conditions are met:
- Transfer includes all or part of a business capable of being operated on an independent basis
- Transferor must be VAT registered
- Transferee must be VAT registered or become liable to be registered as a result of the TOGC
- Transferee must immediately use the assets acquired to conduct the same or a similar economic activity
- Notification to the NBR

Where assets and liabilities are transferred over a period of time, both parties will need to consider whether each transfer is a separate supply or forms part of the TOGC. Assets transferred that will not be used to continue the economic activity previously carried out by the transferor will not fall within the TOGC provisions. Where the sale of business assets from a transferor to a transferee are immediately sold by the transferee to a taxable third party, the TOGC rules will not apply. Any adjustment to a supply made before a qualifying TOGC should be a matter between the transferor and the third party. If a transferee repairs or replaces the goods, it may not claim input tax in respect of the cost of repair or replacement as the cost does not relate to taxable supplies made by the transferee. The transferee will be liable for VAT on a deemed supply of assets where the assets were transferred as part of a qualifying TOGC and the transferor originally reclaimed input tax on the purchase of those assets.

Transactions between related parties. In Bahrain, for a transaction between related parties, the value for VAT purposes is calculated at the fair market value where the following conditions are met:
- The value of the supply is less than its fair market value
- The recipient of the supply is not entitled to recover in full the VAT charged

The fair market value is the fair price tradeable in the market between two independent parties under similar circumstances at the same date as the date of the supply and in accordance with the following free competition conditions:
- Neither the supplier nor the customer is subject to any kind of commercial pressure
- Both the supplier and the customer independently work to achieve what is in their best interest
- The transaction is made within a reasonable period of time (i.e., no time pressure)

Where the fair market value cannot be assessed using the value of an identical supply in competitive conditions, the supplier may refer to the fair market value of a similar supply. In such conditions, a similar supply would be any other supply of goods or services where the characteristics such as quantity, quality, usage, components or delivery are the same, or closely resemble the supply.

The Bahrain VAT law defines "related persons" as "two or more persons where one has authority to direct and supervise the other person(s), where it holds an administrative authority enabling them to influence the work of the other person(s) from a financial, economical, or organizational point of view."

The NBR can request evidence that the VAT has been calculated based on the fair market value of the goods or services. If this is not provided with evidence within 30 days from the date of the request, or if the NBR finds that the value used is lower than the fair market value, the NBR can substitute the value used with the fair market value and calculate the VAT due on this basis.

C. Who is liable

A "taxable person" in Bahrain is a person who conducts an economic activity independently for the purpose of generating income and who is registered or obliged to register for VAT in Bahrain.

Every person who has a place of residence in Bahrain and conducts an economic activity, where the value of its taxable supplies made in the past 12 months or expected to be made in the next 12 months exceeds Bahraini dinar (BHD)37,500 must register for, collect and remit VAT. The VAT registration process is outlined under the subsection *Registration procedures* below.

Every non-established business that makes supplies, goods or services (and where no one else is liable to account for the VAT due) must register for VAT in Bahrain. There is no minimum registration threshold for nonresident persons.

For imports, the importer shall pay import VAT to Bahrain Customs Affairs where Bahrain is the first point of entry for goods coming from outside the GCC implementing states (unless the goods are zero-rated or exempt from import VAT in Bahrain). Until Bahrain recognizes one or more GCC Member States as implementing states, all goods entering Bahrain that are cleared through customs will be regarded as imports of goods for VAT purposes. The NBR may allow the taxable person to defer the payment of import VAT until the filing of the VAT return.

Transport of own goods by a taxable person to another GCC implementing state may be treated as a taxable supply, except where goods are transferred either on a temporary basis or as part of a supply taxable in the other GCC implementing state (e.g., a supply of goods with installation). *However, at the time of preparing this chapter, Bahrain has not recognized one or more of the other GCC Member States as an implement state for VAT purposes.*

Exemption from registration. Taxable persons whose value of taxable supplies exceeds BHD37,500 but are exclusively zero-rated, and does not receive services or goods for which they are liable to account for standard-rated VAT under the reverse-charge mechanism, may apply to the NBR for an exception from VAT registration. However, the NBR has the right to collect any VAT due, as well as administrative penalties, for the period of registration when the taxable person was not entitled to an exception from VAT registration.

Voluntary registration and small businesses. A person who has a place of residence in Bahrain, conducts an economic activity and is not obliged to register for VAT under the phased transitional deadlines, may apply for VAT registration if the value of its total taxable supplies or expenses in the past 12 months exceeds BHD18,750, or is expected to exceed BHD18,750 in the next 12 months.

When a person applies for a VAT registration on a voluntary basis, the effective date of registration is the date of approval of the registration by the NBR. The taxable person must remain registered for at least 24 months before being able to request a voluntary deregistration.

Group registration. Two or more persons can apply to form a VAT group if the following conditions are met:

- Each applicant must be a legal person.
- Each applicant must have a place of residence in Bahrain.
- Each applicant must be conducting an economic activity in Bahrain.
- Each applicant must be registered for VAT purposes at the date of making the application to form/join the VAT group.
- The applicant must not be a member of another VAT group in Bahrain.
- The applicants must be related, which means that:
  - One of them has the authority to direct and supervise (i.e., control) the others.
    Or
  - They are all directed and supervised (i.e., controlled) by the same person (the same person could be a legal person, a natural person or a group of persons acting under a formal arrangement).

For the purposes of the above, control is considered to be established where either the same person or the same group of persons (acting under a formal agreement):
- Hold, directly or indirectly, more than 50% of the voting rights attaching to the shares in each applying entity.
- Hold, directly or indirectly, more than 50% of the capital or ownership in each applying entity.
- Control each applying entity by any other means than voting rights or capital.

The VAT group shall, by a power of attorney, appoint one of its members as a representative of the VAT group. The VAT group representative shall comply with all VAT obligations of the group without prejudice to the joint liability of the members of the VAT group, including the following:
- Submit an application to form a VAT group in accordance with the form prepared for this purpose by the NBR.
- Notify the NBR of a request to withdraw any member of the VAT group or add new members to it.
- Notify the NBR of a request to disband the VAT group for any reason, or where the conditions to register as a VAT group no longer exist.

Supplies between members of the VAT group shall be considered as outside the scope of VAT. All the entities registered as in a VAT group will be required to file a single VAT return which thus reduces the VAT compliance workload.

All members of a VAT group in Bahrain are jointly and severally liable for VAT debts and penalties of the VAT group for the time that they are members of the VAT group.

The NBR may amend or deregister the VAT group in some instances, and a member must leave the VAT group as soon as it ceases to meet the relevant conditions.

The minimum time period required for the duration of a VAT group in Bahrain is 12 months. This means that members of the VAT group cannot voluntarily withdraw from the group before a period of at least 12 months has passed since joining the VAT group.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Bahrain, where it meets the fixed establishment definition (as per the Bahrain VAT law) as any fixed location for the business other than the place of business, where business is conducted, and is characterized by the permanent presence of human and technical resources in a capacity that enables the person to supply or receive goods or services.

In addition, the Bahrain VAT law defines place of residence of a person as the location of the place of business of a person or the fixed establishment. For a natural person who does not have a place of business or a fixed establishment, it shall be its usual place of residence. If a person has a place of residence in more than one country, the place of residence shall be considered as the place most closely connected with the supply. In addition, the place of business is defined as the place where the business is legally established, or the place of its actual management where the key decisions relating to the business operations are taken, when different from the place of establishment.

Non-established businesses. Every person that does not have a place of residence in Bahrain, but is obliged to pay VAT in Bahrain, must apply to the NBR for VAT registration regardless of the value of its supplies, as there is no minimum registration threshold for nonresident persons. A nonresident person can register directly with the NBR or through an appointed tax representative (which requires an approval from the NBR).

Tax representatives. The NBR may approve persons who wish to act as tax representatives or tax agents for the taxable persons in respect of their tax obligations in Bahrain. The NBR will grant

such approval upon meeting certain rules and conditions, as well as the payment of certain license fees and the submission of a power of attorney. The NBR will publish a list of the approved tax representatives and tax agents.

A tax representative or tax agent must meet the following conditions:
- They must be resident in Bahrain.
- They must be of good conduct and reputation (no sentence to a restriction of freedom in a crime against honor).
- If they are individuals, they must possess of a university degree or accounting or legal qualification that has been certified and approved by the Ministry of Education.
- If they are legal persons, they must have a valid and current commercial registration.
- They must pay the fee prescribed by the NBR.

The tax representative shall have joint and several liability for paying any VAT due from the taxable person it is representing until the date when the NBR announces that the tax representative ceases to act on behalf of that taxable person. A tax agent does not assume any of the taxable person's liabilities or obligations.

A taxable person who wishes to appoint a tax agent or a tax representative should do so via the NBR portal, completing the necessary details on screen and submitting the appointment request for approval.

Reverse charge. For certain transactions, the liability to account for VAT in Bahrain shifts from the supplier to the customer, under the reverse-charge mechanism. The reverse-charge mechanism must be applied when a taxable person in Bahrain receives a supply of goods or services from a nonresident person and those goods or services are subject to VAT in Bahrain.

Domestic reverse charge. The reverse-charge mechanism applies on certain domestic supplies. *However, at the time of preparing this chapter, the domestic reverse charge has not been introduced.*

A taxable person needs to apply and obtain approval from the NBR to use the domestic reverse charge, and certain conditions need to be met, including:
- The applicant must be a taxable person.
- The applicant must evidence that the total amount of its intra-GCC supplies and exports exceed 50% of the total value of its supplies.
- The applicant must provide reasonable grounds that it will be in a recurring net tax recoverable position and that this will have a material impact on its financial position.

Once the NBR approves the application, the purchaser can apply the reverse-charge mechanism on the goods and services purchased from local suppliers that are specified in the approval, provided it can recover the related input tax in full. The NBR will issue a certificate to the taxable person to evidence that the domestic reverse charge can be used, and a copy of this certificate needs to be provided to suppliers for them not to charge VAT on supplies made.

The taxable person must notify the NBR within 30 days when it ceases to meet the conditions to benefit from the domestic reverse-charge mechanism. The NBR will then revoke its approval.

This domestic reverse-charge mechanism allows taxable persons with significant supplies either subject to VAT at the rate of 0% or occurring outside the territorial scope of Bahrain VAT to mitigate the negative cash flow impact of the VAT incurred on their business expenses.

Digital economy. Supplies of telecommunications (wired and wireless) and electronic services are subject to Bahrain VAT to the extent that the use and enjoyment of such services take place in Bahrain.

Telecommunication services are defined in VAT legislation as "services relating to the transport, transmission, conversion or reception of signals used for the dissemination of words, images, audio or information by any kind of wire, radio and telephone services, visual telephone services, Voice over Internet Protocol (VoIP), voice mail, call waiting and other call management services, internet access and roaming data, including related transmission services or granting the right to use the ability to convert, transmit, receive or other similar means."

Electronic services are defined in VAT legislation as "services provided over the internet or any electronic platform, and that operate in an automated manner with limited human intervention and that are impossible to complete without the use of information technology."

Some examples (not exhaustive) of electronic services include:
- The supply of a website, web page on the internet and web hosting services
- The supply of computer and software programs, as well as their maintenance and update
- The supply of digital products and visual content, including app, screensavers, e-book and digital files
- Online supply of music, films, television series, games, magazines, newspapers or other programs
- Supply of advertising space on websites and of any rights associated with such advertising
- Supply of online educational services

To determine the place of use and enjoyment of a given service, the supplier must follow the rules detailed below:
- If the customer is not a taxable person, the place of use and enjoyment is the place where the customer actually uses and enjoys the service. The place where the contract with the customer is executed and the place where the customer pays for the service are not relevant. The following rules should be used to identify the place of actual use and enjoyment of a service:
  - If services are received through a fixed location (e.g., fixed or public telephone services, Wi-Fi services), the place of that fixed location will be the place of actual use and enjoyment.
  - If services are received through a mobile network, the country corresponding to the country code of the SIM card used to receive the services will be the place of actual use and enjoyment.
  - For international roaming services, the country in which the mobile network is located that the customer uses to receive the services will be the place of actual use and enjoyment.
- If the customer is a taxable person, the place of use and enjoyment is the place of residence of the customer. The following rules should be used to identify the place of residence of the customer taxable person:
  - The customer's address as stated on a VAT invoice or other documents used for billing
  - Details of the customer's bank account
  - The internet protocol address used to receive the services
  - The country code of the SIM card used to receive the services
  - Any other information of a commercial nature

From 1 February 2021, the place of use and enjoyment rules shall be determined based on amended provisions, as follows:
- For telecommunications services that require the customer to be physically present in a specific location to use them (such as a Wi-Fi hotspot or an internet cafe), the place of use and enjoyment is that specific location. There is therefore no change in the place of supply rules for these services.
- For all other telecommunications services, the place of use and enjoyment is the place of residence of the customer. The supplier of the service should determine the place of residence of the customer by reference to the following:
  - Internet protocol address used by the customer to receive the service

– Country code of the SIM card used by the customer to receive the service
– Customer's address as stated on the VAT invoice or other documents used for billing
– Customer's bank account details
– Other information of a commercial nature

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for VAT in Bahrain.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT in Bahrain. Instead, the customer is required to self-account for the VAT via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

Where goods are located outside of Bahrain, the VAT treatment for the sale of goods by a nonresident supplier to a customer in Bahrain will depend on who is importing the goods into Bahrain. If the supplier is importing the goods (i.e., importer of record), the supplier would need to pay any import VAT that is due on importation, and then make a domestic supply in Bahrain. If the customer is the importer of record, then the supply by the nonresident supplier would be outside the scope of Bahrain VAT, as the customer would be liable to pay any import VAT that is due.

Online marketplaces and platforms. Online portals and interfaces, e.g., websites, apps and electronic software, are now commonly used to facilitate the supply of goods and services.

An online platform may act as a disclosed or undisclosed agent. In some cases, the platform will be a pass-through for the supply of goods and it will obtain a commission – this arrangement is akin to the platform acting in a disclosed agent capacity. Alternatively, there may be platforms that purchase the goods from their suppliers and later sell these goods to customers – under this arrangement, the platform is acting as an undisclosed agent.

Typically, such platforms directly act as the seller of the goods or services to the final customer and a separate agreement is in place between the platform and the original supplier. Additional conditions arise when the original supplier is a nonresident. In such cases, the platform is likely to be perceived as an undisclosed agent, unless:
- The nonresident is expressly mentioned as the supplier of the goods or services sold on the platform, on the contractual agreement and on the invoice or receipt issued for the sale of the goods or services sold.
- The platform cannot charge the customer for the goods or services sold themselves and has no rights on the terms and conditions of the supply provided.

When the platform is considered as an undisclosed agent for a nonresident supplier, the following supplies will take place:
- The goods or services will be purchased from the nonresident supplier (VAT registration obligations may arise for the nonresident if the platform is not registered for VAT).
- A separate local supply by the platform to the final customer will take place for the supply of goods or services purchased online.

Registration procedures. VAT registration must be applied for electronically via the NBR website. The various stages of the process are as follows:
i. Creation of a profile on the registration portal of the NBR's website
ii. Review and approval by the NBR of the profile created, after which login details will be provided to access the created taxable person account
iii. Completion of the registration application form and upload of the required supporting documents such as the financial details, identification documents, proof of business relationship with the authorized person, proof of residence and proof of bank account ownership

iv. Confirmation from the NBR of approval of the registration application or communication from the NBR requesting further information
v. Download of VAT certificate once approved; the certificate is an official confirmation of the VAT registration and VAT account number, and it must be visibly displayed at the taxable person's premise(s)

The NBR shall process the registration application within 30 days from the date of its submission and shall notify the applicant of its decision to approve or reject the application. The length of time it takes to obtain a VAT registration number varies, although on average it tends to be between two to three weeks.

Deregistration. A taxable person must apply to the NBR for deregistration from VAT in any of the following cases:
- If the taxable person ceases to carry on an economic activity.
- If the taxable person does not make taxable supplies during a consecutive 12-month period.
- If the value of taxable supplies made during the preceding 12 months falls below BHD18,750 and the taxable person does not expect the value of its supplies or expenses to exceed BHD18,750 in the upcoming 12 months.

A resident taxable person has the option to apply for deregistration if the value of its taxable supplies during the previous 12 months falls below BHD37,500, but exceeds BHD18,750. A non-resident person may not choose to deregister on a voluntary basis. In all cases, the deregistered person must maintain books, records and invoices related to its supplies for a period of five years from the date of its deregistration for possible inspection.

Changes to VAT registration details. If there are any changes in the information that was originally provided when registering for VAT, the taxable person should notify the NBR within 30 days from the date of the change. To make the change, the taxable person should do the following:
- Log into their NBR account and access the section "Update VAT payer details."
- Update the relevant sections with the amended VAT registration information.

The NBR will review the amendments and may ask for the taxable person to provide additional information. If the information is updated, the NBR will update the VAT registration certificate and the online portal.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Export of goods to outside the GCC implementing states territory *(Note: the supply of goods to other GCC implementing states shall be treated as an export, until the full integration of the Electronic Services System across all the GCC implementing states.)*
- Supply of services from a resident taxable person in Bahrain to a customer residing outside the GCC implementing states and benefiting from such service outside the GCC implementing states
- Re-export of goods that were temporarily imported for repairs, renovation, modification or processing, and the service added to it

- The supply of goods to, within or under a customs duty suspension scheme
- Transportation services of passengers and goods to or from Bahrain, other services included with such transportation services, and the related means of transport
- Local transportation sector
- Oil, oil derivatives and gas sector
- The supply or import investment grade gold, silver and platinum with purity level of not less than 99% and can be traded on global bullion market, based on a certificate issued by the competent authority responsible for testing precious metals and gemstones in Bahrain
- The first supply after extraction of gold, silver and platinum for trading purposes
- Supply or import of pearls and precious gemstones after obtaining the certificate issued by the competent authority responsible for testing the pearls and gemstones to determine their nature
- Supply of preventive and basic health care services and related goods and services (The health care services must be qualifying medical services provided by qualified medical professionals or qualified medical institutions to a patient during the course of its treatment.)
- Supply or import of specific medicines and medical equipment
- Supply of educational services and related goods and services to nurseries, pre-elementary, elementary, secondary and higher education
- Supply and importation of food items listed in the GCC list of basic food items
- Construction of new buildings

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Supply of specific financial services, except in cases where the consideration payable is by the way of an explicit fees, commission or commercial discounts
- Supply of bare land and buildings (including residential and commercial) by way of sale, lease or license
- Imports of goods are exempt from VAT in Bahrain in the following circumstances:
  - Goods for diplomatic and military use that are exempt from customs duties
  - Imports of personal effects and household appliances by Bahraini citizens residing abroad and foreigners who are coming to reside in Bahrain for the first time who are exempt from customs duties
  - Imports of returned goods that are exempt from customs duties
  - Imports of personal items and gifts carried in a traveler's personal luggage
  - Goods designed for people with special needs, where the importer possesses the relevant documentation issued and certified by the competent authorities

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Bahrain.

E. Time of supply

The time at which VAT becomes due is known as the "tax due date" or "time of supply."

For the supply of goods, the general time of supply is the earliest of any of the following dates:

- The date when the transportation of goods commences (where the transportation of the goods is under the supervision of the supplier).
- The date when the goods are placed at the customer's disposal (where the goods are not transported under the supervision of the supplier).
- The date when the installation or assembly of goods is completed, for transactions involving assembly or installation.
- The date the VAT invoice is issued.
- The date that payment is received (to the extent of the amount received).

For the supply of services, the general time of supply is the earliest of any of the following dates:
- The date when the service is considered as completed.
- The date the VAT invoice is issued.
- The date that payment is received (to the extent of the amount received).

Deposits and prepayments. A deposit for a supply designed to be paid by the customer as an advance payment will be considered as an initial payment for the consideration of the supply and will create a tax due date to the extent of the amount received. It should be noted that a VAT invoice must be issued at the latest by the 15th day of the month following the month during which a VAT due date was triggered. However, deposits that are refundable and are not considered as an advance payment for the supply are outside the scope.

Continuous supplies of services. The time of supply for supplies that are continuous in nature (for both supplies of services and goods) is the earliest of any of the following dates, provided that it does not exceed a period of 12 months from the date of commencement of the supply:
- The date a VAT invoice is issued.
- The due date of payment specified in the VAT invoice.
- The date when the payment is received.

Goods sent on approval for sale or return. Where goods are supplied on a trial basis, the tax due date is the earlier of:
- The date the buyer accepts the goods on a definitive basis.
- The date the VAT invoice is issued.

Reverse-charge services. There are no special time of supply rules in Bahrain for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. For an operating lease, the tax due date is the earlier of:
- The due date of each installment under the contract
- The date an installment is paid

For a finance lease, the tax due date is the date of the supply of goods. Where the contract contains a purchase option exercisable at the end of the contract, VAT becomes due on the purchase value of the goods on that tax due date, i.e., the date of the supply of goods.

Imported goods. Import VAT is due at the same time that the customs duties become due, as follows:
- When the goods enter the territory of Bahrain and are imported.
- When the goods are released from a customs duty suspension arrangement, and the release and importation of those goods is in Bahrain.

Other supplies. *Deemed supplies.* The tax due date of a deemed supply of goods or services shall be the date when a deemed supply event is triggered, as follows:
- For goods or services provided for no consideration, the tax due date is when the goods are made available to the third party or where the services have been completed.
- For goods the taxable person retains upon deregistration, the tax due date is the effective date of deregistration.
- For the transfer of the taxable person's own goods from Bahrain to another implementing state or vice versa, the tax due date is the transfer date.
- For the change in the use of a good, the tax due date is the date that the change occurred.

Vouchers. For single-purpose vouchers, the tax due date is the date of issue of the voucher; however, if it is subsequently sold, the tax due date for that sale is the date of that subsequent sale. For multi-purpose vouchers, the tax due date is the date on which the voucher is exchanged for the goods/services.

Vending machines. The tax due date in cases where payment is made through vending machines is the date on which funds are collected from the machine.

Compulsory supply of goods and supply of goods with a right of refund. The tax due date is the date of supply of the goods.

Supply of goods deposited, and supply of goods pledged as collateral. Tax due date is the earlier of:
- The bailee or creditor selling the goods
- The bailee or creditor deducting a cash amount deposited as a bond in order to definitively acquire the goods

Temporary measures for relevant loans. In August 2020, the NBR issued a public clarification regarding the tax point rules for loans (including amounts advanced on credit cards) subject to a six-month payment holiday from March to August 2020 under circulars issued by the Central Bank of Bahrain (CBB). Under the CBB circulars, Bahraini nationals and businesses are entitled to receive a payment holiday on interest/profit and capital arising on certain loans, including credit advanced on credit card accounts (together, the "relevant loans"). Payments on these loans will restart at the end of the six-month period. Essentially, the relevant loans will be extended for up to six months without any additional charge being made to borrowers.

Ordinarily, the tax due date for supplies of credit is the earlier of:
- When the consideration (e.g., interest or profit) becomes due and payable by the borrower
- The date a VAT invoice is issued in respect of the supply
- The date of payment of the consideration (e.g., interest or profit) by the borrower

Where none of the above occurs within a 12-month period, a tax due date will be triggered at the end of that 12-month period.

The NBR took the position that, by virtue of the CBB guidelines, the terms and conditions of relevant loans have been changed so that no interest or profit is due and payable during the six-month payment holiday. Therefore, where no VAT invoice has been issued in respect of interest or profit on a relevant loan during the payment holiday and a debtor has not actually paid interest or profit on such a loan, there will be no tax due date on the relevant loan during the holiday period.

Generally, a tax due date in respect of a relevant loan will arise when interest or profit deferred under the CBB circulars ultimately becomes due and payable by the debtor. Where, however, no tax due date had otherwise arisen in respect of a relevant loan for a 12-month period ending during the holiday period, the tax due date will be the day after the end of the holiday period (i.e., 1 September 2020).

F. Recovery of VAT by taxable persons

For a taxable person to deduct input tax incurred, the taxable person must meet all of the following conditions:
- The expenses on which VAT is charged have been incurred for the purpose of the taxable person's economic activity.
- The recovery of input tax on the expenses is not specifically disallowed by the VAT law.
- The expenses are used for making taxable supplies.
- The taxable person holds the supporting original tax invoices that comply with the requirements of the VAT law or the relevant import documentation.
- Input tax must be claimed within the time limit set by the VAT law. The time limit for a taxable person to reclaim input tax in Bahrain is five years. The time limit is within five years from the end of the calendar year where that input tax became recoverable, provided all the conditions to recover that input tax are met.

In Bahrain, the rules on initial entitlement to recover do not include making a payment, but there is a requirement to adjust if payment is not made within 12 months. The entitlement to recover input tax assumes that the recipient of the supply intends to pay the consideration for the supply. Where the consideration is not paid (in part or in full) within 12 months of the date of the supply and the supplier follows the procedures to obtain bad debts relief, the recipient of the supply is required to adjust the input tax initially recovered by an amount corresponding to the unpaid amount of VAT. For further details, see the subsection *Bad debts* below.

Nondeductible input tax. Input tax may not be recovered in the below cases:
- If it is paid on goods and services used for purposes other than the taxable person's economic activity.
- If it is paid on goods prohibited from trade in Bahrain.
- If the VAT is paid on supplies or imports for the purposes of making exempt supplies in Bahrain.

Examples of items for which input tax is nondeductible
- Entertainment expenses incurred for staff and non-staff members (e.g., accommodation, hospitality, food and drinks when not provided within the course of a meeting or as normal refreshments)
- Accessing events or functions, and trips for recreational purposes (e.g., concerts, shows, social dinners, team-building events and activities when not provided as part of a business meeting)
- Goods and services used by employees free of charge and for their personal use, unless there is an obligation to provide it under any other laws in Bahrain
- Vehicles and related services (i.e., maintenance, repair, insurance) provided to employees to the extent of nonbusiness use

Examples of items for which input tax is deductible (if related to taxable business use)
- Motor vehicles
- Mobile phones

Where a motor vehicle or mobile phone has been provided to an employee that may be subject to personal use (e.g., to commute to or from work, making or receiving personal phone calls), the input tax claimable in respect of costs must be allocated between business and personal use. This apportionment should be carried out on a fair and reasonable basis, by reference to actual business/private usage and any company policies and procedures. Alternatively, a simplified method of recovery may be used, as follows:
- Motor vehicles – fixed input tax recovery rate of 40% on all costs
- Mobile phones – fixed input tax recovery rate of 60% on all costs; no input tax can be claimed in respect of mobile phone costs where the actual business usage of the phone does not exceed 50%

If a taxable person uses one of the fixed input tax recovery rates, it must be used for all assets in the relevant category. There is no requirement to notify or inform the NBR of the use of the fixed recovery method, however, the taxable person must use the fixed recovery rate for a period of two years before moving to a method based on actual use.

Partial exemption. In cases where the input tax relates to goods and services that are used for making both taxable supplies and exempt supplies, the input tax may be deducted partially and to the extent such input tax relates to making taxable supplies.

The default (standard) method of proportional deduction of input tax is calculated based on a turnover method, based on a fraction where:
- The numerator is the value of taxable supplies in Bahrain made by the taxable person in the tax period.

- The denominator is the total value of taxable supplies and exempt supplies in Bahrain made by the taxable person in the tax period.

The value of taxable supplies or exempt supplies made by the taxable person in the fraction include those supplies that do not take place in Bahrain, but that would have been either taxable or exempt supplies if they had taken place in Bahrain.

The fraction outlined above, shall not include:
- Supplies of capital assets by the taxable person
- Supplies that are incidental and do not constitute the core activity of taxable person
- Supplies taking place outside of Bahrain that are supplied from an establishment of the taxable person outside of Bahrain
- Supplies that are outside the scope of VAT

At the end of the calendar year, the taxable person should undertake an annual adjustment of the input tax that has been recovered throughout the year. Any adjustment (increase or decrease in allowable recovery) should be reported in either the last tax period of the year, or the first tax period of the subsequent year.

A taxable person should by default use the standard method to determine the amount of VAT that is deductible. Approval from the tax authorities is not required to use the partial exemption standard method in Bahrain.

A taxable person may submit an application to use an alternative (i.e., special) proportional deduction method to the default method, in cases where that alternative method more accurately reflects the use of goods and services supplied to that taxable person. Special methods must be approved by the tax authority before use by the taxable person.

If the NBR approves a special apportionment method, it will also confirm the effective date for using it and, if relevant, the time limit and conditions associated with its use. If the alternative special method is rejected by the NBR, the taxable person must continue to apply the standard apportionment method.

The NBR may also direct a taxable person to use a special apportionment method where the standard method does not provide a fair and reasonable reflection of the taxable person's economic activity.

Capital goods. Capital assets are tangible and intangible assets that are allocated by the business for long-term use as a business instrument or as a means of investment. A change in use of capital assets is subject to an input tax adjustment, to reflect the increase/decrease in taxable use of the asset over its lifetime.

The adjustment period is five years in respect of movable tangible or intangible capital assets and 10 years in respect of immovable tangible capital assets (i.e., real estate). The first year of the adjustment period corresponds to the tax year during which the capital asset was first used.

At the time a taxable person acquires a capital asset, input tax shall initially be deducted in accordance with the intended use of the goods (i.e., taxable, exempt or residual). During the adjustment period, an adjustment to the deduction must be made following any year in which the actual use of the capital asset differs from that initial intended use. Any change in the use of a capital asset once its adjustment period has expired does not trigger the requirement to adjust the amount of input tax recovered.

At the end of each 12-month period, a taxable person shall calculate the amount of input tax potentially subject to adjustment and shall report the adjustment in either the last tax period of the year, or the first tax period of the subsequent year.

In cases where there is a permanent change in the use of a capital asset due to the sale or disposal of the capital asset by a taxable person, the taxable person must adjust the input tax deduction for the remainder of the adjustment period. The adjustment should be reported in the last tax period of the year during which the capital asset was sold, or the first tax period of the subsequent year. Taxable persons are required to keep and maintain a record of their capital assets and of the related input tax recovery position throughout the adjustment period.

Refunds. When a taxable person submits its VAT return and it is in a VAT-receivable position, it has the option to either request a refund of the receivable VAT or request the NBR to carry forward the receivable VAT to subsequent tax periods. The NBR can also offset such VAT credits against any other payable taxes or administrative penalties such as a late payment penalty.

The VAT legislation allows certain persons to obtain a refund of Bahrain VAT they incur on their expenses and imports of goods irrespective of whether they qualify as taxable persons or meet the general conditions for input tax recovery. These are called "special refund schemes." See *Section G. Recovery of VAT by non-established businesses* below for further details.

Pre-registration costs. A taxable person is entitled to deduct input tax on goods and services received or imported by it prior to its date of VAT registration in the VAT return of the first tax period provided that all the following conditions are met:
- The goods and services are received in the course of making taxable supplies.
- The taxable person is able to show an inventory of goods and capital assets that it had at the effective date of registration, and provide details as to the nature, quantity, purchase date and VAT incurred for such items.
- The goods were acquired or imported within a period of five years prior to the effective date of registration, and they are still in the taxable person's possession on the effective date of registration.
- In case of a service, it should have been received within a period of six months prior to the effective registration date.
- The goods and services are not of a type that are restricted from input tax deduction.

The taxable person should provide the NBR with the following documents:
- A list of the purchases for which input tax recovery is sought
- An inventory of the stock of goods and raw materials still at its disposal on the effective date of VAT registration (nature, quantity and value, date of purchase and amount of the input tax paid)
- Copies of the tax invoices issued by the suppliers for the goods and services acquired
- Customs declarations for imports.

Bad debts. A taxable person may claim a VAT bad debt relief where consideration relating to a taxable supply has not been received from the customer. The adjustment allows a recovery of output tax that has previously been declared by the taxable person.

To claim this relief, the following conditions must be met:
- The payment of the consideration due by the customer (in part or in full) must be outstanding for at least 12 months from the date of supply. This 12-month period does not apply where the customer has not paid due to bankruptcy.
- The supplier must be able to prove that it has taken all necessary measures to collect the debt (this may include initiating legal proceedings against the customer).
- The supplier has written off (partially or fully) the debt in its books.

The supplier should make an adjustment for the related amount of VAT in the tax return for the period during which the bad debt relief is granted. It is expected that the supplier will issue a VAT credit note. If the taxable supplier subsequently receives a payment (in part or in full) relating to

this debt, it must make another adjustment of output tax. This should be reported in the tax return for the period during which the late payment was received.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Bahrain.

G. Recovery of VAT by non-established businesses

Refund of VAT paid by non-established businesses. Input tax incurred by non-established businesses that are not registered for VAT in Bahrain is recoverable. Non-established businesses that are not registered for VAT in Bahrain may claim a refund on the VAT paid on purchases made within Bahrain, subject to meeting certain conditions and submitting a refund application form, along with all required supporting documents, to the following email address: registration@nbr.gov.bh.

To claim this relief, the following conditions must be met:
- The refund applicant is not registered or obliged to register for VAT in Bahrain.
- The refund applicant is registered for VAT (or similar tax) in their country of residence.
- The country of residence of the refund applicant has a process to refund VAT to persons registered for VAT in Bahrain.
- The refund applicant is entitled to claim a VAT refund if the total VAT claimed is equal to BHD 200 or more.
- The VAT refund is being claimed for supplies used to conduct their business activity.
- The refund applicant has not already submitted a refund application for the same calendar year, as only one application shall be submitted per calendar year.

The following timings apply for the refund application:
- If the applicant is eligible, the application form and supporting documents should be submitted to the NBR between 1 January and 31 March in the calendar year after which VAT was paid.
- NBR may request additional information from the applicant to process the application, which must be provided within 30 days of the request.

The information to be provided on the application form, includes the following:
- Name, address, contact details, commercial identification details and business activity details/classification code of the nonresident business
- Name of the authorized person submitting the application form
- Name of relevant tax authority in the applicants' county of residence
- Period covered by the refund request
- Total amount of refund
- International bank account details

Refund of VAT to tourists. Tourists to Bahrain may claim a refund of the VAT paid on purchases made within the country. "Tourist" means any natural person (above 18 years old of age) who is not a resident in any of the Implementing States and who is not a crew member of a flight or aircraft leaving Bahrain. Therefore, under the current rules, all GCC nationals are eligible for the scheme (exception being Bahraini citizens not residing outside of Bahrain).

VAT can be reclaimed at a dedicated desk located in Bahrain International Airport.

Payments may be refunded by cash or card through an integrated electronic system facilitated by the global payment operator, Planet Payment, Inc. (Planet).

Merchants opting to register for the scheme may do so by visiting Planet's registration portal and providing the required details.

VAT refund eligibility criteria is as follows:
- The goods are purchased during the tourist's stay in Bahrain.

- The purchased goods fall under the list of goods eligible for VAT refunds and are acquired for personal use.
- The goods are purchased from one of the authorized merchants registered for the scheme.
- The tourist leaves Bahrain within two months from the date of supply of the goods.
- The minimum purchase amount is BHD100, including VAT.

Export validation requirements at the airport are as follows:
- Sales receipt with the VAT refund tag affixed to the back
- Purchased goods
- Passport
- Travel ticket

List of goods eligible for VAT refunds includes all goods subject to VAT except for:
- Fully or partly consumed goods
- Motor vehicles, boats and aircraft
- Goods that are not accompanied by the tourist at the time of leaving Bahrain

H. Invoicing

VAT invoices. A taxable person must issue a VAT invoice when it makes a supply of goods or services, including zero-rated, exempt and deemed supplies, or when it receives full or part of the consideration prior to the date of supply. A VAT invoice should be issued for supplies made to both resident and nonresident persons. The taxable person must issue a VAT invoice no later than the 15th day of the month following the month in which the time of supply takes place.

Taxable persons supplying VAT exempt financial services, remunerated by way of interest or a margin, may choose not to issue VAT invoices for these services, provided they are able, upon request of the NBR, to electronically extract and provide the details of their VAT exempt financial services income.

Credit notes. Where, after the issuance of the VAT invoice, the VAT amount is to be adjusted (i.e., upward or downward) then a VAT debit or credit note should be issued. The VAT debit or credit note shall be treated as a VAT invoice and should be issued no later than the 15th day of the month following the month during which the adjustment was done.

Electronic invoicing. Electronic invoicing is allowed in Bahrain, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Bahrain. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Bahrain. The requirements related to electronic invoicing are the same as those for paper invoicing.

The VAT legislation states that only taxable persons who have obtained prior approval from the NBR will be permitted to issue tax invoices electronically. However, the NBR has confirmed that taxable persons who meet the requirements set out in Articles 52 and 54 of the VAT Executive Regulations and whose computer systems are capable of accounting for VAT on their supplies will be eligible to issue tax invoices electronically without obtaining prior approval from the NBR. It is expected that all taxable persons (excluding nonresident taxable persons) will be required to issue and store electronic invoices in a compliant electronic invoicing solution, after which will be integrated with the tax authority's systems. This also applies to credit and debit notes.

At the time of preparing this chapter there are no official electronic invoicing regulations published in Bahrain. However, Bahrain plans to implement electronic invoicing, but no formal implementation timeline has been announced by the NBR. The NBR has launched a public consultation

to seek proposals for the design and development of an electronic invoicing system. It is most likely that electronic invoicing will be implemented in Bahrain in 2024. It is also expected that businesses registered for VAT and any third parties issuing tax invoices on behalf of other taxable persons will need to comply with the electronic invoicing requirements, once implemented. The requirements may vary depending on factors such as nature of business, annual value of supplies, number of transactions. The NBR may adopt a phased approach with the largest businesses or businesses in certain industries being required to comply first. However, the scope or implementation timeline of the anticipated electronic invoicing system in Bahrain has not been disclosed.

Simplified VAT invoices. A simplified VAT invoice may be issued where:
- The customer is not registered for VAT purposes in Bahrain.
  Or
- If the customer is registered and the total consideration does not exceed BHD500 (inclusive of VAT).

Where a taxable person makes several supplies to the same customer over a period of time not exceeding one month, it may issue a summarized VAT invoice. The summarized VAT invoice will be treated as a valid VAT invoice provided that all the requirements of a VAT invoice are met.

A bank statement issued by a bank can be treated as a valid VAT invoice when it contains the following information:
- Bank name and address
- Bank VAT number
- Customer's name and address
- Date of issuance of the bank statement
- VAT rate applicable on each supply
- Amount of VAT in respect of each supply

Self-billing. Self-billing is allowed in Bahrain. A VAT-registered customer may issue a VAT invoice on behalf of the taxable supplier, subject to fulfilling the below conditions:
- There is a written agreement between the parties for the issuance of VAT invoices by the customer.
- The supplier undertakes not to issue any VAT invoices in respect of the supplies made.
- A mechanism is put in place to enable the supplier to approve each VAT invoice issued by the customer on its behalf.
- The VAT invoice clearly shows that it is issued by the customer on behalf of the supplier.
- The customer retains a copy of each VAT invoice it issues on behalf of the supplier.
- The VAT invoice meets all the conditions and requirements stated in the law and the regulations relating to VAT invoices.

Proof of exports. Until the implementation of the Electronic Services System across all the GCC countries, supplies of goods shipped from Bahrain to other GCC implementing states will be treated as an export of goods, which should be subject to the zero-rate of VAT.

For an export to be subject to VAT at the rate of 0%, all the following conditions must be met:
- The goods must be shipped from Bahrain to a destination outside of Bahrain within 90 days of their date of supply (the person responsible for shipping the goods can be the supplier, the purchaser or a third party acting for the supplier or purchaser).
- The goods must not have been changed, used or sold to a third party before leaving Bahrain.
- The supplier must retain the commercial and official documents evidencing the shipment. These include documentation issued by the Customs Authority to confirm the export, commercial documentation (i.e., to identify the supplier, customer and place of delivery of the goods) and the transportation documents to evidence delivery of the goods outside of Bahrain.

Foreign currency invoices. Amounts shown on VAT invoices should be converted to Bahraini dinar (BHD) in accordance with the exchange rates approved by the Central Bank of Bahrain on the date of supply.

As part of the transitional measures, if the exchange rate approved by the Central Bank of Bahrain is not available, a reliable source of foreign exchange rates should be used. This alternative exchange rate source should be used consistently until the exchange rates approved by the Central Bank of Bahrain are available.

Supplies to nontaxable persons. There are no specific rules currently in place for invoicing for supplies to nontaxable persons. As such, normal VAT invoicing rules apply. However, if the conditions to issue simplified invoices are met, simplified invoices can be issued for supplies to nontaxable persons (see the *Simplified invoicing* subsection above).

Records. In Bahrain, the records that must be held for VAT purposes include VAT invoices and accounting books relating to the imports and supply of goods and services in an organized manner.

In Bahrain, VAT books and records can be kept outside the country. The only condition is that the taxable person must provide the NBR in a timely manner with such records, invoices and accounting books upon its request.

Record retention period. A taxable person must keep the relevant records for a period of five years after the end of the tax period to which they relate.

Records that relate to real estate must be kept for a period of 15 years after the end of the tax period to which they relate.

Where a taxable person is declared bankrupt or in the event of insolvency, the taxable person's legal representative must retain records of such a person for a period of not less than 12 months from the date on which those proceedings have been finalized.

Electronic archiving. Electronic archiving is allowed in Bahrain. Taxable persons must keep their documents and records in good condition and free from any damage. The documents may be kept electronically, subject to the following conditions:
- The records and documents can be easily accessed from the computer system when requested by the NBR.
- The hard copies of the documentation that support these books and records can be obtained.
- The computer system has sufficient security to ensure the documents cannot be tampered with or manipulated.

I. Returns and payment

Periodic returns. The taxable person shall submit a VAT return via the NBR's online portal no later than the last day of the month following the end of the tax period. Where there are no transactions to be reported in a given tax period, a taxable person should still submit a nil return.

The filing period frequency is as follows:
- Monthly filing – required if the taxable person's annual supplies exceed BHD3 million
- Quarterly filing – required if the taxable person's annual supplies do not exceed BHD3 million
- Annually filing – required if the taxable person's annual supplies do not exceed BHD100,000

Simplified VAT return form. The simplified VAT return can be filed by taxable persons either monthly, quarterly or annually provided that the below criteria are met:
- A taxable person that has less than BHD100,000 in total annual supplies
- A taxable person that is not part of a VAT group

Periodic payments. The taxable person shall pay the net VAT amount due to the NBR, along with the submitted VAT return, by the due date. Once the VAT return is submitted, the taxable person should receive a bill from the NBR identifying the net liability.

For resident taxable persons with local bank accounts, the payment should be made via the Fawateer system (i.e., an electronic bill presentment and payment system) or via the eGovernment National Portal. For payment using Fawateer, the following payment channels are available:
- Internet banking (e-banking)
- BenefitPay app
- Visiting the bank branch and requesting Fawateer payment.

If the taxable person wishes to make payment by using a debit or credit card, it should visit the eGovernment National Portal (www.bahrain.bh) and choose "VAT Bill Payment Service."

At the time of making a VAT payment, the taxable person needs to provide a VAT bill number, VAT account number and VAT payment amount as it appears on the NBR VAT invoice that is generated. It is the taxable person's responsibility to ensure that payments made through any available payment channels are processed and that the payment receipt is received from the NBR via email and SMS within the filing period.

For nonresident taxable persons who have no local bank account, the payment can be made from a foreign bank account. The taxable person would need to directly contact the NBR to obtain the relevant bank details (they are not published).

Electronic filing. Electronic filing is mandatory in Bahrain for all taxable persons. All tax returns should be submitted via the NBR's online portal by the taxable person or by a person authorized to do so on behalf of the taxable person (i.e., its agent or its tax representative).

Payments on account. Payments on account are not required in Bahrain.

Special schemes. *Profit margin scheme.* The taxable person, upon obtaining an approval from the NBR, may account for VAT on the profit margin in respect of the supply of specific goods and under specific conditions. This regime is not mandatory, and suppliers can elect to use their margin as the value of their supplies to compute the output tax due.

The following conditions must be met:
- The good to be sold must:
  - Be a used good suitable for further use in its current state or after repair
    Or
  - Be a work of art, artifact or other items of scientific, historical or archaeological interest
- The supplier must:
  - Have purchased the good in Bahrain from a nontaxable person (e.g., private individual), from a taxable person who himself sold the good under the profit margin scheme or from a taxable person who could not recover the VAT charged on the good
  - Not recover any input tax on the incidental expenses related to the acquisition of the good
  - Issue and retain the correct documentation

A VAT invoice must be issued for supplies under the profit margin scheme that clearly indicates that the VAT has been imposed using the profit margin scheme but must not show any VAT amount.

Annual returns. Annual returns are not required in Bahrain.

Supplementary filings. No supplementary filings are required in Bahrain.

Correcting errors in previous returns. If an adjustment is required or an error is found in the details submitted in a VAT return, it is the responsibility of the taxable person to notify the NBR and correct the position. Such corrections must occur within the five-year statute of limitations as prescribed in the VAT law.

Corrections in the VAT return. Errors leading to a misreported net VAT due or refundable of less than BHD5,000 can be completed as a correction in the VAT return immediately following the original VAT period.

Self-amendments. For errors exceeding BHD5,000 net VAT due or refundable, or where an error of less than BHD 5,000 is not corrected in the VAT return immediately following the original VAT period, the taxable person is required to make a self-amendment of the VAT return in which the error was originally reported. The self-amendment is performed via the NBR portal and will substitute the original VAT return. Details as to the reason for the error need to be provided to the NBR at the time that the self-amendment is made, after which the NBR has the right to request additional information. Self-amendments may be subject to a penalty.

Digital tax administration. There are no transactional reporting requirements in Bahrain.

J. Penalties

Penalties for late registration. The NBR shall issue an administrative penalty assessment to the taxable person for failure to apply for VAT registration within 60 days from the date of expiry of the registration period, or from the date of reaching the mandatory registration threshold. The fine imposed would not exceed BHD10,000. Criminal sanctions can be imposed for a failure to apply for VAT registration beyond 60 days *(see below)*.

Penalties for late payment and filings. The NBR may issue an assessment to the taxable person in cases where it does not submit the VAT return within the filing deadline. The NBR shall base the assessment on specific facts, documentations and records.

The statute of limitations is five years. Generally, no claim for additional tax due can be made by the NBR after five years from the end of the tax period to which the additional tax due relates or the tax was wrongfully recovered.

The NBR shall issue an administrative penalty assessment to the taxable person in case of late filings and errors made on VAT returns. Failure to submit VAT return or to pay the tax due within a period no more than 60 days from the filing or payment deadline results in administrative penalty calculated at a rate between 5% to 25% of the value of payable tax or the tax that should have been declared.

Administrative fines are issued via the NBR's online portal.

Penalties for errors. A fine not exceeding BHD5,000 shall be imposed on any taxable person who:

- Prevents or obstructs the employees, or anyone working for the NBR, from performing their duties and exercising their jurisdiction in supervising, inspecting, controlling, reviewing and requesting documents.
- Fails to notify the NBR of any changes to the data and information relating to the registration application or the VAT return within the specified deadlines.
- Refrains from displaying the tax inclusive prices of the goods and services.
- Refrains from providing information or data requested by the NBR.
- Fails to comply with the terms and procedures relating to the issuance of a VAT invoice.
- Violates any other provision of the VAT law or the regulations.

The late notification or failure to notify changes to a taxable person's VAT registration details to the tax authorities, may result in a fine of up to BHD5,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The below violations shall be regarded as tax evasion:
- Failure to apply for VAT registration, exceeding 60 days from the VAT registration deadline
- Failure to submit the VAT return or paying the due tax, exceeding 60 days from the relating deadline
- Unlawful deduction of input tax as well as the deliberate unlawful claim of VAT refund
- Submission of forged or unreal documents, records or invoices to avoid the payment of tax in full or in part
- Non-issuance of VAT invoices in respect of taxable supplies or imports of goods or services that are subject to VAT
- Issuing VAT invoices in respect of nontaxable supplies, that includes a VAT amount
- Failure to maintain records, VAT invoices and accounting books and records relating to imports or supplies of goods or services in an organized manner

Committing a tax evasion offense could result in imprisonment for a period of between three to five years, in addition to a fine not less than the tax due and not more than three times of such tax due. This penalty shall be doubled if the violation is repeated within three years from the date of issuing the final decision of conviction. The fine is also doubled in case the violation is committed in the name of or for the benefit of a legal person. The offender or multiple offenders are jointly liable for the payment of the tax due.

Appeal process. Once an assessment decision or a penalty decision has been issued by the NBR, the taxable person may file an appeal against the decision to the VAT Appeals Review Committee (the Committee). An appeal should be submitted to the Committee within 30 days from the date of notification of the NBR decision. The appeal is submitted by email (appealscommittee@nbr.gov.bh).

An appeal must contain the following information:
- Taxable person information, commercial registration or trading license details and the reference number of the NBR decision
- A letter, in Arabic, containing reason(s) and the legal basis for appealing against the NBR decision. An additional copy in English may also be submitted
- The VAT period to which the appeal request relates
- Any supporting documents or information that the Committee should consider
- The email address of the appellant and/or their agent or representative, if applicable

To make an appeal, the taxable person is required to pay the following to the NBR:
- The VAT due (where the appeal relates to the decision to impose an amount of VAT)
- The administrative fine (where the appeal relates to the decision to impose an administrative fine)
- The prescribed fee of BHD50 per decision being appealed

The Committee will notify the appellant of any hearing date of the appeal, at least 10 days beforehand. The Committee will issue its recommendation on the appeal to the Minister (or its delegate), within 30 days from the date of the submission of the appeal. The Minister (or its delegate) will then have to approve, amend or cancel the recommendation within 15 days from the receipt of the recommendation. Where the appellant does not receive any communication from the NBR within the prescribed period, the appeal shall be considered rejected.

The decision of the Committee can also be appealed by submitting an appeal to the competent court in Bahrain within 60 days from the date of notification of a rejection of the original appeal.

Conciliation in VAT evasion crimes. Conciliation is a potential method to settle a VAT evasion crime between the NBR and the accused person, outside of the criminal courts. The accused person should submit a Conciliation Request Form to the NBR, by email (inspections@nbr.gov.bh).

The Conciliation Request Form contains the following information:
- Taxable person information, commercial registration or trading license details and the reference number of the NBR decision
- A statement of the reasons for the conciliation request and any supporting relevant facts and documents that support the request

A request for conciliation must be submitted before any criminal lawsuit is filed or during the hearing at the competent court. A request for conciliation cannot be submitted after the final and conclusive judgment in the criminal lawsuit has been issued.

The NBR will consider the conciliation request and would notify the accused person of either of the following decisions:
- Acceptance to consider the conciliation request, whereafter the accused person must pay the required amounts to complete the conciliation procedures within the period set by the NBR
- Rejection to consider the conciliation request, whereafter prosecution of the criminal proceedings of the VAT evasion crime will resume

The payments required to be made by the accused person as part of the conciliation process are:
- Payment of the amount of VAT evaded
- Payment of an amount equivalent to the minimum fine for the crime

Personal liability for company officers. For a natural person, imprisonment for a period of not less than three years and not exceeding five years; and a fine of not less than the amount of the VAT due but not exceeding three times this amount may apply. The fine is doubled if the offense is repeated within three years from the date of the final conviction. The offender or multiple offenders are jointly liable for the payment of the VAT due.

For a legal person, without prejudice to the criminal responsibility of a natural person, a legal person is subject to double the maximum fine applicable to a natural person if a VAT evasion crime is committed in their name, on their behalf or for their benefit.

Statute of limitations. The statute of limitations in Bahrain is five years. No claim for additional VAT can be made by the NBR after five years from the end of the VAT period to which the additional VAT relates. No claim for VAT wrongfully recovered can be made by the NBR after five years from the date the VAT was paid.

The limitation period is interrupted in the following cases:
- The taxable person receives an assessment notice from the NBR
- The taxable person receives a request for payment from the NBR
- The taxable person submits a refund request to the NBR
- VAT Appeals Review Committee dispute
- Any causes of interruption as provided for in the Civil Code.

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A. At a glance

Name of the tax	Value-added tax (VAT), Supplementary Duty (SD) and Turnover Tax (TT)
Local name	Value-added tax (VAT), Supplementary Duty (SD) and Turnover Tax (TT)
Date introduced	10 July 1991 (revised as of 1 July 2019)
Trading bloc membership	Asia-Pacific Trade Agreement (APTA) South Asia Free Trade Area (SAFTA) Global System of Trade Preference (GSTP) SAARC Preferential Trading Arrangement (SAPTA) Trade Preferential System among the Member States of the organization of the Islamic Conference (TPS-OIC) Preferential Trade Agreement Among D-8 Member States Preferential Trade Agreement Between the People's Republic of Bangladesh and the Royal Government of Bhutan
Administered by	National Board of Revenue (NBR)
VAT rates	
Standard	15%
Reduced	1.5%, 2%, 2.4%, 4%, 4.5%, 5%, 7.5%, 10%
Other	Zero-rated (0%), specific amount of tax
SD rates	
Goods	Depends on nature of goods to be imported and supplied
Services	Depends on nature of supply and rate also varies
TT rates	
Standard	4%
VAT number format	13-digit Electronic Business Identification Number (eBIN) in numeric (no alphabets and special characters).

VAT return periods	Monthly
TT return period	Quarterly
Thresholds	
VAT Registration	BDT30 million
TT Registration	Between BDT5 million and BDT30 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

The VAT and Supplementary Duty Act, 2012 (in short, the VAT and SD Act) is made effective from 1 July 2019 and the same has replaced the erstwhile VAT Act, 1991.

In Bangladesh, there is a unified system of VAT on taxable supply and taxable import of goods and services. Supply of immovable properties is also covered within the ambit of Bangladesh VAT laws. Further, the ambit of the supply of services is wide and the same covers any service other than goods, immovable property and money. It also includes any grant, assignment, termination or conferment of right, agreement to perform, refrain from performing an act or accepting a situation or tolerate an act, etc.

Supplementary Duty (SD) applicability has been defined through second schedule of VAT and SD act in various stages.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Bangladesh, no services are subject to the "use and enjoyment" provisions.

However, under specific circumstances there is a requirement for nonresident suppliers with no fixed establishment in Bangladesh to register for VAT. See the subsection below *Non-established businesses*.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Bangladesh, where a person transfers an establishment as its running business in the process of an economic activity, such transfer shall be treated as a single supply and such single supply shall not be regarded as a supply made in Bangladesh.

Further, the running business establishment must be acquired with an intent to keep the economic activity going after its sale is effected and the purchaser must fully acquire all that is necessary for an uninterrupted management of the economic activity thus transferred.

No taxable person shall transfer a running business establishment without making full payment of all payable taxes and arrear dues. In addition, the respective commissioner may permit a transfer, if the purchaser submits an unconditional bank guarantee from a scheduled bank for full payment of all payable tax and arear dues.

Transactions between related parties. The value of a taxable supply made by a taxable person to an associate (related parties) shall be the fair market value of such supply, reduced by the tax fraction of that price, if:
- Such supply is made for no consideration, or for a consideration that is lower than the fair market value
- Such associate would not be entitled to a credit for all of the input tax arising out of such supply

Fair market value is determined as per VAT and Supplementary Duty (determination of fair market value) rules, 2019.

For the transfer of goods between two locations of an entity having centralized VAT registration, the interunit movement must be under the cover of Form Mushak 6.5.

C. Who is liable

VAT is imposed and payable on the taxable import and taxable supply of goods and services. The following persons are liable to pay VAT:
- For taxable import – the importer
- For any taxable supply in Bangladesh – the supplier
- For taxable supply of imported services – the recipient of such supply
- For any other cases – supplier or the recipient of supply

VAT registration is required for:
- A person whose turnover exceeds the registration threshold of BDT30 million within a 12-month period, closing at the end of the month preceding that month
- A person whose estimated turnover exceeds the registration threshold of BDT30 million within the succeeding 12-month period, beginning at the start of the preceding month

Further, VAT registration is mandatory for the following persons irrespective of turnover who:
- Supplies, manufactures or imports goods or services subject to SD in Bangladesh
- Supplies goods or services or both by participating in any tender or against any agreement or work order
- Is engaged in export-import business
- Establishes Branch Office, Liaison Office or Project Office of any foreign entity
- Is appointed as VAT agent
- Is engaged in the economic activity relating to the supply, manufacture or import of any specific goods or services or in any specified geographical areas as may be prescribed by NBR

Further, in terms of General Order 17/VAT/2019 dated 17 July 2019 ("GO 17"), mandatory VAT registration (i.e., irrespective of turnover) is required for supply of specified categories of goods and services.

"Person" means any natural person and also includes the following entities, namely:
- A company
- An association of persons
- A government entity
- A foreign government or a department designated, or any official appointed by it
- An inter-state or international organization
- A joint venture for property development or any other similar initiative
- Other business organization

Further, "association of persons" means any partnership, trust or any similar association of persons, but does not include any company or unincorporated joint venture.

Exemption from registration. The VAT and SD Act in Bangladesh does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Any person making a taxable supply and not required to be registered may apply to register for VAT voluntarily. A person registered voluntarily pays tax from the first day of the next tax period following the date of registration and must preserve the required records and accounts.

In terms of section 10 of the VAT and SD Act, a person is required to be enlisted as a turnover taxpayer in case its turnover exceeds, at the end of any quarter of a 12-month period, the enlistment threshold of BDT5 million, but does not exceed the VAT registration threshold of BDT30 million. Application for such enlistment is to be made within 30 days from end of such quarter.

Group registration. Group VAT registration is not allowed in Bangladesh. However, a single VAT registration (central registration) can be obtained for multiple business locations of the same legal entity. Single registration for multiple business locations are permissible when all accounts, tax deposit and VAT records are preserved centrally in automated system through software and in case of manufacturer and service provider such multiple units/business locations are engaged in economic activity relating to the supply of identical or similar goods and services respectively.

Fixed establishment. The term "fixed place" is used in Bangladesh instead of "fixed establishment." A "fixed place" means any of the following places at or through which economic activities inside or outside Bangladesh are carried on, namely:

- A place of management
- A branch, an office, a factory or a workshop
- A mine, a gas well, a quarry for extraction of stones or any other similar mineral resource
- A location of any construction or installation project

Accordingly, any supply made by a nonresident carrying on an economic activity from or through a fixed place in Bangladesh shall be treated to be made in Bangladesh. Further, any supply made by a resident shall be treated to be made in Bangladesh.

Non-established businesses. The following supplies, inter alia, made by a nonresident without having any fixed place are treated as being made within Bangladesh:

(a) Any supply made by the nonresident:
  - In relation to an immovable property and the land attached to it situates in Bangladesh
  - In relation to goods that is transferred, conferred, installed or assembled in Bangladesh

(b) Certain specific supplies made by nonresidents to a VAT unregistered person in Bangladesh, such as:
  (i) The services are physically provided in Bangladesh by the service provider staying in Bangladesh at the time of supply
  (ii) The services are directly related to land located in Bangladesh
  (iii) The services are radio or television broadcasting, or telecasting services received at an address in Bangladesh
  (iv) The services are electronic services delivered to a person located in Bangladesh at the time of supply
  (v) The supply is of a telecommunications service initiated by a person located in Bangladesh at the time of supply, other than a telecommunications supplier or a person who is a global-roaming person temporarily staying in Bangladesh

Tax representatives. For specific scenarios, nonresident businesses not having any fixed place of business in Bangladesh are required to register for VAT in Bangladesh through a local VAT agent. In such case, VAT compliance will be ensured by such local VAT agents. Whereas the nonresident is responsible for payment of all dues including taxes, fines, penalties and interest.

Further, any person (having license) may be appointed for providing advice to a taxable person or for representing it in any proceeding.

Reverse charge. In case of import of services, the recipient of the service is liable to pay VAT if (i) the recipient is a registered or registrable person and acquires such service in the process of economic activities and (ii) if such service is provided in Bangladesh in the process of an economic activity by a person registered/required to be registered and such service is taxable at a rate other than zero-rated. "Imported service" has been defined to mean service supplied from outside of Bangladesh.

In case of import of services by a VAT-registered service recipient, VAT is payable by the service recipient. There is a requirement under the VAT and SD Act by which the bank/financial institution remitting payment to the foreign service provider is required to collect VAT if the VAT-registered service recipient (i.e., the remitter) does not submit proof of payment of VAT to the government treasury on such payment.

In case of import of services by a VAT-unregistered service recipient – the bank/financial institution remitting payment to foreign service provider is required to collect VAT before such remittance.

Domestic reverse charge. In case of certain services (like payment of rent for properties), the recipient of the service is required to deposit VAT.

Digital economy. Nonresidents providing electronic services to VAT-unregistered customers in Bangladesh (i.e., business-to-consumer (B2C) supplies) are required to register and account for VAT on their supplies in Bangladesh.

Nonresidents providing electronic services to VAT-registered recipients (i.e., business-to-business (B2B) supplies) are not required to register and account for VAT in Bangladesh. Instead, the customer is required to self-account for the VAT by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There is no specified VAT rate for supplies of electronic services. The VAT rate depends on the particular service being supplied, and no specific clarifications have been issued by the National Board of Revenue to date.

An electronic service is defined to mean the following services, when provided or delivered on or through a telecommunications network, a local or global information network, or similar means, namely:
(a) Websites, web-hosting or remote maintenance of programs and equipment
(b) Software and the updating thereof delivered remotely
(c) Images, texts and information delivered
(d) Access to databases
(e) Self-education packages
(f) Music, films and games
(g) Political, cultural, artistic, sporting, scientific and entertainment broadcasts and telecasts and events, including telecasts

There are no other specific e-commerce rules for imported goods in Bangladesh.

Online marketplaces and platforms. "Selling of goods through online" means "retail sale through online" or "marketplace," where (1) "Retail sale through online" means using an electronic network for the purchase-sale of goods or services that have already been purchased from any manufacturer or services provider or trader on payment of VAT, and the said purchased goods

shall be supplied by the retailer through online on payment of VAT and where the said online retailer does not have own sales center and (2) "marketplace" means digital commerce platform where one or more than one seller displays information related to its goods or service and supplied through platform, i.e., in such case marketplace operators do not purchase or sell any goods and those who do do not have their own sales center. Such services are subject to the reduced rate of VAT at the rate of 5%.

Registration procedures. Every person required to be registered under VAT is required to make an online application with requisite documents. The only method to apply for VAT registration in Bangladesh is online. If the tax officials find the application proper after primary verification, a VAT Registration Certificate is issued, which contains a Business Identification Number (BIN/VAT registration number). However, registrations for nonresidents are required to be made through a local VAT agent.

The list of documents required, inter alia, in the VAT registration application is as follows:
- Copy of ETIN certificate
- Copy of NID/passport of all authorized signatories
- Copy of NID/passport of all share holders
- Copy of latest bank statements (for all bank accounts to be reported at the time of EBIN registration)
- Copy of trade license and certificate of incorporation
- Copy of import registration certificate (IRC) (in case of import)
- Copy of export registration certificate (ERC) (in case of export)
- Copy of old BIN (11 digits) (in applicable cases)
- Copy of BIDA/BEPZA/BEZA/BSCIC registration (for industrial undertaking)

Deregistration. A registered person may apply for cancellation of VAT registration (deregistration) for the following reasons:
- Failure to commence economic activity after registration
- Closure of economic activity
- Economic activity has been declared as exempted
- Annual turnover falls below the limit of registration for two consecutive years

For the purpose of deregistration, an application is required to be made before the VAT Department. No specific time limit is prescribed for the filing of an application for cancellation of VAT registration.

Changes to VAT registration details. Every registered or enlisted person must, in respect of any change in the following areas relating to its economic activity, inform the Commissioner within such time and in such manner as may be prescribed, namely:
- A change in the name of such person or the type of business, including the name of the business or any other commercial name
- A change in the address or any other contact details of such person
- A change in the places of its economic activity
- A change in information relating to any bank account of such person
- A change in the nature of one or more of the economic activities carried on by such person
- A change in ownership or partnership
- Any other prescribed change

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15%
- Reduced rates: 1.5%, 2%, 2.4%, 4.5%, 5%, 7.5%, 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption or for any other rates mentioned above.

Examples of goods and services taxable at 0%

- Immovable property situated outside Bangladesh
- Goods for export
- Services directly related to land situated outside Bangladesh
- Services physically carried out on goods situated outside Bangladesh
- Services included in the customs value of an imported goods
- Supply of service outside Bangladesh

Examples of goods and services taxable at 5% rate

- Specified fruits juice (mango, pineapple, guava and tamarind)
- Pickles
- Information technology-enabled services (ITES)
- Internet service

Examples of goods and services taxable at 7.5% rate

- Packing paper
- Self-copy paper
- Non-AC hotel
- Construction firm

Examples of goods and services taxable at 10% rate

- Electric poles
- Repair and servicing
- Transport contractor (except petroleum goods)
- Printing press

The term "fixed VAT amount or specific amount of tax is fixed on unit basis and not on sale value.

Examples of goods and services taxable at fixed VAT amount or specific amount of tax

- Newsprint
- Brick chips
- SIM card or e-SIM supplier

The term "exempt" refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Prescribed basic food items for human consumption
- Supply of unprocessed agricultural, horticultural or piscicultural products, if the supplier is the producer of the goods
- Public health and medical services provided by a government entity or by private bodies
- Sale of land or transfer and its registration

Option to tax for exempt supplies. Exemption is granted in two ways via the first schedule of the VAT and SD Act or a statutory regulatory order (SRO), i.e., a government notification issued by NBR. Further, where exemption is given through SRO and the conditions of the respective SRO are not met, exemption may be withdrawn, and penalties may be imposed.

E. Time of supply

The time of supply for goods is the time when the possession of goods is conferred, or they are removed.

For services, the time of supply is the time when the services are rendered, generated, transferred or assigned.

For immovable property, the time of supply is the time when the property is delivered, created, transferred or assigned.

The VAT imposed on a taxable supply becomes payable at the time when any of the following activities first occurs:
(a) When such supply is made
(b) When a tax invoice for such supply is issued
(c) When a part or the whole of the consideration is received
(d) When any supply is used personally or given to others for use

Deposits and prepayments. A deposit given in respect of a supply of goods or services, or both, is not considered as payment made for that supply unless the supplier treats the deposit as consideration for the supply since a prepayment for a supply of goods or service triggers a tax payment.

Continuous supplies of services. VAT imposed on periodic or progressive supplies becomes payable when any of the following activities occurs first:
(a) When separate invoices are issued for each such supply
(b) When the receivable consideration against each such supply is received in part or in full
(c) When the price against the series of supplies becomes payable

Goods sent on approval for sale or return. There are no specific time of supply rules in Bangladesh for goods sent on approval for sale or return. As such, the normal time of supply rules apply.

Reverse-charge services. There are no specific time of supply rules in Bangladesh for reverse-charge services. However, it is prescribed that in case of import of services, the bank or any other financial institution used as a medium for making the payment must collect the VAT payable while making payment of the value of service. Thus, effectively, VAT is paid at the stage of payment to foreign suppliers of services.

Leased assets. For the supply of leased assets (i.e., lay by agreements, where consideration for any supply is paid in more than one installment), the time of supply is when each installment/rental is paid. As such separate tax invoices must be issued for each instalment/rental and the output tax is payable on such invoices. There is no separate or specific provision depending on the nature of lease.

Imported goods. VAT is levied at the time of importation for imported goods (unless otherwise exempted through first schedule or a SRO) and they are collected at the same time and in the same manner as customs duty, even if import duty is not impossible on such import.

Advance tax. Advance tax is payable at the time of import of goods, along with customs duties and taxes. The rate of advance tax is 3% for manufacturer (subject to fulfillment of certain conditions) and other than manufacturer is 5%. Advance tax payable at the stage of import is available for setoff as decreasing adjustment.

F. Recovery of VAT by taxable persons

A registered person is entitled to take input tax credit of VAT charged on goods or services procured by it, provided the goods or services are procured in the course of such person's economic

activity and qualify as "input." In addition, a taxable person shall be entitled to an input tax credit if related to a taxable supply where output tax is 15% or export.

"Input" has been defined to mean all sorts of raw materials, laboratory reagent, laboratory equipment, laboratory accessories, any substance used as fuel, packing materials, services, machinery and spares; but the following goods and services shall not be considered as input:

- Labor, land, structure, office equipment and fixture, construction, balancing, modernization, replacement, expansion, repair and renovation of any building or structure or establishment
- Purchase and repair of all kinds of furniture, office supply, stationary items, refrigerator and freezer, air conditioner, fan, lighting equipment and generator
- Interior design, architectural plan and drawing
- Purchase, rent or lease of vehicles
- Travel, entertainment, staff welfare, development works, and goods and services related to these
- Rent of premises, office, showroom or similar place of business establishments in whatever name it be called

Provided that in respect of the operation of a business by a "trader," services or goods imported, purchased, acquired or collected in any other means for the purpose of sale, exchange or handover in any other way shall be considered as "input."

The time limit for a taxable person to claim input tax in Bangladesh is in the month of purchase or in the subsequent four months.

For the importation of goods, bill of entry is the mandatory documents for claiming input tax credit. For the import of services, a treasury challan (government form) is the mandatory document for claiming input tax credit. For purchasing of goods locally, tax invoice (VAT-6.3) is the mandatory document for claiming input tax credit.

Availability of input tax credit is subject to conditions prescribed under the VAT and SD Act. Some of such important conditions are mentioned below:

- Claim of credit is required to be made in that respective tax period when the inputs have been collected or purchased or within four succeeding tax periods
- Input tax credit is not available for turnover tax paid under the purview of turnover tax
- Input tax credit is not available on goods or services if not recorded in a purchase register or in purchase-sales register and not declared in the input-output coefficient
- Value of supplies exceeding BDT0.1 million must be made through banking channel or mobile banking channel only, except transaction between a VAT-registered supplier and supply receiver under same ownership
- Excess input tax credit is not allowed if a new input-output coefficient is not submitted where change in total value of inputs is beyond 7.5%
- Input tax credit is not available when goods or services are supplied at a lower rate than that of the input

Nondeductible input tax. Input tax credit is not available in the following cases:

- VAT paid on input shall be taken as credit by any registered person in case of supply of zero-rated goods under export and standard-rated goods and services only. For supply of reduced rated or specific amount of tax or exempted goods or services, VAT shall not be taken as input tax credit.
- When the tax invoice does not contain all requisite information such as name, address and registration number of both the buyer and the seller
- Any of the specified condition (maintenance of registers, payment through banks, etc.) are not complied with
- Purchase of goods or services that don't qualify as input as per definition of input/some goods or services are excluded from definition of input and hence not eligible for input tax credit

Further, input tax credit is also not permissible for certain procurements specified under the law. Examples of such procurement specifically not eligible for input tax credit is given below.

Examples of items for which input tax is nondeductible

- Passenger vehicle or its spare parts or repairs and maintenance of such vehicle. Input tax credit may be allowed when the economic activities of such person include dealing in vehicles, renting them out or supplying transportation services
- Entertainment or costs used for the provision of entertainment. Input tax credit may be allowed when provision of entertainment relates to such person's economic activities and the entertainment is provided in the normal course of its economic activities
- Membership or right of entry in a club, association or society of a sporting, social or recreational nature
- Input tax credit up to 80% is allowed on transportation of goods

Examples of items for which input tax credit is allowed (if related to a taxable business use where output VAT is 15% or 0% under export)

- Imported goods for the purpose of resale or manufacture
- Locally purchased goods for the purpose of resale or manufacture

Partial exemption. Where a registered person pays or is liable to pay a part of the consideration for a taxable supply, any input tax credit to which the person is entitled must be calculated on the basis of the amount of the consideration such person pays or is liable to pay.

VAT paid on input shall be taken as credit by any registered person in case of supply of zero rated goods under export and standard rated goods and services only. For supply of reduced rated or specific amount of tax or exempted goods or services, VAT shall not be taken as input tax credit.

If a registered person is not entitled to input tax credit in full, its entitlement to it against its total imports and acquisitions must be calculated proportionately based on a formula (IxT/A) where I is the input tax originating from imports and acquisitions; T is the value of all supply eligible for input tax credit under section 46 in any tax period, given by any registered person registered on any tax period; and A is the value of all supply given by any registered person registered on any tax period.

Approval from the tax authorities is not required to use the partial exemption standard method in Bangladesh (i.e., the above formula for input tax credit). Special methods are not allowed in Bangladesh at present, except in cases where the NBR has the power to determine special procedure for taking input tax credit against a taxable supply made by a supplier of financial services.

Capital goods. Capital goods have not been defined under the VAT regulations. Thus, input tax credit for capital goods can be claimed under the normal input tax recovery rules (as outlined above).

Refunds. If in a tax period, the sum of input tax and the receivable decreasing adjustments exceeds the sum of output tax, SD and increasing adjustments, the excess amount of money shall be carried forward and shall be deducted over the following six tax periods, after which any remaining excess money shall be refunded. Further, such refund is permissible on a monthly basis (i.e., without carry forward for six months) subject to the following:

(a) 50% or more of such person's turnover is or will be derived from zero-rated supplies
(b) 50% or more of such person's expenditure on inputs is on imports or acquisitions used in the manufacture of zero-rated supplies
(c) The nature of such person's economic activity regularly results in excess input tax credits
(d) SD paid for input at import stage is adjustable as decreasing adjustment against export of goods and no SD impossible goods are not supplied at local stage

Withholding VAT. The following entities, defined as "withholding entity," are required to deduct VAT at source (VDS), while making payment to vendors:
- A government entity
- A nongovernment organization approved by the NGO Affairs Bureau or the Directorate-General of Social Welfare
- A bank, insurance company or a similar financial institution
- Any secondary or post-secondary educational institution
- Any limited company

For procurement of goods: VDS is applicable except where (1) manufacturer issues tax invoice with 15% VAT or reduced rate of VAT or specific amount of tax and (2) any supplier issues tax invoice with 15% VAT subject to submission to the recipient of supply the certificate for regular submission of VAT return or VAT Honor Card for the last financial year, received from Integrated VAT Administration System (IVAS) or from respective Divisional Officer, as the case may be.

For procurement of services: a list of 43 services has been prescribed for mandatory VAT deduction at source as per prescribed rates.

In case of a VAT-registered entity, VDS is required to be deposited within seven days of end of relevant tax period. And in case of VAT unregistered entity, VDS is required to be deposited within 15 days of payment of consideration.

Pre-registration costs. Input tax incurred on pre-registration costs in Bangladesh is not recoverable.

Bad debts. In case partial or full amount of a supply remains unpaid for a period more than 12 months, the supplier can claim adjustment of corresponding VAT with prior approval of the tax authorities, subject to reduction in corresponding input tax credit claim by the recipient of supply.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Bangladesh.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Bangladesh is not recoverable.

H. Invoicing

VAT invoices. Every registered or enlisted person must issue, on or before the date when VAT becomes payable on the taxable supply, a fiscal-year-wise serially numbered tax invoice as prescribed (Mushak 6.3 or Mushak 6.9, respectively). Tax invoices must accompany goods during transportation. No input tax credit shall be admissible against a tax invoice if the information specified is not included in such invoice. An enlisted person must issue a serially numbered turnover tax invoice. The NBR, through an order in the official gazette, can declare an invoice or bill issued by a registered person in its own format to be treated as a tax invoice.

Credit notes. Credit notes mean a supplementary invoice based on which the registered person can make a decreasing adjustment of one or more than one invoice issued earlier that is related to the amendment. A debit note means a supplementary invoice based on which the registered person can make increasing adjustment of one or more than one invoice issued earlier that is related to the amendment.

Electronic invoicing. Electronic invoicing is mandatory in Bangladesh, for certain taxable persons.

Scope of electronic invoicing For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Bangladesh. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Bangladesh. Electronic invoicing applies to certain taxable persons, which are known as "categorized entities" in Bangladesh. Such categorized entities (defined as specified suppliers situated in city corporation areas or in district cities or selected suppliers by the respective Customs, Excise and VAT Commissionerate) are required to use an electronic fiscal device (EFD) or sales data controller (SDC) or point-of-sale (POS) software. Some of the specified or selected suppliers required to use EFD/SDC/POS are as follows:

- Residential hotel
- Restaurant and fast-food shop
- Advertisement agency
- Jewelry shop
- Health club and fitness center
- Coaching center
- Department store
- General store/supershop
- Cinema hall
- Courier and express mail service

Invoices are generally required to be issued in printed form. There are two types of invoices, one is commercial invoice issued by an entity against supply of any goods or services and the other is a tax invoice. VAT records can be maintained manually or through software in applicable cases. Where it is maintained through software, a tax invoice is generated electronically and might be sent through mail for internal purpose only. But to take input tax credit, a printed, signed copy is required. Further, during transportation of goods, supplied by any VAT-registered entity, an original, signed copy of the tax invoice must accompany the vehicle. In such case where VAT records are maintained through software, a tax invoice must be printed and signed to accompany the vehicle. A tax invoice is an integral part of VAT records. Electronic invoicing is only allowed in EFD, SDC or POS formats.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Bangladesh. As such, full VAT invoices are required. However, the NBR, through an order in the official gazette, can declare an invoice or bill issued by a registered person in its own format to be treated as a tax invoice.

Self-billing. Self-billing is only allowed for self-supplies, i.e., for own consumption of taxable goods.

Proof of exports. Supply of goods from inside to outside the geographical limits of Bangladesh is considered export of goods. In case of export of goods, the following would serve as proof of export:

- Copy of bill of lading or airway bill or truck receipt
- Copy of export general manifest
- Copy of proceeds realization certificate

Export of service outside Bangladesh is zero-rated. To substantiate the same, a taxable person must analyze whether its supply can be classified as export of service. There is no standard prescribed document as proof of export for services. However, agreement with the foreign service recipient, availability of the invoice and proof of receipt of foreign currency would be critical documents, which may be required depending on the scenario.

Foreign currency invoices. As per the prescribed format of tax invoice, price, value and taxes must be reported in the domestic currency, which is the Bangladeshi taka (BDT). Hence, the invoices

should report the BDT values. Values in a foreign currency may also be reported in the invoice, as incorporation of any additional information on a tax invoice is permissible.

Supplies to nontaxable persons. A VAT-registered person is required to issue a full tax invoice in all cases and there is no specific provision for tax invoices for supplies to non-registered persons.

Records. Businesses must keep all accounts and records so as to facilitate assessment of their tax liability and other obligations. The format of some of the records are prescribed under the law.

In Bangladesh, examples of what records that must be held for VAT purposes include:
- Books of accounts for purchase
- Books of accounts for sale
- Books of accounts for purchase – sale (for trading kind of activity)
- Tax invoice
- Invoice for contractual manufacturing
- Invoice for transfer of goods
- Certificate for VAT deduction at source
- Credit note and debit note

In Bangladesh, VAT books and records can be kept outside of the country. Where records are kept in hard copy, such records should be held at the taxable person's registered address. VAT records and accounts have to be preserved in the registered premise or premises on fiscal year basis in such a way that those are not destroyed, and they can be examined any time with ease. Further, any taxable person with a turnover of BDT50 million or more, must maintain VAT records and accounts through software, specified or approved by NBR. This is provided that the electronic information must be preserved with proper security in such a way so that those can be easily used.

Where records are kept electronically (using VAT software as prescribed by the General Order), the system must be managed with all information at the commercial premises of the taxable person. If a cloud server is used, then a database replica must be preserved in the commercial premises of the taxable person.

Record retention period. Every taxable person must maintain and keep VAT records for a period of five years. Provided that for any unfinished proceedings, VAT records are to be preserved till disposal of the proceedings.

Electronic archiving. Electronic archiving is allowed in Bangladesh. However, it is only allowed by using approved VAT software. Also the electronic information must be preserved with proper security in such a way so that those can be easily used. If the turnover of a registered person is more than BDT50 million or for taking central VAT registration, accounts and records should be maintained in the software from enlisted vendors. A person can also get their own software approved from the VAT Department for such purposes. Separate guideline is issued by NBR for such software.

I. Returns and payment

Periodic returns. Every registered or enlisted person must file the return for each tax period within a period not exceeding 15 days after the end of the tax period. If a VAT return filing due date is a public holiday, the next working day is to be considered as the due date. The NBR has powers to extend the due date of a VAT return filing to avoid fine and interest in the case of natural calamities, epidemic or pandemic. The tax period in case of a VAT-registered person is one calendar month and for a turnover taxable person is three calendar months ending on 31 March, 30 June, 30 September or 31 December. A taxable person may file an application with the Commissioner to grant permission to file an amended return after removing the clerical mistakes and omissions from such return. Further, there are provisions for submission of late

return subject to submission of prayer within the specified time and following the terms and conditions mentioned in the VAT and SD Act. Otherwise, there is a provision of penalty for late filing of return.

Periodic payments. Payment of VAT must be made on a monthly basis for every taxable person. Net payable VAT is required to be made on or before submission of monthly VAT return of the respective month, i.e., 15th day of the subsequent month. However, payment of VDS is required to be made within seven days of next tax period of the respective tax period. Turnover tax must be paid by the enlisted person before filing the quarterly return for the tax period. Payment of VAT of an amount of BDT5 million or above must be made through online (Automated challan) or through electronic means (e-payment). Further, for Dhaka Division, payment of VAT liability including VDS shall be made through automated challan from 1 October 2023 onward.

Electronic filing. Electronic filing is allowed in Bangladesh. Presently, the VAT-registered entity has the option to file a VAT return manually, as well as electronically. Electronic VAT returns must be submitted on the online portal of the government using the credentials of company (log-in ID and password). However, a VAT-certified consultant may also submit a VAT return of any VAT-registered entity through the VAT online portal, subject to the inclusion of credentials of the VAT consultant in the VAT registration application form (Form "Mushak-2.1").

Payments on account. Payments on account are not required in Bangladesh.

Special schemes. *Turnover tax.* Small businesses with annual turnover from BDT5 million to 30 million have the option to pay a flat tax at the rate of 4% on the turnover, known as turnover tax. The turnover tax payable in a tax period by any enlisted person must be paid before filing the return for that period. VAT or turnover tax incurred on purchases by small businesses using the turnover tax scheme cannot be recovered as input tax.

Annual returns. Annual returns are not required in Bangladesh.

Supplementary filings. *Invoice-level information.* Invoice-level information relating to sales and local purchase invoices, which are of the value more than BDT2 million, must be filed online in prescribed form on a monthly basis (Mushak 6.10). Further, in case, online submission of such information is not feasible, the same must be submitted to the VAT Department in paper form. Presently, the VAT-registered entity has the option to submit such information manually, as well as electronically. Electronic submission must be submitted on the online portal of the government using the credentials of company (log-in ID and password).

Audited financial statements. Any registered limited company must submit annual audited financial statements for the preceding year to the Commissioner within six tax periods of the current financial year. Provided that, the Commissioner can, based on an application made by the limited company, extend the timeline for a further six months, taking into account the logical grounds for an extension.

Declaration of input-output coefficient. A taxable person must submit an input-output coefficient using form "Mushak-4.3" prior to the manufacture or supply of goods (except exportable or exported goods by a 100% export-oriented industrial establishment). Further in case of changes of total input value of more than 7.5%, a new input-output coefficient shall be submitted to ensure input tax credit on excess increased input tax. Furthermore, a new declaration shall be submitted in case of changes in a product's price or total input/raw materials value of more than 7.5%.

Correcting errors in previous returns. The Commissioner may, on an application made by a taxable person within such time, on such terms and in such manner as may be prescribed, grant a taxable person permission to file an amended return after removing the clerical mistakes and omissions from such return. The Commissioner may determine the surrounding circumstances

of which a decreasing adjustment may arise as a result of any amendment made under this section, and returns may be filed without paying monetary penalty.

Digital tax administration. There are two transactional reporting requirements in Bangladesh. See the subsection above *Supplementary filing*.

J. Penalties

Penalties for late registration. The penalty for not applying for registration or enlistment within the prescribed time limit is BDT10,000. Additional penalties and interest will also apply if there is any evasion of VAT on sales before registration.

Penalties for late payment and filings. The penalty for not filing the VAT or turnover tax return within the prescribed time period is BDT5,000. For the late payment of tax, interest may be charged at a rate of 1% simple interest per month.

Penalties for errors. An error of not including the output tax in the VAT return may result in a penalty minimum half and maximum equal to the amount of output tax not included.

An error of claiming more input tax credit than entitled to in the VAT return may result in a penalty minimum half and maximum equal to the amount of input tax irregularly taken.

An error of making incorrect adjustments in the VAT return may result in a penalty minimum half and maximum equal to the amount of the incorrect adjustment.

If a person fails to pay tax due to mistake or misrepresentation or if there is any tax payable or takes tax refund or takes excess input tax credit or fails to make proper decreasing/increasing adjustment and subsequently pays the final tax with interest assessed under the relevant section of the Act, no penalty shall be imposed on him in such case.

No penalty shall be imposed, if any registered entity fails to submit monthly VAT return during its operation temporarily closed due to lack of supply and resumes its operation after a certain period of time.

For any tax payable, interest can be charged for a period of maximum 24 months.

An error of an irregularity related to a tax invoice or credit/debit notes may result in a penalty of BDT10,000.

Failure to maintain prescribed records may result in a penalty of BDT10,000.

Failure or irregularities of non-submission of the input-output coefficient within the time frame may result in a penalty of BDT10,000.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of BDT10,000. For further details, see the subsection above *Changes to VAT registration details.*

Penalties for fraud. The penalty for willingly evading or attempting to evade assessment and payment of taxes is at minimum half and maximum equal to the amount of taxes evaded.

Personal liability for company officers. If an offense is committed by any company, every director, partner, chief executive, manager, secretary, official, employee, representative or VAT agent who is involved with such offense shall be deemed to have committed such offense unless they prove that such offense was committed without their knowledge or that they tried their best to prevent the commission of such offense.

For specified offenses mentioned under the VAT and SD Act, punishment with imprisonment for a term extending to one year or fine equal to amount of tax payable, or both is prescribed. In this

relation, section 112 of the VAT and SD Act covers offenses and punishment relating to false or misleading statement or description. Further, it has been mentioned in the said section that whoever dishonestly makes a false or misleading statements or descriptions in any tax document submitted to any VAT officer shall be punished with imprisonment for a term that may extend to six months, or with a fine equal to the amount of tax payable, or with both.

Statute of limitations. The statute of limitations in Bangladesh is five years. The Commissioner or the appropriate officer shall not make a tax determination, including an amended tax determination, for a tax period at the expiry of five years after such tax period, unless the registered person performs any act that contravenes specified conditions of the law, such as willful negligence or commits fraud in filing returns, evading payment of tax, concealing information, etc.

For 100% export-oriented industries, the statute of limitations is three years. Accordingly, for such industries, the Commissioner cannot demand any tax arrears for any tax period more than three years before of the concerned tax period.

Further, an application for amendments in a VAT return for any clerical error or more or less tax paid due to an error in calculation or any other error except forgery, can be submitted within four years of submission of the relevant return and cannot be amended if the tax authority starts any audit or inquiry or if the error is discovered in any other manner.

Barbados

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 1997
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Barbados Revenue Authority, VAT Division
VAT rates	
Standard	17.5%
Reduced	10%
Other	22%, zero-rated (0%) and exempt
VAT number format	XXXXXXXXXXXXX (13 digits)
VAT return periods	Bimonthly and monthly
Thresholds	
Registration	BBD200,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of any taxable goods or taxable services by a taxable person (registrant) in Barbados
- The importation of taxable goods from outside Barbados

VAT will generally be imposed on any goods or services supplied locally (or imported) unless they are specifically exempted by the legislation. Examples of goods and services to which VAT

will apply include clothing, office supplies, furniture, most foodstuffs, commercial rent, professional services, telecommunications services, etc.

However, the VAT legislation provides that certain categories of goods or services may be exempt from VAT or zero-rated (i.e., subject to VAT at 0%).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Barbados, the "use and enjoyment" provisions (i.e., B2B/B2C) apply to services that are supplied by a nonresident who meets the VAT threshold and are utilized in Barbados by a recipient who does not make taxable supplies and as such are generally deemed to have taken place in Barbados and VAT is applicable.

The supply of a service rendered to an unregistered nonresident person that does not relate to a service pertaining to real property situated in Barbados and is not consumed, used or enjoyed in Barbados is zero-rated if the service is provided for consideration in a foreign currency. Where services pertaining to real estate situated in Barbados are supplied to a nonresident and the services are not consumed, used or enjoyed in Barbados, the Barbados registrant is required to charge VAT.

Transfer of a going concern. Transfer of going concern rules do not apply in Barbados. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Barbados, for a transaction between related parties, the value for VAT purposes is calculated at the open market value of the supply. There is no difference between the supply of goods and services.

C. Who is liable

Barbados VAT law imposes a registration requirement on any person who makes taxable supplies in Barbados, other than a person whose annual turnover is less than BBD200,000 a year.

In general, any person that begins making taxable supplies in Barbados and expects to exceed the registration threshold above must apply to the VAT authorities for registration within 21 days after the date on which taxable supplies are first made.

Where a registrant enters into a contract for the provision of goods or services to the Government of Barbados, the VAT payable to the registrant in respect of those supplies is paid directly to the Barbados Revenue Authority (BRA) by the government accounting officer or authorized person that is making a payment. In such instances, the registrant will receive payment exclusive of the VAT portion and will not be required to account for the VAT on that supply when filing their VAT returns for that period.

Exemption from registration. There are no formal rules that allow an entity that should be registered for VAT to request that it not be treated as a taxable person. However, in practice, certain types of entities that are established in Barbados and hold a valid foreign currency permit are not required to register for VAT.

Voluntary registration and small businesses. Entities that carry on taxable activities valued below the VAT registration threshold (i.e., BBD200,000 annually), may apply to be voluntarily registered. However, such voluntary registration is at the discretion of the Revenue Commissioner.

Group registration. Group VAT registration is not allowed in Barbados.

Fixed establishment. In Barbados, there is no legal definition of a fixed establishment for VAT purposes. A nonresident business that carries on a taxable activity would be required to register for VAT purposes if it meets the registration threshold as outlined below.

Non-established businesses. Non-established businesses, which in Barbados are referred to as nonresident, unregistered businesses; are generally not liable to VAT, unless they are making taxable supplies in Barbados in excess of the registration threshold. However, see the *Digital economy* subsection below on special rules for non-established businesses making supplies online to consumers in Barbados.

Tax representatives. Tax representatives (known as "tax agents" in Barbados) are required in Barbados where any taxable person is not resident in Barbados or is absent from Barbados at a time that would prevent the fulfillment of the person's VAT obligations. Registrants may also appoint tax agents to fulfill their VAT filing obligations. Refer to *Section J. Personal liability for company officers*.

Reverse charge. The reverse charge does not apply in Barbados. Where a non-established business makes supplies in Barbados, it may be required to become VAT registered in Barbados and charge VAT on its supplies (see the *Non-established businesses* subsection above). However, if the non-established business is not registered or liable to be registered and makes a supply (of goods that are located in Barbados or services that are physically performed or utilized in Barbados) to a VAT registrant in Barbados (a business-to-business [B2B] supply) that is acquiring the goods or services exclusively for the purposes of making taxable supplies, the supply is deemed to have taken place outside Barbados (unless the supplier and the recipient agree that the supply is to be regarded as having taken place in Barbados) and VAT is not charged or accounted for on the supply.

Domestic reverse charge. There are no domestic reverse charges in Barbados.

Digital economy. Barbados enacted legislation to facilitate the collection of VAT on goods and services purchased online from a vendor outside Barbados, where the goods and services are for consumption in Barbados. The legislation provides that VAT should be applicable on taxable supplies sold online by a registrant. For supplies received by Barbados individuals (i.e., nontaxable persons), such supplies are subject to VAT in Barbados when rendered by foreign vendors where the goods or services are consumed in Barbados (i.e., for business-to-consumer [B2C] supplies).

The definition of "online" includes the purchase of goods or services by electronic means on the internet using payment facilities provided by a financial institution or a payment processor or using any similar means of payment. The party responsible for collecting and paying the VAT is the supplier of the goods or services.

Nonresidents that provide electronically supplied services (for both B2B and B2C supplies) are required to register and account for VAT on such supplies made in Barbados. This is a modified VAT registration meant only to facilitate the payment of the VAT collected on these supplies. The normal input/output offset rules do not apply. Note that the VAT registration threshold does not apply. The Barbados tax authorities have indicated that further guidance in respect to the operation of this online regime is being prepared.

There are no other specific e-commerce rules for imported goods in Barbados.

Online marketplaces and platforms. There are no specific rules in Barbados relating to online marketplaces and platforms other than the online services provision (see the *Digital economy* subsection above).

Registration procedures. Taxable persons must register through the Revenue Authority's new Tax Administration Management Information System (TAMIS). The registration must be made online (https://tamis.bra.gov.bb).

Individual taxable persons are required to provide their Barbados identification card upon reregistering under the new system. Individual taxable persons and partnerships registering for the first time need to provide the application for the business name and certificate of registration. Companies registering for the first time need to appoint an authorized person to conduct the registration and provide copies of the authorized person's photo identification such as the photo page of the individual's passport and the company's incorporation documents, which would include the following: articles of incorporation, notice of address, notice of directors, request for name search and certificate of incorporation. Where a company was previously registered under the legacy system and is re-registering under the new TAMIS system, it will also need to provide the TIN from the previous system. Registrations can typically be approved within five business days.

Deregistration. An application to cancel registration can be made in writing when the VAT registrant is no longer required to be registered, such as when a company ceases to carry on a taxable activity or ceases to make taxable supplies.

Changes to VAT registration details. Tax registrants must notify the Comptroller in writing when there is a change in the registrant's status within 21 days after the change.

Changes to VAT registration details include transfer of the ownership of any of the registrant's taxable activities; change in the name, address or nature of any of the registrant's taxable activities; change in the address from which, or the business name in which, any of the registrant's taxable activities are carried on; the date on which it ceased to carry on any of its taxable activities; and in the case of an unincorporated body, any change in the officers of the unincorporated body.

D. Rates

The term "taxable supply" refers to a supply of goods and services that is liable to VAT, including a supply taxed at the zero rate.

The VAT rates are:
- Standard rate: 17.5%
- Reduced rate: 10%
- Increased rate: 22%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services, unless a specific measure provides for a reduced rate, the zero rate, increased rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods and services
- A small basket of staple food items
- Prescribed drugs
- Veterinary services
- International cruises
- Imported inputs for manufacturing

The new reduced rate of 10% took effect from 1 January 2020. It was previously 7.5%. This rate was increased by a policy note issued by the Revenue Authority. *At the time of preparing this chapter, the increase has not been legislated but is being applied in practice.*

Examples of goods and services taxable at 10%

- Accommodation in guest houses, hotels and inns or similar places, including a dwelling house normally let or rented for use as a vacation or holiday home, and to direct tourism services.

Examples of goods and services taxable at 22%

- Mobile services of voice, data and text messaging

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

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

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Barbados.

E. Time of supply

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

- The date of issuance of the invoice by the supplier
- The date on which payment is received for the supply
- The date on which the goods are made available to the recipient or the services are performed

A taxable person must account for VAT in the VAT period in which the time of supply occurs, regardless of whether payment is received.

Deposits and prepayments. Deposits are generally not regarded as consideration for a supply because they are given merely as security for the performance of an act. However, deposits under a construction contract are taxable at the time of payment.

Continuous supplies of services. Where goods are supplied under an agreement resulting in a change of ownership (e.g., a hire purchase agreement), the time of supply is deemed to be when the goods are made available to the recipient.

However, services that are provided against a periodic payment are deemed to be supplied at the earliest of the following events:

- When the particular periodic payment is made.
- When the particular periodic payment becomes due.

  Or
- When an invoice for the particular periodic payment is issued.

Goods sent on approval for sale or return. Where goods are provided on a sale or return basis, the time of supply is considered to be when the goods are sold. Goods returned to a supplier under such an arrangement are not considered to have been supplied and no VAT implications should arise.

Reverse-charge services. There are no provisions in the Barbados VAT Act relating to reverse charge. As such, there are no specific time-of-supply rules.

Leased assets. The lease of assets is considered to be a supply of services and, as such, would be subject to the time of supply rules mentioned above in respect of continuous supplies.

Imported goods. VAT is payable on the importation of taxable supplies. It is levied on the sum of the value of the goods imported and the amount of duties, fees or other charges that are payable upon the entry of the goods into Barbados.

F. Recovery of VAT by taxable persons

VAT paid by a registrant is recoverable as input tax if it relates to goods and services acquired solely for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (i.e., tax charged on supplies made) in the VAT return for each VAT period. If input tax exceeds output tax in a period, the excess is due to the registrant as a refund.

The time limit for a taxable person to reclaim input tax in Barbados is five years.

Goods or services are deemed to be for the purpose of making taxable supplies if the supplier acquired, imported or produced the goods or services for either of the following purposes:
- Their supply or resupply as a taxable supply
- Their consumption or use (whether directly or indirectly or wholly or partly) in producing goods or services for supply as a taxable supply

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

- A personal vehicle
- A portion of the input tax for company vehicles

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business entertainment
- Travel expenses
- Utilities
- Inventory purchases
- Occupancy costs

Partial exemption. The Barbados VAT law states that if all supplies made by a taxable person during a tax period are taxable supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are taxable supplies, a partial recovery calculation is required. This measure applies to persons making both taxable and exempt supplies. Input tax is recoverable on the following basis:
- If all the input tax for the period is directly related to the making of taxable supplies, the VAT is recoverable in full.
- If none of the input tax for the period is directly related to the making of taxable supplies, no VAT is recoverable.
- If part or all the input tax for the period is related to the making of both taxable and exempt supplies, an apportionment calculation must be performed. The amount of recoverable input tax is calculated based on the ratio of the value of taxable supplies made during the period compared to the total value of supplies (taxable plus exempt) made during the period.
- If a taxable person makes no taxable supplies during the tax period, the VAT authorities may limit the amount recoverable to the amount that they consider to be "fair and reasonable." However, this provision is generally not invoked.

Approval from the tax authorities is not required to use the partial exemption standard method in Barbados. Special methods are not allowed in Barbados.

Capital goods. Input tax incurred on capital goods (e.g., equipment) acquired for the making of taxable supplies is deductible. However, there are specific restrictions for certain capital assets (e.g., motor vehicles).

Input tax incurred on capital goods or assets that are acquired for the making of both taxable and exempt supplies must be allocated to the respective taxable and exempt supplies on a reasonable basis. Input tax allocated to exempt supplies is not deductible.

Refunds. A refund arises when the amount of input tax recoverable in a taxable period exceeds the amount of output tax payable. The VAT Act provides that registrants may offset unpaid VAT refunds owed for a previous period against output tax due for the current period. Under prior law, refunds were generally paid by check after the submission of the VAT return. If the refund claim was submitted within the specified time (21 days after the end of the tax period) and the refund amount remained unpaid after six months, the tax authorities are required to pay interest to the taxable person on the outstanding balance at a prescribed rate of 1% per month.

Pre-registration costs. Input tax incurred on pre-registration costs in Barbados is not recoverable.

Bad debts. A taxable person may claim an output tax deduction for the tax they have paid on credit sales where they have written off the account receivable as a bad debt. This relief is, however, subject to the following conditions:
- The supply was made to an unrelated party.
- The debt was unpaid for at least 12 months.
- A return was filed for the period in which the supply was made and the output tax paid.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Barbados.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Barbados is not recoverable.

H. Invoicing

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

Credit notes. A credit note or debit note must be issued if the quantity or consideration shown on a tax invoice is altered. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is mandatory in Barbados, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Barbados. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Barbados. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoicing is mandatory for e-commerce transactions between purchasers and registrants (covering all supplies, i.e., B2B, B2C, B2G).

Simplified VAT invoices. Simplified VAT invoicing is allowed in Barbados, for transactions under BBD20.

Self-billing. Self-billing is not allowed in Barbados.

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

Foreign currency invoices. Invoices may be issued in a foreign currency from the domestic one, the Barbadian dollar (BBD). The currency in which the invoice is issued should be clearly indicated on the invoice.

Supplies to nontaxable persons. Where a registrant makes a supply to a consumer (i.e., a non-registrant), no VAT invoice is required unless requested by the purchaser.

Records. In Barbados, examples of what records must be held for VAT purposes include:
- The originals of all tax invoices received, copies of tax invoices issued, pro forma invoices and certificates of waiver
- Purchase invoices, including bill and receipts to support expenditures made and a record listing and summarizing purchase transactions, which may be in the form of a purchase ledger or an analyzed purchases book for each taxable period
- Sales invoices, receipts issued under Section 9(1) and a record listing and summarizing sales transactions or BBD20 or more for each taxable period
- Stock records in respect of opening and closing stock for each taxable period and the movement of stock for the taxable period
- Records of salaries and wages and a summary of supplies made by the person to its employees and officers
- Records of supplies taken by the registered person for personal use or given free of charge or for nominal consideration to other persons
- Documents setting out all transactions with connected persons other than employees and officers
- Documents relating to the goods imported or exported by a registrant
- Records listing and summarizing cash receipts and cash payments in respect of daily transactions
- Records prepared in summary form and known as a "summary statement" containing the information as set out in the First Schedule to the Regulations
- Any other documents or records related to the business, such as booking records, diaries, correspondence, computer printouts audit reports, etc., as the Comptroller may require

In Barbados, VAT books and records can be held outside the country. However, if held outside the country, records must also be held in Barbados. All records must also be expressed in the English language and the currency of Barbados, in such a form and containing such information as will enable taxes to be determined.

Record retention period. Records should be retained until the expiration of seven years after the end of the year to which the records and books of account relate or for such other period as may be prescribed.

Electronic archiving. Electronic archiving is allowed in Barbados. Records and books of account can be kept in an electronic format, as long as they are kept in a retrievable format that is easily accessible by the Comptroller.

I. Returns and payment

Periodic returns. VAT reporting periods are generally bimonthly, i.e., every two months. However, the tax authorities may require longer or shorter tax periods if they consider it appropriate. Returns must be filed by the 21st day of the month following the end of the tax period. Returns must be filed online using the BRA's TAMIS system. Additionally, requests may be made to offset refunds from prior years against current VAT liability. However, it is difficult to determine the timeframe in which this will be actioned.

Periodic payments. Any tax due for the period must be remitted with the return to the Barbados Revenue Authority (BRA), by the 21st day of the month following the end of the tax period. VAT due may be paid electronically through a wire transfer or using the Government's platform (i.e., eZPay) or by cash, check or credit card at BRA locations.

Electronic filing. Electronic filing is mandatory in Barbados for all taxable persons. VAT returns must be filed electronically, online with the tax authority (https://tamis.bra.gov.bb).

Payments on account. Payments on account are not required in Barbados.

Special schemes. *Foreign Currency Permit (FCP).* Entities that earn 100% of their income in foreign currency are eligible for a FCP, which allows for certain benefits. Services supplied by an FCP to a nonresident person are exempt from VAT, whereas goods imported by an entity with a FCP would be zero-rated.

Secondhand goods. A supplier of secondhand goods may apply to be registered under the secondhand goods scheme, whereby output tax in respect of a sale of a secondhand good under the scheme is determined by applying the tax fraction (i.e., 17.5/117.5) to the difference between the cost price of the item and the selling price of the item (i.e., markup). No output tax will be due if the item is sold for the same price or a lesser price than what it costs.

Annual returns. Annual returns are not required in Barbados.

Supplementary filings. There are no supplementary filings required in Barbados.

Correcting errors in previous returns. A person who has made an error or omission from prior periodic filings can make amendments to returns online via the TAMIS system. Registrants should ensure to upload supporting information with respect to the changes in the amended return.

Digital tax administration. There are no transactional reporting requirements in Barbados.

J. Penalties

Penalties for late registration. A person who fails to register is compulsorily registered and may be subject to a penalty not exceeding BBD1,000.

Penalties for late payment and filing. Penalties include a late payment penalty of 10% of any output tax due; a penalty of BBD100 for the late submission of a VAT return; and interest at the rate of 1% of any outstanding tax and penalty.

Penalties for errors. There are no specific penalties in Barbados for errors. However, in addition, several other penalties may apply, including the following:
- Failure to display a certificate of registration: BBD1,000
- Failure to notify the tax authorities of changes relating to the registration: BBD1,000

The late notification or failure to notify changes to a taxable person's VAT registration details to the tax authorities within the 21-day period would be liable to a penalty not exceeding BBD1,000 as the Comptroller determines. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct, including the following:
- False statements or omissions in a record, book of account, a return or tax invoice: BBD250
- Issuing false invoices: BBD5,000 or six months imprisonment
- Failure to display VAT prices on goods or services: BBD5,000 and a further penalty of BBD2,500 for each day or part thereof that the breach continues or three times the value of goods or services, whichever is the greater

Personal liability for company officers. Penalties may apply to directors, where a corporation fails to pay an amount of tax required. The directors of the corporation at the time the corporation was required to pay the amount are jointly and severally liable, together with the corporation, to pay that amount and any interest and penalties relating to that outstanding amount.

Penalties and interest would include a late payment penalty of 10% of any output tax due; a penalty of BBD100 for the late submission of a VAT return; and interest at the rate of 1% of any outstanding tax and penalty.

Statute of limitations. The statute of limitations in Barbados is five years. The tax authority may not issue an assessment of output tax and/or penalties more than five years after the later of:

- The day on which a person filed a return for a period.
  Or
- The day on or before which the person was required to file a return for the period.

However, this limitation period does not apply in specified circumstances, including where there has been neglect, carelessness, willful default or fraud.

There is no time limit for taxable persons to voluntarily correct errors in previous VAT returns.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local names	Belasting over de toegevoegde waarde (BTW) Taxe sur la valeur ajoutée (TVA)
Date introduced	1 January 1971
Trading bloc membership	European Union (EU)
Administered by	Belgian Ministry of Finance (http://www.minfin.fgov.be)
VAT rates	
Standard	21%
Reduced	6%, 12%
Other	Zero-rated (0%) and exempt
VAT number format	Prefix: BE 10 digits: ZNNN.NNN.NNN Z = 0 or 1, N = figure from 0 to 9

VAT return periods	Monthly for all VAT-registered persons Quarterly for those whose total annual turnover (VAT exclusive) does not exceed EUR2.5 million (EUR250,000 for specific business sector) and whose quarterly intra-EU supplies do not exceed EUR50,000
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR11,200
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Belgium by a taxable person
- The intra-Community acquisition of goods in Belgium for goods coming from another Member State by a taxable person (*see the chapter on the EU*)
- The importation of goods from outside the EU, regardless of the status of the importer

Special rules apply to intra-Community transactions involving new means of transport (*see the chapter on the EU*) and to the supply of new buildings and the surrounding building land.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

Quick Fixes were implemented in Belgium through the law dd. 3 November 2019, implementing EU Directive 2019/475 and EU Directive 2018/1910, which was published on 13 November 2019 and entered into force on 1 January 2020. The Belgian Government published their comments in Circular letter 2020/C/50 of 2 April 2020.

The Belgian Government has taken a pragmatic approach on various points and has provided for a number of lighter/more flexible rules in its guidelines, such as for example:
- Proof of intra-Community transport: the Belgian VAT legislation foresees that it will be presumed that the goods have been dispatched or transported from Belgium to another EU Member State, if the supplier is in the possession of a so-called "destination document" relating to the dispatched goods, as well as a transport invoice when the transport is performed on behalf of the supplier. The "destination document" is always to be considered as one of the elements of the supporting proof of the cross-border transport and never as a "stand-alone" to be sufficient.
- Call-off stock simplification: the Belgian VAT authorities accept that the consignor is not deemed to have performed an intra-Community acquisition of goods in Belgium, in the event of loss, destruction or theft of goods (even in their totality), if the following cumulative conditions are fulfilled:
  - There is an entry in the register of the consignor
  - The loss, destruction or theft of the goods can be proven to the satisfaction of the Belgian VAT authorities.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where the service is effectively used/enjoyed. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU*.

In Belgium, the following services are subject to the "use and enjoyment" provisions:
(1) Transport and connected services carried out outside the EU and invoiced to a Belgian taxable person are considered as falling outside the scope of Belgian VAT, based on the "use and enjoyment" rule.
(2) Transport and connected services carried out in Belgium but invoiced to a taxable person established outside the EU are subject to Belgian VAT, based on the "use and enjoyment" rule.

Transfer of a going concern. Based on the transfer of a going concern (TOGC) provision foreseen in article 19 of the EU VAT Directive 2006/112/EC (transposed in the Belgian VAT code via articles 11 and 18 § 3), the TOGC of a universality or independent branch of activity, is considered as a transaction outside the scope of Belgian VAT, provided that the following five conditions are simultaneously fulfilled:
- The transfer must relate to a universality of goods or a separate (independent) operating division, which includes tangible assets and, as the case may be, intangibles assets.
- The assets transferred must allow the transferee to operate the business independently. The Belgian VAT authorities have confirmed that the intention to operate the business independently should be examined at the level of the transferee.
- The transferee should have the intention to use the assets transferred for onward business activities, instead of selling them upon the transfer or ceasing the activity.
- The transferor must be a taxable person.
- The transferee must be a taxable person or become one due to the transfer, who would be entitled to deduct (at least a part of) the input tax.

Transactions between related parties. The taxable base amount of a supply of goods or services between related parties consists of the normal value as defined in article 32 of the Belgian VAT Code to the extent that:
- The normal value is higher than the consideration agreed upon between parties
- The acquirer of the goods/services does not have a full right to deduct input tax

Special attention is required for supplies of immovable rent where the option to tax was levied.

C. Who is liable

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

No VAT registration threshold applies in Belgium. A taxable person that begins activities in Belgium must notify the Belgian VAT authorities by means of form 604A.

Special rules apply to foreign or "non-established businesses."

Exemption from registration. Taxable persons established in Belgium are not liable to register for VAT if they only perform exempted activities not giving rise to a right to deduct input tax. Taxable persons not established in Belgium and liable to register for VAT on the basis of the Belgian VAT code can be exempted from registration, in some specific cases:

- In some cases, the exemption from VAT registration is mandatory. For example, exemption is based:
  - Either on the nature of the transactions (performance of mere export supplies out of Belgium, some imports of goods; purchase of goods subject to the VAT-only warehouse regime; etc.)
  - Or on the existence of a more favorable regime
  - Or on the occasional nature of the operations carried out
- In some other situations, the exemption from VAT registration is not mandatory (e.g., when a taxable person not established in Belgium (but in another EU Member State) performs output supplies subject to the general domestic reverse charge and supports deductible input tax for at least EUR10,000 per year). In these situations, a taxable person not established in Belgium (but in another EU Member State) can still apply for a VAT registration in Belgium, if so desired. This tolerance is currently not foreseen for taxable persons duly established outside the EU.

Voluntary registration and small businesses. In the following cases, a taxable person that is not established in Belgium can request a voluntary registration:

- A taxable person (established in the EU or outside EU) performs works in Belgium related to immovable property for which the Belgian VAT is due by the recipient of the service, in accordance with the general reverse-charge rule provided by Article 51, §2,5° of the Belgian VAT code.
- A taxable person (established in the EU) makes supplies of goods or services (other than immovable works) on a regular basis in Belgium for which the VAT is due by the recipient of the supply in accordance with the general reverse charge provided by Article 51, §2,5° of the Belgian VAT code. This voluntary registration can only be applied when the amount of deductible Belgian input tax reaches or exceeds EUR10,000 a year.

Group registration. VAT grouping is permitted under the Belgian VAT law. VAT grouping is an option for Belgian businesses and Belgian branch offices of foreign businesses. The option to create a VAT group is subject to various conditions. Businesses must be financially, economically and organizationally linked with each other in order to form a VAT group. Subsidiaries in which the parent company owns more than 50% of their share capital must normally be included in the VAT group if the parent is a member. The VAT group is treated as one single VAT registration.

Specific rules exist regarding VAT adjustments when creating a VAT group. Transactions within a VAT group are disregarded for VAT purposes. However, in certain cases, these intragroup transactions may still be subject to VAT.

The minimum time period required for the duration of VAT group is three years.

All members of a VAT group in Belgium are jointly and severally liable for VAT debts and penalties.

Holding companies. In Belgium, a pure holding company cannot be a member of a VAT group. Only taxable persons with a full, limited or no right of deduction can opt to create a VAT group. Passive holding companies that are not VAT registered are therefore excluded.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been implemented in Belgium but limited since 1 January 2022 to the social sector (health care, cultural sector, etc.). This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Belgian VAT law).

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Belgium, in the following circumstances:

- The taxable person has a factory, branch, agency, storage facility, office, etc., in Belgium – excluding construction/work sites.

- The establishment is characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources.
- The human and technical resources enable the establishment to supply goods or services on a regular basis as described in the Belgian VAT code.

Non-established businesses. A "non-established business" is a business that does not have a seat of business or a fixed establishment in Belgium. A non-established business that makes supplies of goods or services in Belgium must register for VAT purposes in one or more of the following situations:

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

Tax representatives. Businesses that are established in the EU may register for VAT without appointing a specific VAT representative. However, EU businesses may opt to appoint a tax representative.

Businesses that are established outside the EU must appoint a resident tax representative to register for Belgian VAT. However, this is not required with those countries where a mutual assistance agreement has been concluded, such as the case for Norway and temporarily also for the UK. *At the time of preparing this chapter, the agreement with the UK is currently awaiting a final decision.* For further details, see the *Registration procedures* below.

The tax representative is jointly and severally liable for VAT debts with the business that it represents.

All non-established businesses must register with:

FOD Financiën|Fiscaliteit|KMO|Centrum Specifieke Materies|Team beheer 1 (BTW) (in Dutch)
Kruidtuinlaan 50 Bus 3410
1000 Brussel
foreigners.team1@minfin.fed.be

SPF Finances|Fiscalité|PME|Centre des Matières Spécifiques|Team gestion 1 (TVA) (in French)
Bd du Jardin Botanique 50 bte 3410
1000 Bruxelles

Note that the tax authorities also accept e-filing of applications for a Belgian VAT ID number, and for established companies this is mandatory.

If a complete file has been submitted and no additional questions are raised, it takes approximately four to six weeks for a Belgian VAT ID number to be granted to a foreign business.

In Belgium there is also the concept of "Global VAT Representation" by which the global representative takes all VAT compliance obligations of the non-established business. This representation is limited in scope (depending on type of activities carried out by the non-established business).

Reverse charge. Under the reverse-charge mechanism, the Belgian recipient of goods or services receiving the supplies must account for the Belgian VAT due instead of the non-established supplier. If this reverse charge applies to all the transactions of a non-established business in Belgium, it is in principle not possible for the latter to be VAT registered in Belgium, except in specific cases (for example, an import followed by a local sale subject to the reverse-charge

mechanism). In certain other situations and provided that the conditions are fulfilled, a non-established business can still opt to register for Belgian VAT purposes.

Domestic reverse charge. In Belgium, there are two types of reverse charge: (i) a general domestic reverse charge and (ii) a specific domestic reverse charge.

The general domestic reverse charge generally applies to supplies (goods and services) taking place in Belgium made by non-established businesses to the following:
- Taxable persons established in Belgium that file periodic VAT returns in Belgium (merely holding a Belgian VAT ID number as resident company is hence not sufficient)
- Non-established businesses that are registered for VAT and have appointed an individual fiscal representative in Belgium

The specific domestic reverse charge applies to supplies of immovable works by a taxable person established in Belgium in the benefit of taxable persons that are VAT registered and file periodic VAT returns in Belgium.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021 These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B, Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Belgium there are no additional specific local rules that apply.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Belgium, a taxable person can register for the OSS scheme via the electronic platform Intervat.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the chapter on the EU*.

In Belgium, a taxable person can register to the IOSS scheme via the electronic platform Intervat.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In Belgian, the rules provide for two scenarios:
- Standard regime. The supplier is liable to pay the Belgian VAT due on the import in Belgium. The subsequent local supply to the Belgian customer is also subject to VAT
  Or
- Specific regime for payment of VAT due on import. In this optional regime, the customer is legally liable to pay the Belgian VAT due on the import. The sale performed by the supplier is regarded as a distance sale located outside the EU (place of supply = place of departure of the transport) and not subject to Belgian VAT.

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Belgium there are no additional specific local rules that apply. *For more details about the special scheme for postal services and couriers, see the chapter on the EU.*

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

With effect from 1 January 2024, a joint and several liability has been introduced in the hands of facilitating platforms for the payment of VAT due on specific supplies of goods taking place in Belgium. This specifically applies where the underlying supplier is not acting in good faith or where it has committed a fault or negligence in relation to those supplies of goods.

In Belgium there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. In Belgium, a voucher (i.e., an instrument where there is an obligation for a supplier to accept it as full or partial consideration for a supply of goods or services) may be either a single-purpose voucher (SPV) or a multi-purpose voucher (MPV). A voucher will be considered as a SPV if, at the time of issue, the place of supply of the goods or services to which the voucher relates and the VAT due on those goods or service are known. If not known, the voucher is an MPV.

From a VAT perspective, a SPV is treated as follows:
- Transfer of the voucher is considered as a supply of the underlying goods/services.
- VAT becomes due at the moment of the sale (VAT applies at each transfer of the voucher).
- The consideration paid at each transfer is VAT inclusive.
- The distributor can deduct any VAT charged to it in line with the normal rules.

From a VAT perspective, a MPV is characterized by the following elements:
- Transfer of the voucher is not considered as a supply of the underlying goods/services.
- VAT becomes due at the moment of redemption (no VAT applicable for transfers of the voucher prior to redemption).
- VAT is calculated based on price paid by the consumer or, if it is not known, the face value.
- Distributors are considered to supply distribution/promotion services.

Registration procedures. A foreign EU business without any establishment in Belgium can choose to register directly with the Belgian VAT authorities, i.e., without having to appoint a fiscal representative. To do so, they must file the following documents:
- Form 604A, Declaration of Commencement of Activity (in Dutch, *Aangifte van aanvang van een werkzaamheid; in French, Déclaration de commencement d'activité*). This form, which gives more details about the taxable activities that require a Belgian VAT ID number, must be filed within one month after the start of taxable activities in Belgium.
- Form RBI, Direct VAT registration (in Dutch, *Rechtstreekse BTW-identificatie*; in French, *Identification à la TVA Directe*), which requires general information about the foreign EU business.

These documents must be dated and signed by someone who is entitled to legally bind the EU business (and include proof that this person is holding these legal rights), and the originals should be filed either in Dutch, in French or in German. Furthermore, the VAT application file needs to be completed with the following documents:
- A copy of the company's articles of association and any modifications (if available)
- A copy of the registration in the trade register of the company in the Member State of establishment

- A copy of an order form, contracts (or correspondence) or invoices proving the taxable activities in Belgium and the liability to register for Belgian VAT purposes
- An official bank statement proving that the communicated bank account belongs to the company

Note that the tax authorities also accept e-filing of applications for a Belgian VAT ID number, and for established companies this is mandatory.

However, a non-EU business liable to register for Belgian VAT purposes, without any establishment in Belgium, is still required to appoint a fiscal representative in Belgium (except in two situations: for companies established in a country with which a mutual assistance agreement has been concluded for the recovery of claims relating to taxes, duties and other measures (e.g., Norway); and for companies established in the UK for which a direct VAT registration remains possible until the final position of the EU Commission).

To do so, they must file the following documents:
- Form 604A, Declaration of Commencement of Activity (in Dutch, *Aangifte van aanvang van een werkzaamheid*; in French, *Déclaration de commencement d'activité*), described above
- Form 800N, Request for recognition as fiscal representative (in Dutch, *Voorstel tot erkenning van een aansprakelijke vertegenwoordiger*; in French, *Proposition d'agrément d'un représentant responsable pour un assujetti non établi en Belgique*); completed by the foreign company to request a Belgian company to act as its fiscal representative toward the Belgian VAT authorities
- Form AVI, Fiscal representation VAT identification (in Dutch, *Aansprakelijke vertegenwoordiging BTW-identificatie*; in French, *Représentation Fiscal Identification à la TVA*), which provides more information about the business and the appointed fiscal representative

These documents must be dated and signed by someone who is entitled to legally bind the non-EU business (and include proof that this person is holding these legal rights), and the originals should be filed either in Dutch, in French or in German depending on where the fiscal representative is duly established (Dutch-, French- or German-speaking Community). Furthermore, the VAT application file needs to be completed with the following documents:
- Form 801, Acceptance of the Belgian VAT representative (in Dutch, *Verbintenis van een aansprakelijke vertegenwoordiger van een niet in België gevestigde belastingplichtige*; in French, *Engagement d'un représentant responsable d'un assujetti non établi en Belgique*) in which the fiscal representative agrees to act for the foreign company regarding VAT issues. The form must be completed and signed in the original by a person who is empowered to legally bind the Belgian company.
- A copy of the company's articles of association and any modifications (if available).
- A copy of the registration in the trade register of the company in the country of establishment.
- An original certificate issued by the local tax authorities evidencing that the company is registered for VAT purposes in the country of establishment (certificate cannot be older than three months at the time of filing of the application)
- A copy of an order form, contracts (or correspondence) or invoices proving the taxable activities in Belgium and the liability to register for Belgian VAT purposes.
- An official bank statement proving the communicated bank account belongs to the company
- A bank guarantee in an amount of 10% of the net amount of VAT due in Belgium for a period of 12 consecutive calendar months, in favor of the Belgian VAT authorities, drawn up in duplicate by a Belgian bank or the Belgian branch of a foreign bank. The amount of the guarantee, depending on the above calculation, should be at least EUR7,500 and no greater than EUR1 million. The text of the guarantee must be in accordance with the model agreement as provided by the VAT authorities, and differences in the text of this guarantee are in principle not allowed. Note that the amount of the bank guarantee can be revised according to the renewed Royal Decree.

This is one of the means to provide "security" to the Belgian tax authorities. The foreign company may also consider an alternative of a cash deposit made to a blocked account of the Belgian Treasury (the calculation to determine the cash deposit due is the same as those that apply for the bank guarantee, see above comments).

All documents must be sent to the FOD Financiën (Dutch) or to the SPF Finances (French) at the address above.

If a complete file has been submitted and no additional questions are raised, it takes approximately one to four months for a Belgian VAT ID number to be granted to a foreign business.

Deregistration. When a taxable person stops its economic activities in Belgium and consequently wants to deregister its VAT number, this should be communicated to the VAT authorities within one month by submitting Form 604C. In addition, if a taxable person has a change of VAT status, they must submit Form 604B. A change of VAT status includes the following situations:
- Change of address
- Type of activities resulting in change of right of input tax deduction rights

Changes to VAT registration details. If a taxable person has a change in its registration details (e.g., name, address, fiscal representative, type of activities resulting in change of right of input tax deduction rights, etc.) it must submit a Form 604B to the tax authorities. This Form 604B must be submitted to the VAT authorities within one month as from the change occurs. From a legal point of view this form should be submitted electronically on the Belgian VAT authorities' website. For non-established taxable persons, the VAT authorities, however, still accept that this form is submitted either via regular mail or via email.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 21%
- Reduced rates: 6%, 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or exemption. Certain supplies are classified as "exempt with credit," which means that no VAT is chargeable, but the supplier may recover related input tax.

Examples of goods and services taxable at 0%
(i.e., exempt with credit)

- Waste products (hard-copy newspapers, metal waste, etc.)
- Exports of goods outside the EU and related services
- Intra-Community supplies of goods and intangible services supplied to another taxable person established in the EU or to any recipient outside the EU (*see the chapter on the EU*)
- Electronic publication of daily and weekly newspapers that appear at least 48 times a year

Examples of goods and services taxable at 6%

- Under certain conditions, goods of basic necessity and social services
- Books and magazines (including audiobooks) as well as e-books and other electronic publications
- Certain foodstuffs (milk, fish, meat, fats and oils)
- Drugs and medicines
- Water
- Electricity and natural gas for nonprofessional consumption

- Accommodation
- Improvements and renovations to buildings older than 10 years
- Original works of art
- Bikes and e-bikes
- Demolition and reconstruction of buildings (subject to conditions)

Examples of goods and services taxable at 12%

- Public housing
- Restaurant services (excluding drinks)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Real estate transactions (except "new buildings" and accompanying land)
- Services of doctors and dentists (except for the supply of aesthetical surgery by doctors and those treatments without a therapeutical aim)
- Finance
- Insurance
- Human organs

Option to tax for exempt supplies. In Belgium, there is an option to tax for the supply of payment and collection transactions, including negotiation, with the exception of debts collection. Furthermore, persons other than professional contractors (i.e., any person or company for whom the regular business consists of sale and redevelopment of real estate) may opt for taxation in case of a transfer of a new building (either used for professional purposes or not).

An option to tax for the rent of a building (or a part of a building) used for professional purposes (B2B) is available in Belgium, where the following conditions are met:

- It must concern a building or a part thereof.
- The tenant must be a taxable person who uses the building (or part thereof) exclusively for his economic activity.
- It must concern a building for which no VAT on the construction/renovation works became due before 1 October 2018.
- Both parties (lessor and tenant) must jointly opt to tax the rent.

E. Time of supply

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

The time of supply is one of the following:

- The moment of issuance of the invoice
- If no invoice is issued, the 15th day of the month following the month of the supply

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

Deposits and prepayments. Regarding local supplies of goods or services, VAT is due on prepayments at the time each payment is received. There is also an obligation to issue an invoice no later than the 15th day of the month following the month of the (pre)payment.

With respect to intra-Community supplies of services, VAT is due on prepayments at the time each payment is received.

No VAT is due on prepayments that relate to intra-Community supplies of goods.

Continuous supplies of services. For a continuous supply of services for which either periodic invoices are issued, or periodic payments are made, the time of supply is at the end of each period for which each statement of account or payment relates.

If the recipient is liable to account for the VAT due for a continuous supply of services under the B2B main rule and if no invoices are issued or payments are made, the time of supply is at the end of each year.

Goods sent on approval for sale or return. For goods sent for approval ("trial sale") or goods sent for sale or return (consignment shipment), special tax point rules apply. When goods are sent to a customer for trial, the supply of goods is regarded as performed when the customer confirms the effective purchase of the goods. When goods are sent to a customer for resale, the first supply of goods is regarded as performed when the goods are resold. Consequently:
- Belgian VAT is not due at the time when the goods are sent to the client or the reseller.
- Belgian VAT is not due if the goods are returned to the first supplier.

Reverse-charge services. The time of supply for reverse-charge services is when the invoice is issued. If no invoice is issued, the time of supply is the 15th day of the month following the month of the supply. The time of supply is set at an earlier date if a payment is received before the service is finished.

Leased assets. For leased assets, the VAT is due on each installment based on the general time of supply rules. This rule is based on the fact that from a Belgian VAT point of view, there is no distinction between a financial lease agreement or an operational lease agreement. Therefore, where the transaction is considered as a use of goods, this would then mean it qualifies as a supply of services for consideration whereby each periodical remuneration is subject to Belgian VAT. In this context a lease agreement should include an option to acquire the goods at the end of the lease period.

The Belgian VAT administration sticks to a classic legal analysis by distinguishing between whether the contract provides for the automatic transfer of ownership or, on the contrary, whether the contract provides an option to acquire the goods at the end of the contract. That classic analysis implies that a financial lease may remain an ordinary rental under the VAT in Belgium.

If the option in the lease agreement is not set at fair market practices, the VAT treatment of the lease agreement may be challenged.

Similarly, to qualify as a real estate lease, the contract cannot include the firm obligation to acquire the property but must contain an option to acquire significant residual rights in the property.

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

Note that the payment of import VAT can be deferred to the Belgian VAT return if the importer of record is in possession of an individual deferment license (a so-called E.T. 14.000 license). In order to obtain such a license, the taxable person must file a (specific) application, but no advance payment is required. Additionally, the taxable person will need to evidence proof of importations performed in Belgium on which Belgian VAT became due.

Intra-Community acquisitions. The time-of-supply rule for intra-Community acquisitions is when the invoice is issued or, at the latest, the 15th day of the month following the month in which the taxable event occurred if no invoice has been issued before that date.

Intra-Community supplies of goods. The time of supply rule for intra-Community supplies is when the invoice is issued or, at the latest, the 15th day of the month following the month in which the taxable event occurred (if no invoice has been issued before that date).

Distance sales. There are no special time of supply rules in Belgium for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

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

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

In this respect it is key to hold a valid tax invoice or customs document. Exceptions apply to supplies for which the recipient is liable for the VAT due (reverse charge).

The time limit for a taxable person to reclaim input tax in Belgium is three years. Belgian input tax can be deducted until the end of the third calendar year following the year in which the VAT became due.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by a business). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Purchase, lease, hire, maintenance or fuel for cars (except in certain specific cases, such as car dealers): VAT only deductible on expenses relating to the professional use (business use) of passenger cars with a maximum of 50%; the scope of this limitation is broadened to include the purchase or lease of a light truck, including all the costs, provided that there is a mixed use. Depending on whether the employee pays a renumeration for the private use, the percentage of input tax deduction will vary. Further in the case of a renumeration, VAT is due on the normal value. Similar rules apply for use of mobile phones with mixed use.
- Recharge of electric vehicles: VAT only deductible on expenses relating to the professional use of the company car with a maximum of 50%. Specific VAT deduction limitation rules also apply in case of installation of a charging station at the house of an employee by the employer
- Private expenditure
- Business gifts (unless valued at less than EUR50, VAT excluded, per unit)
- Alcohol
- Tobacco
- Hotel accommodation, meals and beverages (exceptions may apply)
- Restaurant and catering costs (exceptions may apply, e.g., (i) if it can be shown that those costs have an advertising purpose (ii) if those costs are fully on-charged to which local Belgian VAT has been charged)

- Costs associated with hosting receptions and other entertainment costs (except reception costs that have an advertising purpose, which must be proven by way of flyers, advertising leaflets or similar evidence)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Attending conferences, seminars and training courses
- Expenditure for the collective social benefit of employees
- Advertising
- Transport
- Books

Partial exemption. Input tax directly related to the making of exempt supplies (without input tax credit) is generally not recoverable. If a Belgian taxable person makes both exempt and taxed supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

In Belgium, the amount of input tax that a partially exempt business may recover may be calculated using either of the following methods:

- The first method is a general pro rata calculation, based on the percentage of taxable and exempt turnover. The recovery percentage is rounded up to the nearest higher whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).
- The second method is direct attribution, which is a two-stage calculation. The first stage identifies the input tax that may be directly allocated to taxed and to exempt supplies. Input tax directly allocated to taxed supplies is deductible, while input tax directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as taxed supplies for these purposes. The next stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be partially allocated to taxable supplies and consequently partially recovered. The calculation may be performed using the general pro rata calculation based on revenues (turnover) of supplies made, or it may be a special calculation agreed to with the VAT authorities. This special pro rate needs to be objective and controllable by the VAT authorities.

Approval from the tax authorities is not required to use the partial exemption standard method (i.e., the first method, general pro rata calculation) in Belgium. Since 1 January 2023, an approval from the tax authorities is no longer required either to use the second method (i.e., the direct attribution). Only a notification to the tax authorities is necessary, which should be done by electronic notification to the tax authorities. Timing to submit said notification depends on the situation of each taxable person.

Capital goods. The deduction of VAT paid on the acquisition of investment goods must be limited in the case of private use of those goods. In this respect, Belgium has transposed into Belgian law the amendments made by the Council Directive 2009/162/EU on 22 December 2009 for all capital goods (movable and immovable).

According to Article 45, §1quinquies of the Belgian VAT Code, in the case of an acquisition of a capital good subject to mixed use, the deduction of VAT is disallowed for the part of private use, but there is no requirement to report a deemed supply for this part.

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

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

- Buildings (adjusted for a period of 15 years or 25 years if option to tax rent is levied – this period starts running from 1 January of first use of the building)
- Other movable capital assets (adjusted for a period of five years – this period starts running from 1 January of first use of the movable capital assets)
- Certain services, such as intellectual property rights (including patents, licenses and trademarks or immovable work undertaken by the tenant of a building) considered to be capital goods if amortized for accounting purposes over a period of five years or more

The adjustment is applied each year following the year of first use (for both property and non-property purchases) to a fraction of the total input tax (1/15 for land and buildings and 1/5 for other movable capital assets or qualifying services). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired (non-property purchases) or first used (property purposes and from 1 January 2019 for all capital goods).

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may request a refund of the credit by marking the relevant box on the VAT return form. A refund may generally be requested only at the end of a quarter. However, a taxable person that meets certain conditions may receive permission to request monthly VAT refunds. As of 1 January 2020, all newly VAT registered businesses may opt for monthly VAT refunds.

Pre-registration costs. In practice, there is a tolerance regarding the pre-registration costs incurred prior to VAT registration. If the VAT registration and exploitation of the economic activity follows in an acceptable time period, the deduction will be accepted. A company starting up or a private individual has the status of a taxable person as soon as it unequivocally manifests this intention. In such a case, VAT incurred on costs connected to preparatory activities for an economic activity that gives rise to a right of deduction is deductible even if the registration formalities have not been carried out. The taxable person will be able to deduct the input tax incurred on the preparatory activities via its first Belgian VAT return.

Bad debts. A taxable person is under certain conditions entitled to recover any VAT already paid to the VAT authorities in respect of bad debts via the VAT return. This adjustment must be supported by sufficient evidence that the customer will never pay the debt, such as the company's being declared bankrupt. No official statement from the liquidator is required. If subsequently, (part of) the debt can be recovered, the VAT should be equally repaid to the Belgian VAT authorities. Nevertheless, a corrective document (for instance a credit note) needs to be drawn up.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Belgium.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Belgium is recoverable. Belgium refunds VAT incurred by businesses that are neither established in Belgium nor required to be registered for VAT there. A non-established business can claim Belgian VAT to the same extent as a VAT-registered business.

Non-established businesses that do not make supplies in Belgium, but do incur input tax, can register for VAT in Belgium to recover the input tax in certain circumstances. For further details, see *Section C. Who is liable, subsection Non-established businesses.*

EU businesses. For businesses established in the EU, refund is made under the terms of the EU Council Directive 2008/9. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Belgium during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Belgium:
- VAT refund claims of EU businesses not established in Belgium can be filed through a portal website in the home country of the non-established entity. Original invoices do not need to be submitted with the refund claim. In some cases, electronic copies of invoices must be added, depending on the type of cost and the taxable amount of the invoice.

Non-EU businesses. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

Belgium does not exclude any non-EU country from the refund scheme. The VAT refund procedure under the EU 13th Directive may be used only if the business did not perform any taxable supplies in Belgium during the refund period (excluding supplies covered by the reverse charge).

A VAT refund request must cover a period of at least three months in the same calendar year and no more than one calendar year.

VAT refund claim under the EU 13th Directive must be submitted at the latest by 30 September of the year following the period relating to the refund application.

The application form should be sent to the following service of the Belgian VAT authorities:

SPF Finances
Centre Etrangers-Team 6
Bld du Jardin Botanique 50, boîte 3429
B-1000 Bruxelles
Or, foreigners.team6@minfin.fed.be

Late payment interest. For EU businesses, if an EU refund is not made within four months, the Belgian VAT authorities pay interest to the claimant. The interest rate depends on the period for which the interests apply. For a period before 1 January 2023, a rate of 9.6% per year applies. After 1 January 2023, the interest rate will be determined every year and will always be equal to the interest rate for the late payment due minus 2%. For the year 2023, the interest rate for the late payment due amounts to 8% and therefore the interest rate for the late payment due amounts to 6% per year.

For non-EU businesses, interest is not paid on late refunds to non-established businesses.

H. Invoicing

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

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 2008/9/EU or 13th Directive refund schemes (*see the chapter on the EU*).

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

Electronic invoicing. Electronic invoicing is mandatory in Belgium for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Belgium. This is in line with EU Directive 2014/55/EU (*see the chapter on the EU*). This is with effect from 9 March 2022. For B2G supplies, the Royal Decree of 9 March 2022 makes electronic invoicing mandatory for public procurement and concession contracts. The said Royal Decree expands the scope of the B2G e-invoicing in a phased manner depending on the individual value of each government contract: (i) on 1 November 2022 for public contracts with a value greater than or equal to the European threshold of EUR214,000, (ii) on 1 May 2023 for all public contracts with a value greater than or equal to EUR30,000, and (iii) on 1 November 2023 for public contracts less than EUR30,000. An exemption is foreseen for contracts with a value of less than EUR3,000.

For B2B and B2C, electronic invoicing is allowed but not mandatory in Belgium. This is in line with EU Directive 2010/45/EU (*see the chapter on the EU*). The government announced the implementation of mandatory B2B e-invoicing with effect from 1 January 2026. Mandatory electronic invoicing will apply for domestic B2B transactions performed by taxable persons established in Belgium and Belgian branches of foreign entities.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Belgium.

The requirements related to electronic invoicing are the same as those for paper invoicing.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. Simplified VAT invoices are allowed where the amount of the invoice is EUR100 (excluding VAT) or less. Simplified VAT invoices are also allowed if it is difficult for a particular sector to be compliant with the invoice requirements due to its commercial and administrative habits (e.g., catering and restaurants (HORECA) – cash register system). Simplified VAT invoices cannot be issued for certain supplies, i.e., for distance sales, intra-Community supplies of goods, supplies of goods with assembly and installation and cross-border supplies of goods and services with application of the reverse-charge mechanism.

Self-billing. Self-billing is allowed in Belgium. This is subject to the following conditions:
- Both parties have an agreement in advance for self-billing.
- Each invoice must be subject to the acceptance (implicit or explicit) by the taxable person who makes the supply of goods or services.

Proof of exports and intra-Community supplies. Belgian VAT is not chargeable on supplies of exported goods and on intra-Community supplies of goods (*see the chapter on the EU*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Belgium. Acceptable proof includes the following documentation:
- For an export, a copy of the export document, officially validated by Customs, must show the supplier as the exporter of record or should make a reference to the underlying invoice issued by the supplier. Under specific conditions, the supplier may still rely on the VAT exemption if the customer is mentioned as exporter of record on the export document, validated by Customs.
- For an intra-Community supply, a range of commercial documentation (such as purchase orders, transport documentation, proof of payment and contracts) is required. Each document is permitted as evidence, but each document in itself is not sufficient. The valid VAT number (issued by another Member State other than Belgium) of the customer should be mentioned on the invoice. In cases where the supplier does not have sufficient documents in order to substantiate the intra-Community transport of the goods from Belgium to another Member State, the transport

could be certified by a "*destination document*" established by the supplier or by the purchaser. The use of this simplification measure is subject, inter alia, to the following conditions:
- The "*destination document*" confirms that the goods are in the possession of the purchaser in another Member State than Belgium.
- The "*destination document*" can include all the intra-Community supplies made in the profit of a client during a period of three consecutive calendar months.
- The "*destination document*" includes the following mentions:
  - Name, address and VAT number of the supplier.
  - Name, address and VAT number of the purchaser.
  - Confirmation that the "*destination document*" relates to the arrival of intra-Community supply of goods.
  - A description of the goods.
  - A reference to the related invoice(s).
  - Month(s) and year of the arrival of the goods.
  - Place where the goods arrived.
  - Price of the supplied goods.
- The "*destination document*" is signed by the purchaser or by a person who is entitled to sign for the purchaser (by reason of his function). The identity and the function of that person should be confirmed by the purchaser to the supplier by email, letter or another written document.
- The "*signed destination document*" can be sent by electronic means (email, etc.). However, the authenticity of the signature is guaranteed.
- The "*signed destination document*" is kept by the supplier.

A complete description of that simplification measure can be found in the Circular Letter 2020/C/50 dd. 02/04/2020 of the Belgian VAT authorities.

We also refer to the presumption introduced by the Quick Fixes regarding proof of intra-Community transport (*see the chapter on the EU*).

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

There are no requirements with regard to the language of the invoice. However, for inspection purposes, the VAT authorities may ask for a translation if the invoice is issued in a language other than Dutch, French or German (the official languages in Belgium).

Supplies to nontaxable persons. There is no requirement to issue a VAT invoice (or any other document) for supplies by taxable persons of telecommunications, broadcasting and electronic services to nontaxable customers (i.e., private consumers), irrespective of the use of the MOSS scheme. Only when providing these services to nontaxable legal bodies or taxable persons is there such a requirement to issue full VAT invoices. *For further details of the VAT rules on electronic services in the EU, refer to the EU chapter.*

For other supplies made by taxable persons to nontaxable persons (i.e., private consumers), there is no obligation to issue full VAT invoices or receipts in Belgium. However, for specific sectors, such as hotels, catering, restaurants and car washing services, only receipts are required to be issued to private consumers.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested. However, for intra-Community distance sales and extra-Community distance sales (made B2C), the identification of the existence of an obligation to issue an invoice in light of the Belgian VAT law is a complex process. First, it must be determined whether Belgium is the competent State in matters of invoicing rules. If Belgium is the competent State, the obligation to issue an invoice is the standard rule. However, there is no obligation to issue an invoice in some specific cases, among others in case where intra-Community distance sales are performed under the OSS system.

Records. In Belgium, taxable persons must keep appropriate accounting records to the extent of their activities to allow the tax authorities to carry out a VAT audit. In Belgium, examples of what records that must be held for VAT purposes include:
- A purchase ledger (including imports and intra-Community acquisitions of goods)
- A sales ledger
- A cash revenue ledger

In Belgium, VAT books and records can be kept outside of the country. The taxable person can determine the place where their accounting records are kept, as long they are able to provide such records to the Belgian VAT authorities at their request, without undue delay. However, invoices must be kept within the Belgian territory when they are not kept in electronic format, allowing that a total online access to the data kept is guaranteed.

Record retention period. Input and output invoices issued and received must be kept for seven years as from 1 January of the year following the date the invoice is issued. Ledgers issued and received must be kept for seven years as from 1 January of the year following the end of the financial year of the taxable person. Since 1 January 2023, the general retention period has been increased to 10 years.

In respect of deduction of VAT on real estate investment goods, the taxable persons are obliged to keep the related documentation (i.e., invoices, documents, account statement) for 15 years.

In case of the option to tax for the rent of a building (or a part of a building) used for professional purposes (B2B), the taxable persons are required to keep related documentation (i.e., invoices, documents, account statement) for 25 years.

Electronic archiving. Electronic archiving is allowed in Belgium. Paper and electronic invoices may be archived in electronic format using electronic data storage equipment, including digital compression.

In case the electronic archiving option is chosen, one must demonstrate that the technology used to digitalize the invoice guarantees the authenticity, integrity and legibility of electronically archived invoices as from the date on which the invoice is issued until the end of the minimum storage period.

I. Returns and payment

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

Taxable persons with a turnover of less than EUR2.5 million may opt to submit returns quarterly (for some supplies of goods, the threshold is EUR2.5 million). A taxable person who has chosen to file quarterly VAT returns can, during the calendar year, be obliged to start filing monthly VAT returns from the time the threshold of EUR2.5 million of annual turnover or EUR50,000 of intra-Community supplies of goods per quarter has been exceeded.

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

Periodic payments. For monthly VAT returns, payment is due the 20th day of the month following the return period. However, if that date falls on a Saturday, Sunday or public holiday, the due date will be postponed to the next working day. The payment of the VAT due needs to be made by the same date on a specific bank account of the Belgian tax authorities (in Dutch, *Dienst btw-ontvangsten Brussel* and in French, *Service T.V.A.-Recettes Bruxelles*).

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

Electronic filing. Electronic filing is mandatory in Belgium for all taxable persons. The Belgian VAT returns should be electronically filed through the internet (via the Intervat-application). Only when the taxable person has demonstrated the impossibility of filing the VAT return by electronic means and obtained a written approval from the Belgian VAT authorities may it file the return in hard copy.

Payments on account. Payments on account are not required in Belgium.

Special schemes. *Margin scheme.* A special regime is provided for professional dealers of secondhand cars. In particular, where the professional dealer has purchased secondhand cars on which no VAT was charged, the taxable person can account for VAT on the margin (difference between purchase and sales price) on the sale of the secondhand goods. The same principles apply for, among others, art dealers.

Cash accounting. Belgian VAT law allows suppliers active in B2C transactions to postpone the payment of VAT on supplies of movable goods and services to reinstated private persons, where no obligation to issue an invoice exists, until and to the extent of receipt of the price.

The cash accounting regime has also been introduced for supplies made to public bodies acting as a government (according to Article 6 of the Belgian VAT Code).

Annual returns. Annual VAT returns are not required in Belgium. However, every year an annual sales listing (form 725) must be filed before 31 March of the next year. The annual sales listing is used to record all sales in excess of EUR250 made during the calendar year to customers that are VAT-registered in Belgium.

Supplementary filings. *Intrastat.* A Belgian taxable person that trades with other EU countries must complete statistical reports, known as Intrastat, if the value of either its sales or purchases of goods exceeds certain thresholds. Separate reports are required for intra-Community acquisitions (Intrastat Arrivals) and for intra-Community supplies (Intrastat Dispatches). The Intrastat Dispatches return must refer to two specific elements, as follows:

- Country of origin of the goods. If the country is known, the country is where the goods were produced or processed so that they constitute a new product under another commodity code. In the negative, use the code "QU"
- VAT number of the other party involved in the transaction

The threshold for Intrastat Arrivals is EUR1.5 million. The threshold for Intrastat Dispatches is EUR1 million.

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

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

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

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

ESLs are filed monthly by monthly VAT filers and quarterly by quarterly VAT filers.

Correcting errors in previous returns. Previously submitted VAT returns can be corrected by means of one of the following processes:
- Filing a corrective VAT return – Corrective VAT returns can in principle only be submitted via Intervat until six months after the reporting period for which the original return has been submitted. The Belgian tax authorities may impose nonproportional penalties for the late filing of such returns.
- Letter to the competent tax office – A letter to the competent tax office can be submitted in order to explain the transactions that should be performed to VAT returns that cannot be corrected anymore via Intervat. Such a voluntary disclosure should result in a waiver of proportional penalties that may apply.

Digital tax administration. There are no transactional reporting requirements in Belgium.

J. Penalties

The Belgian VAT legislation contains a detailed list of administrative penalties, both proportional and nonproportional, which the VAT authorities automatically impose when violations against Belgian VAT legislation are detected. The guidelines classify all violations into different categories. For certain categories, the penalty policy will apply, while other categories are subject to additional conditions or are explicitly excluded from the application of the penalty policy. In case of a so-called voluntary VAT disclosure, the proportional penalties will be waived by the VAT authorities.

For some categories, the penalties will automatically be canceled if the below four conditions are fulfilled:
- It is the first violation of the same nature in a period of four years ("reference period").
- The taxable person committing the violation was deemed to act in good faith. It is important to note that from now on, good faith will be assumed. The Belgian administration has to prove the contrary.
- An individual and motivated request should be submitted, clearly indicating all reasons why the taxable person is applying for a waiver.
- Upon filing of the request, the taxable person has complied with the obligation for which a fine was imposed and has submitted all periodic VAT returns.

For violations identified at the occasion of an audit that have no impact on the VAT (payable or refundable) position, the new penalty policy will apply. This is for example relevant for incoming invoices for which the recipient does not apply erroneously the reverse-charge mechanism. In that situation the non-application of the reverse charge could lead in principle to (proportional) penalties. However, on basis on the new penalty policy, the penalties imposed for the first violation could be canceled.

For fines imposed relating to the second violation of the same nature in the reference period, the amount of the fine will be reduced to 2%. For fines imposed relating to the third and all subsequent violations of the same nature in the reference period, the fine will be reduced to 5%. These reductions are subject to the above conditions.

Certain categories of violations are explicitly excluded from the application of the above policy (e.g., nonpayment of VAT due, late submission of periodical VAT returns, fraud). It is important to note that even when the new fine policy does not apply, the VAT authorities may still allow the application for a waiver or reduction of the fine on the grounds of force majeure or based on specific elements of the case.

The guidelines also reconfirm the substance-over-form principle, introduced by ECJ case law in case of noncompliant purchase invoices. This implies that the mere observation that an invoice does not meet the applicable invoicing requirements no longer result in a rejection of input tax deduction. Instead, it opens the possibility to provide corrective invoices or other supporting documents so that the VAT deduction can be safeguarded.

Penalties for late registration. A penalty ranging from EUR100 to EUR500 is assessed for late VAT registration. If the late registration results in the late payment of VAT, an administrative fine of 10% to 20% calculated on the VAT due and late payment interests may be imposed. For a period before 1 January 2023, a rate of 9.6% per year applies. After 1 January 2023, the interest rate will be determined every year with a minimum of 4% per year. For the year 2023, the interest rate for a late payment due amounts to 8%.

Penalties for late payment and filings. There is a large range of penalties that can be assessed for late payment or filings of VAT returns or listings. These include, for example:

- Failure to submit VAT return: EUR1,000 per VAT return
- Late submission of VAT return: EUR100 per month it is late (with a maximum of EUR1,000)
- Late payment of VAT return: fine equal to twice the tax paid late and a late payment interest of 0.8% per month is due
- No submission of the annual sales listing or the European sales listing: EUR3,000 per listing/document
- Late submission of the annual sales listing (ASL) or the European sales listing (ESL):
  (i) For the late submission of maximum two months, a penalty between EUR75 and EUR1,500 is due
  (ii) For the late submission of maximum six months, a penalty between EUR225 and EUR2,250 is due
  (iii) For the late submission of more than six months, a penalty of EUR3,000 is due

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

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

Penalties for errors. There is a large range of penalties that could be assessed for late payment or filings of VAT returns or listings. These include, for example:

- For VAT return, the penalty depends on the kind of error: (i) for accidental irregularities, a penalty of EUR80 per document is due, (ii) for the other irregularities, a penalty of EUR500 per document is due
- For listings (i.e., annual sales listing (ASL) or the European sales listing (ESL), the penalty depends on the kind of error: (i) for missing data, a penalty between EUR150 and EUR1,350 per missing data is due, (ii) error in data, a penalty of EUR25 and EUR750 per data is due if the correct data is communicated to the Belgian tax authorities within two months

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration* details above.

Penalties for fraud. For any intentional breach of the obligation to pay VAT, taxable persons are liable to pay a fine equal to twice the VAT amount evaded.

Personal liability for company officers. The Belgian VAT legislation provides for a joint and several liability for the directors in the situation of nonpayment of VAT due by the companies or legal entities under their management when the nonpayment is attributable to their fault in the framework of this management.

Statute of limitations. The statute of limitations in Belgium is three years. The standard statute of limitations of the right of the VAT authorities to recover Belgian VAT is three years (or seven years in case of fraud or specific circumstances). This means that transactions can be subject to a VAT audit until 31 December of the third year following the year during which the transactions have been reported in the VAT return. As from 1 January 2023, the statute of limitations are extended to four years in case of late submission or no submission of VAT returns, and to 10 years in case of fraud. A taxable person may exercise their right to deduct VAT until 31 December of the third year following the year in which the VAT became due.

Bhutan

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The Goods and Services Tax Act of Bhutan 2020 (the GST Act) was enacted with effect from 16 January 2020 by the Bhutan Parliament. In conjunction with Section 3 of the GST Act (read with Notification No. DRC/GST/01/2020/85 dated 1 July 2020), several chapters of the GST Act were proposed to be implemented from 1 July 2021 (see list below). However, during the budget session for FY 2021-2022, the Finance Minister of Bhutan proposed the deferment of GST implementation by one year to 1 July 2022, until the systems are ready.

The chapters of the GST Act that were postponed are as follows:
- *Chapter 7: Accounting for GST*
- *Chapter 8: Payment of GST*
- *Chapter 9: Refund of net amount*
- *Chapter 10: Registration*

As per the GST Amendment Act of Bhutan 2022 (the Amendment Act), the above chapters would come into force from the day the Parliament approves for enforcement, when the goods and services tax system is ready. So in effect, GST implementation has been deferred until the time the systems are ready. The Amendment Act would also repeal certain chapters under the GST Act related to sales tax and excise.

At the time of preparing this chapter, GST has not been implemented in Bhutan and there is no definitive timeline has been prescribed for implementation.

A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Goods and services tax (GST)
Date (to be introduced)	*To be confirmed*
Trading bloc membership	South Asia Free Trade Area (SAFTA)
Administered by	Department of Revenue and Customs (DRC) (portal.drc.gov.bt)
GST rates	
Standard	7%
Other	Zero-rated (0%) and exempt
GST number format	*To be announced*

Thresholds	
Registration	BTN5 million
GST return periods	Monthly/Quarterly *(to be confirmed)*
Recovery of GST by non-established businesses	*To be announced*

B. Scope of the tax

GST applies to the following persons:
- The supplier in the case of a taxable supply made within Bhutan
- The importer in the case of a taxable import
- The purchaser in the case of a taxable supply of imported business-to-business (B2B) services
- In the case of a taxable supply of imported business-to-customer (B2C) services:
  - The operator of the electronic distribution platform, if the supply is made through a single electronic platform
  - The supply is made through more than one electronic distribution platform
  - The supplier, if the supply is not made through an electronic distribution platform

C. Who is liable

The registration turnover threshold is BTN5 million per annum as prescribed under Schedule II of the GST Act. A person must register for GST within 30 days of the following month if any of the below scenarios apply:
- The person's turnover was equal to or greater than the BTN5 million in the previous 12 months period
- The person's turnover was equal to or greater than one-half of the BTN5 million in the previous six months period

  Or
- Based on reasonable grounds, the person's annual turnover is expected to be equal to or exceed the registration turnover threshold in the upcoming 12 months

Exemption from registration. The GST Act in Bhutan does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person who has turnover below the registration turnover threshold may also apply for GST registration.

Bolivia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	1 July 1986
Trading bloc membership	Bolivia-Mexico ACE N°66
	Bolivia-Chile AAP.CE N°22
	Bolivia-Mercosur (Bolivia, Argentina, Brasil, Paraguay and Uruguay) AAP.CE N°36
	Bolivia-Cuba AAP.CE N°47
	Bolivia-Venezuela
	Andean community CAN (Bolivia, Colombia, Ecuador y Perú)
Administered by	Internal Taxes Service (http://www.impuestos.gob.bo) Servicio de impuestos nacionales (SIN)
VAT rates	
Standard	13%
Other	Zero-rated (0%) and exempt
VAT number format	9999999999 (tax identification number [NIT]) (Número de identificación tributaria)
VAT return period	Monthly

Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Sales of movable goods placed in Bolivia by taxable persons
- All services rendered in Bolivia
- Importation of goods
- Leasing inside Bolivia

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Bolivia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Bolivia. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Bolivia, for a transaction between related parties, the value for VAT purposes is calculated the value that would have been agreed between independent parties if they had engaged in the same transaction under the same circumstances.

In addition, domestic companies related to foreign companies must prepare their accounting records separately, so that their financial statements determine taxable net profits from Bolivian-source income. When individuals or domestic companies directly or indirectly conduct commercial and/or financial transactions with individuals or companies domiciled in countries or regions with low or null taxation (tax havens), these transactions will be considered as if they were carried out between related parties. To determine whether two or more transactions are comparable, the following will be taken into consideration:
- The characteristics of the goods or services
- The functions assumed by the parties, for which risks and assets used will be identified
- The contractual terms of the transaction
- The characteristics of the market or other influencing factors
- The commercial strategies

C. Who is liable

A registered taxable person is a business entity or individual that performs the following actions:
- Sells movable goods
- Sells movable goods on behalf of others
- Renders any kind of services
- Makes definitive imports (these are products that are purchased in foreign countries and brought into Bolivia)
- Engages in the operational or financial leasing of movable or fixed goods

Exemption from registration. VAT law in Bolivia does not contain any provision for exemption from registration. In situations where services and sales are performed habitually in Bolivia, registration for accomplishment of local taxes must take place.

Voluntary registration and small businesses. VAT law in Bolivia does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Group registration. Group VAT registration is not allowed in Bolivia.

Fixed establishment. In Bolivia there is no legal definition of a fixed establishment for VAT purposes. However, while Bolivian legislation has no fixed establishment standards, the rules in practice are based on the domestic-related standards, the experience and the review of public preceding. The Bolivian tax system is ruled by principles of territoriality and source. Additionally, according to the economic reality that prevails for interpretation of tax standards, taxation must be applied based on the events that occurred and not on the merely contractual matters. In other words, the underlying facts must prevail before the form ones. Given the absence of specific legal standards to determine fixed establishment, in the present case, the tax treatment for non-established businesses depends on the following:

- The real purpose of non-established businesses to perform habitual business in Bolivia
- The direct relationship non-established businesses will have with Bolivian local customers
- The nature of service – in this case, the intentionality on generating habitual profits
- The fact that there would be habitual commercial activities in the country

It is important to understand that whenever an entity performs habitual commercial activities in the country, it is concluded that it is generating incomes from Bolivian sources and therefore must pay taxes. "Habitual" constitutes the triggering fact for consideration of a fixed establishment risk's existence. It must be qualified based on the nature, quantity or frequency involved of the service rendered.

Foreign non-incorporated companies can perform commercial acts physically in Bolivia, but only on an isolated basis. If habitually (frequency, nature of service and real purpose of obtaining profits) is detected by public authorities, commerce and tax registry will be demanded as mandatory.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Bolivia. A non-established business must register as a taxable person if it makes "habitual" supplies of goods or services in Bolivia. Under the applicable regulation, "habitual" must be determined by weighing the nature, amount or frequency of the sales of movable goods and services.

Tax representatives. The tax representative of a company is the legal representative resident in Bolivia and registered with the tax authority to act for the company in matters relating to VAT.

A non-established business is not required to appoint a tax representative to register for VAT.

Reverse charge. In Bolivia, the reverse charge for services does not apply. Bolivia does not apply VAT on the importation of services that are performed outside of the country. When a service is purchased from abroad, it is not subject to VAT. There are no procedures to withhold this tax. On the other hand, when a local company provides services to a foreign company and the service is performed locally, then it must be subject to Bolivian VAT, even if the recipient is outside of Bolivia.

Domestic reverse charge. There are no domestic reverse charges in Bolivia.

Digital economy. There are no special or specific rules regarding the digital economy in Bolivia.

Taxable persons that provide digital services, such as marketplaces, delivery, streaming, education, video games, online advertising and gambling from Bolivia should register and account for VAT in Bolivia. Therefore, resident persons (natural and legal) that use these digital media must

incorporate (if the person is already registered) or register with the tax authority for the payment of taxes.

In the case of nonresidents, there are no rules for the payment of taxes in Bolivia.

Bolivia's Congress had previously initiated discussions on a bill to impose 13% VAT on digital services provided from abroad to Bolivian residents, but this was subsequently discarded. *At the time of preparing this chapter, it is not certain whether this project will be reconsidered.*

There are no other specific e-commerce rules for imported goods in Bolivia.

Online marketplaces and platforms. No special rules exist for online markets or platforms in Bolivia. The general rules state only that the sale of goods through electronic commerce, within the national territory, made by natural and legal persons, are subject to the VAT, but there are no detailed procedures.

Registration procedures. A registration request should be submitted to the Virtual Office of the tax authority (http://ov.impuestos.gob.bo/RegistroPadron.aspx) by filing Form MASI-001 (Request for registration). Once submitted, the Virtual Office will assign a file number to this request.

To complete the procedure, the legal representative must visit the tax authority offices in person and present the following documents (originals and copies):
- Notarized incorporation deed
- The legal representative's valid identification document (ID)
- Notarized power of attorney for the legal representative to act with authority for the applicant
- Electric utility invoice for the company domicile
- Electric utility invoice for the legal representative's domicile
- Map (drawing) of the domiciles of the company and the legal representative

Registration can be processed in one week if all documents are presented in the correct form to the tax authority.

Deregistration. In Bolivia, companies do not deregister. It is possible, however, to deactivate the tax identification number.

Changes to VAT registration details. Any change related to the registered information of a taxable person and the activity of the company should be communicated immediately to the tax administration.

The changes to VAT registration are simplified regime to special regime, inactivation of economic activity, taxable person data, activity economy, legal representative, domicile of taxable person and legal representative, etc.

For the procedure, the taxable person should visit the tax administration office in person as soon as the modification occurs with the documents that support the changes.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including zero rate.

The VAT rates are:
- Standard rate: 13% (however, the effective rate is 14.94% because VAT must be included in the sales price)
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports

The term "exempt supplies" refers to supplies of good and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies goods and services

- Goods imported by members of diplomatic corps recognized in Bolivia
- "Bona fide" introduced merchandise, up to a limit of USD1,000
- Life insurance quotas (monthly payments with respect to a life insurance contract)
- For securities registered on the Bolivian Stock Exchange, capital gains generated by sales/purchase of the shares
- Transfers of goods or assets subject to the securitization process (*titularización*) administered by the securitization association, at the beginning and end of the process (under this process, the goods must be transferred to an independent fund (*patrimonio autonomo*) and, when the process is completed, the goods are returned to the original owner)
- Operations regarding sales or transfers of portfolios (financial intermediation, insurance and pension)
- Interest from loans received by financial entities
- Inbound tourism and lodging services for foreign tourists without a residence or address in Bolivia
- Artistic events focused on production, presentation and promotion of theater, dancing, national folklore, painting, sculpture and movies of Bolivian artists, if they are sponsored or developed in locations in Bolivia that are managed or owned by a municipal government or the Bolivian government
- Sale of books printed in Bolivia or those imported by or published by Bolivian institutions

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Bolivia.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax event." The tax event for goods is when the goods are delivered or when an act that implies the transfer of the ownership occurs. The tax event for services is the earlier of when the service is performed or completed and when full or partial payment of the price is received.

Deposits and prepayments. There are no special time of supply rules in Bolivia for advance payments. As such, the general time of supply rules apply (as outlined above). The only exception is for advanced payments for construction services for government entities, where the payments will not be subject to taxation until the work progress certificates are accomplished.

Continuous supplies of services. For the provision of continuous services, when the taxable event is concluded at the expiration of each monthly period, the invoice may be issued up to the fifth business day of the month following the month in which the service was provided.

For the provision of continuous services subject to measurement or settlement, the taxable event is perfected in the determination of the price, as a result of the monthly measurement or settlement of the service, as the case may be, or at the partial or total collection of the remuneration, whichever is earlier. Given these scenarios, in no case may they be invoiced in a fiscal period subsequent to that of measurement or settlement.

Goods sent on approval for sale or return. For goods, the time of supply occurs when the title to the goods is transferred. For services, the time of supply occurs when partial or total payments are performed or when the service is finalized, whichever occurs first.

Reverse-charge services. In Bolivia, the reverse charge for services does not apply. As such there are no special time of supply rules.

Leased assets. For an operating lease (a normal rental without interest), the time of supply is on a monthly basis and the total amount charged must be taxable.

For a financial lease (a rental with the possibility of purchase at the end of the rental period), which includes capital and interest amounts, the time of supply is at the end of each installment/quota (i.e., could be monthly, quarterly, biannual basis). In this situation, only the capital amount is subject to VAT.

Imported goods. The tax event for imported goods is when the goods clear all customs procedures.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services supplied to it for business purposes, provided that the taxable person has declared the invoices in the month in which they were issued. A taxable person generally recovers input tax by deducting it from output tax (also known as debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Bolivia and VAT paid on imports of goods.

A valid tax invoice or import statement must generally accompany a claim for input tax.

Recovery of VAT on purchases of special gasoline, premium gasoline or diesel from service stations is limited to the VAT paid on 70% of the purchase value.

There is no set time limit for a taxable person to reclaim input tax in Bolivia. This mean that effectively the input tax (credit VAT) may be carried forward indefinitely until its complete recovery.

Nondeductible input tax. Input tax cannot be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). For deducting VAT credit with respect to transactions in an amount of BOB50,000 (bolivianos) or more, payment supports (checks, vouchers or other documents) issued by a financial intermediation entity regulated by the ASFI are required. These documents must have the following information:
- Business name of the financial institution (issuer)
- Transaction or operation number
- Transaction date
- Transaction amount

Payment supports for transactions of BOB50,000 or more must be reported on an annual basis, consolidating information from January through December regardless of ending fiscal year. The report is due between 5 and 9 February of the following year, depending on the last digit of the taxable person's identification number (NIT).

If the report has errors or inconsistencies regarding the information submitted, a new report can be submitted without penalties until 30 days after the report's deadline.

Examples of items for which input tax is nondeductible
- Goods acquired that are not directly linked to obtaining taxable income, such as amusement activities for employees
- Goods or services that do not have original documents like invoices

Examples of items for which input tax is deductible (if related to a taxable business use)

- Acquisition cost of inventories
- Maintenance services of machinery

Partial exemption. Input tax can be offset against output tax due. However, the input tax can only be offset if it has been incurred in relation to the taxable activities of the business. Where input tax relates to both taxable and exempt activities, it cannot be offset in full. This situation is referred to as "partial exemption." In this sense, when the purchases of goods or services are in relation to taxable activities and nontaxable activities, the process is as follows:

- The tax credit will be appropriate directly to the operations taxed by VAT.
- When a direct appropriation is not possible, the tax credit shall be appropriated in the proportion of the income taxed with respect to the total income taxed by the VAT of the business (proportionality).

Approval from the tax authorities is not required to use the partial exemption standard method in Bolivia. Special methods are not allowed in Bolivia.

Capital goods. There are no special input tax recovery rules on capital goods. Therefore, input tax incurred on capital goods can be offset with the output tax as per the normal rules. Only export companies that cannot offset the output tax with local sales that generate input tax can request a reimbursement.

When purchases of goods and services are intended to obtain income taxable and not taxable activities, the proportionality criterion shall be applied.

Refunds. If the amount of input tax (credit VAT) recoverable in a month exceeds the amount of output tax (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period. The amount of input tax is adjusted based on the variation of *the Unidades de Fomento a la Vivienda* (UFV), an index published by the Bolivian Central Bank that takes into account inflation.

A taxable person that overpaid VAT for a tax period because of an error may request a refund of the overpaid amount.

Pre-registration costs. Input tax incurred on pre-registration costs in Bolivia is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Bolivia.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Bolivia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Bolivia is not recoverable. For the recovery of VAT, a taxable person must have a permanent establishment in Bolivia and register with the tax authority.

H. Invoicing

VAT invoices. A taxable person must provide a VAT sales invoice for all taxable supplies made, including exports (subject to VAT at the zero rate). According to the invoicing modality (due to be implemented as of 1 December 2021), in paper or electronic format, a VAT invoice is required to support a claim for input tax deduction.

Credit notes. A credit note can be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain the same information as a sales invoice, and it can only be used with respect to the return of goods (total or partial) and the cancellation of services.

Conciliation notes are used to adjust the VAT tax debit and credit in transactions for electric power, telecommunications, potable water and hydrocarbon services, as part of a reconciliation process of the parties involved.

Electronic invoicing. Electronic invoicing is mandatory in Bolivia for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Bolivia.

The tax authority issued the Regulatory Directory Resolution (RND) No. 102100000011 on 11 August 2021, which defined a new invoicing system and the implementation of certain modalities of online invoicing (electronic invoicing). This new invoicing system will be in force as from 1 December 2021 for certain taxable persons that the tax authority has defined. The tax authority, according to a timetable, will establish the invoicing modality that the rest of the taxable persons (individuals and legal entities registered in the tax registration) must apply. The tax authority maintains the allocation of seven taxpayer groups for the transition to electronic invoicing, and the implementation is expected for groups one to four.

Electronic invoicing includes taxpayers assigned by the tax authority for the change of activity. This invoicing must be issued by the taxpayer for any sale to their customers (B2G, B2B and B2C).

The types of invoices are:
- Manual invoice
- Pre-valued invoice
- Computerized invoice VIS (virtual invoicing system)
- Online electronic
- Online computerized
- Online web portal

The type of invoice that can be used will depend on the assignment by the tax authority to the taxable persons, which depends on the quantity of monthly invoices, the amounts, kind of company, etc.

The tax authority also defines the requirements for the invoice design.

Simplified VAT invoices. In cases of retail supplies sales for amounts less than BOB5, full VAT invoices are not mandatory to be issued for such transaction. In these cases, the seller could issue a summary invoice at the end of the day that includes all these sales.

Self-billing. Self-billing is not allowed in Bolivia.

Proof of exports. Bolivian VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that the goods have left Bolivia. The related input tax can be reimbursed through the issuance of tax devolution certificates (CEDEIMs) that can be negotiated as securities. Invoices for export transactions must be identified with the text "Commercial invoice for exports" (*Factura comercial de exportación*) and must be specifically authorized by the tax authorities.

Foreign currency invoices. The invoices should be issued in the domestic currency, which is the Bolivian boliviano (BOB). In case the vendor needs to include another currency, the value should be converted using the official exchange rate on the tax event date published by the Bolivian Central Bank.

Supplies to nontaxable persons. Issuing a VAT invoice is mandatory in any case, even if the purchaser (non-registrant) does not require the invoice.

For purchases for amounts less than or equal to BOB1,000 when the buyer does not provide its data, the following must be entered: In the name or company name field the words "no name" or "N/N" and in the NIT/CI field the value zero.

There are some specific sectors in Bolivia that are allowed to not issue VAT invoices. These are the "Simplify Regime" (retail merchants, craftsmen with incomes less than USD26,500, approximately) and the "Integrated Regime" (transport services with people owner of no more than two vehicles).

Records. In Bolivia, examples of what records must be held for VAT purposes include purchase and sales VAT books (these are required to be reported monthly to the tax authority). Also, the following must also be held:
- Counterfoil of the invoices that are being used (manual and prevailed billing)
- Book of minor sales of the day, if applicable

Also, the company must maintain in digital or physical formats, according to current provisions, all the documentation that supports the transactions, for the term of the statute of limitations. In Bolivia, VAT books and records can be kept outside of the country. However, such records must be available to provide to the tax administration in a timely manner for a tax audit (i.e., commonly the tax auditor requires the information within five working days from the inspection's start day).

Record retention period. The record retention period in Bolivia is eight years. This is to enable the tax administration to control, verify, supervise, investigate, determine the taxes and collection within this period.

Electronic archiving. Electronic archiving is allowed in Bolivia. The tax administration allows the sending of digital information (books of purchases and sales, tax forms). However, there are no specific rules for electronic archiving, but in practice, businesses keep records in physical (paper) format.

I. Returns and payment

Periodic returns. VAT returns are submitted for monthly periods. Returns are due between the 13th and the 22nd day of the month following the end of the return period. The due date depends on the last digit of the taxable person's identification number (NIT).

Periodic payments. Payment is due in full between the 13th and the 22nd day of the month following the end of the return period. The due date depends on the last digit of the taxable person's identification number (NIT).

VAT liabilities must be paid in local currency (BOB) or in "Tax Refund Certificates."

For the payment, the taxable person must be registered in a document called "affidavit," which can be done through the virtual platform that only the taxable person has access to, by entering its data in the official website of tax administration. Alternatively, the taxable person can go in person to the tax administration and get help with the filing of the affidavit. Once the affidavit is completed, it generates an order number, which is used for the payment for the tax declared for a bank institution or bank transfer.

Electronic filing. Electronic filing is mandatory in Bolivia for all taxable persons. VAT returns must be submitted through the tax authority's virtual platform. The virtual platform is a web

digital platform where only the taxable persons have access through the tax administration official website and can flag the tax status of the company.

Payments on account. Payments on account are not required in Bolivia.

Special schemes. The below special regimes have the characteristic of being small businesses, therefore, invoicing is not mandatory, as well as these regimes pay a consolidated tax that includes VAT, CIT and transaction tax.

Simplified Regime. This regime includes artisans, retail traders and vendors (persons who sell beverages and food in kiosks and small premises). Persons under this regime are not required to issue VAT invoices.

Unified Agricultural Regime. This regime includes individuals who carry out agricultural or livestock activities, producers grouped in Small Producers Organizations and all those individuals who are engaged in poultry farming, beekeeping, floriculture, rabbit farming, fish farming and viticulture. Persons under this regime are not required to issue VAT invoices.

Integrated Tax System. In this regime are all those individuals who provide interprovincial public transportation services of passengers or cargo and urban public transportation of passengers or cargo, who have up to two vehicles registered in their name. Persons under this regime are not required to issue VAT invoices.

Annual returns. Annual returns are not required in Bolivia.

Supplementary filings. *VAT purchases and sales book.* VAT purchases and sales book must be submitted monthly through the tax authority virtual platform.

Correcting errors in previous returns. It is possible to correct errors in tax returns in Bolivia using one of two options:

- When the corrections are in favor of the tax administration, the taxable person should amend the tax return through the virtual office and pay the omitted tax.
- When the corrections are in favor of the taxable person, it is necessary to request to the tax administration the respective approval, which commonly is completed after a tax review.

Digital tax administration. The tax returns and the additional obligations (such as the auxiliary books of purchases and sales) should be reported digitally through the virtual office. This is a real-time reporting obligation in Bolivia.

J. Penalties

The penalty amounts charged in Bolivia are based on how much the input tax credit is adjusted. This is based on the variation of the *Unidades de Fomento a la Vivienda* (UFV), an index published by the Bolivian Central Bank that accounts for inflation.

Penalties for late registration. The penalty for late VAT registration is UFV2,500. Subsequently the company is requested to register and obtain a tax identification number (NIT). The penalties do not prevent the revenue authority to start a tax audit on the company and determinate a tax debt, for the periods where the company was performing business activity without being registered for VAT. Where the company refuses to pay the penalties and proceeds with the VAT registration and continues performing business activity, the revenue authority's last action is to close the business until the situation is rectified.

Penalties for late payment and filings. The amount of "penalty" charged in Bolivia is how much the input tax credit is adjusted based on the variation of the *Unidades de Fomento a la Vivienda* (UFV), an index published by the Bolivian Central Bank that takes into account inflation.

The following penalties apply for late payment and filings in Bolivia:
- UFV50 for individuals and UFV100 for business entities for not filing a tax return
- UFV500 for individuals and UFV1,000 for business entities for not submitting the VAT purchases and sales book.
- UFV100 for individuals and UFV200 for sending VAT purchases and sales books out of time
- UFV500 for individuals and UFV1,000 for business entities for not submitting a report regarding proof of banking payments for transactions higher than BOB50,000

In addition, interest and inflation adjustments based on changes to the UFV are assessed on unpaid VAT.

Penalties for errors. Penalties are assessed for errors and omissions with respect to VAT reporting. The penalties include the following:
- UFV50 for individuals and UFV100 for business entities, for sending amendments of VAT purchases and sales books out of time
- UFV100 for individuals and UFV200 for business entities, for submitting the report regarding the proof of payments for transactions higher than BOB50,000, with errors
- A penalty of UFV50 to UFV500 for individuals and business entities, for issuance of invoices with one or more errors per invoice or noncompliance of technical aspects established in specific regulations

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details can result in a penalty of UFV300. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax fraud applies when anybody (individual or a company) acts in any way (by action or omission) to reduce or avoid the tax payments. These cases are considered tax fraud only when the amount of the tax is equal or higher than UFV10.000. In these cases, the sanction will the imprisonment between three to six years and a penalty of 100% of the tax debt.

Personal liability for company officers. Directors and legal representative can be personally liable for errors and omissions in VAT declarations, as long as the judge defines their responsibility.

Statute of limitations. The statute of limitations in Bolivia is eight years. The tax authority can review the tax returns and payment of taxes of taxable persons to determine tax debts or penalties up to eight years. The statute of limitations is extended by two additional years when the taxable person or responsible third party does not comply with the obligation to register in the relevant registration, registers in a different tax regime, incurs in tax crimes or carries out commercial and/or financial operations with companies located in countries with low or null taxation (there is a list of countries and regions that is periodically updated).

Bonaire, Sint Eustatius and Saba (BES Islands)

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Bonaire, Sint Eustatius and Saba **GMT -4**

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A. At a glance

Name of the tax	General expenditure tax (GET)
Local name	Algemene bestedingsbelasting (ABB)
Date introduced	1 January 2011
Trading bloc membership	None
Administered by	Belastingdienst Caribisch Nederland
GET rates	
Bonaire	
Standard rate for services provided	6%
Standard rate for delivery of goods	8%
Standard rate for import of goods	8%
Other	0%, 7%, 25%
Sint Eustatius and Saba	
Standard rate of services provided	4%
Standard rate for delivery of goods	6%
Standard rate for import of goods	6%
Other	5%, 10%, 18%, 22%, 30%
GET number format	3XX.XXX.XXX (9 digits)
GET return periods	Quarterly
Thresholds	None
Recovery of GET by non-established businesses	No

B. Scope of the tax

GET applies to the following transactions:
- The delivery in the BES Islands of manufactured goods by a manufacturer in the course of its business
- Services provided in the BES Islands by an entrepreneur in the course of its business
- Importation of goods

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GET in every jurisdiction where it has customers that are not taxable persons. In the BES Islands, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a GET-registered or GET-registrable business will be subject to GET at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of GET. In the BES Islands, a TOGC is treated as outside the scope of GET where the following conditions are met:
- The transfer must include elements that encompass whole or part of a taxable business
- The buyer or recipient is required to continue taxable activities, or at least intend to do so, although it does not have to perform the same activities with these assets as the transferor

Transactions between related parties. In the BES Islands, there are no specific rules that indicate the value for GET purposes for transactions between related parties. However, in general an arm's-length compensation should be considered.

C. Who is liable

A BES entrepreneur (which is a business entity or individual), including a manufacturer, that delivers goods, provides services or manages assets to obtain revenue from the assets on a permanent basis is liable for GET, unless an exemption or a reverse-charge mechanism (that is, the customer receiving the services is liable for GET) applies. A BES entrepreneur is an entrepreneur that resides in or is established in the BES Islands or that has a permanent establishment in the BES Islands from which it provides services.

A manufacturer is considered to be an entrepreneur in the BES Islands if it provides goods by using raw materials or intermediate goods.

Exemption from registration. The BES GET legislation does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The BES GET legislation does not contain any provision for voluntary GET registration.

A small enterprise is a resident individual entrepreneur who has a business or permanent establishment in the BES Islands and who realized revenue (excluding GET) in the preceding calendar year of USD30,000 or less. If a request filed with the Inspectorate of Taxes is granted, a small enterprise is not liable to GET. However, small enterprises must still declare the revenue for monthly periods. Social or cultural organizations may also be exempted from GET.

Group registration. Group GET registration is not allowed in the BES Islands.

Fixed establishment. In the BES Islands, there is no legal definition of a fixed establishment for GET purposes. However, generally a fixed establishment is understood to be a business establishment on the BES Islands of an entity established outside the BES Islands, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies and/or to receive and use the services supplied to it for its own needs. A fixed establishment should be capable of acting as a taxable person independently of the head office.

Non-established business. A "non-established business" is a business that does not have a fixed establishment in the BES Islands. A non-established business may become liable for GET and accordingly become subject to registration if it is deemed to have a permanent establishment in the BES Islands. The GET law does not provide a definition of a permanent establishment.

Special rules apply to the lease of real estate to individuals (residents of the BES Islands) and provision of trading and services depots.

Tax representatives. A taxable person may be represented by a third party based on a power of attorney.

Reverse charge. For certain goods delivered and services provided by non-established businesses to a resident entrepreneur on the BES Islands, the GET should be accounted for and paid by the BES Islands resident entrepreneur.

Domestic reverse charge. There are no domestic reverse charges in the BES Islands.

Digital economy. Telecommunication services, radio and television services, and electronic services provided by a non-established entrepreneur to a nonbusiness customer that is established in, or resident of, the BES Islands are subject to GET. Nonresident suppliers that provide qualifying digital/telecommunication services to private individuals (i.e., business-to-consumer (B2C) supplies) must register and account for GET in the BES Islands. For business-to-business (B2B) supplies, the GET is accounted for by the customer via the reverse-charge mechanism and the nonresident supplier is not required to register and account for GET in the BES Islands.

There are no other specific e-commerce rules for imported goods in the BES Islands.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in the BES Islands.

Registration procedures. In general, a taxable person that begins taxable activities must register with the Inspectorate of Taxes by filing a hard copy form (online application not allowed) and providing some additional required documentation. In principle, completion of the registration process may take from one week up to a few weeks. When registering a business for GET, the registration form and copies of the following documents must be submitted.

In case of a sole proprietorship/contractor:
- ID card/passport
- Chamber of commerce registration
- Business license

In case of a NV/BV/other legal entities, the following documents should be submitted additionally:
- Deed of incorporation
- Director license

Deregistration. Deregistration with the Inspectorate of Taxes should be completed once all tax filing and payment obligations have been met by the taxable person. To deregister, a taxable

person should provide proof of deregistration as issued by the Chamber of Commerce to the Inspectorate of Taxes along with some additional documentation.

Changes to GET registration details. There are no specific requirements in the BES Islands to notify the tax authorities of changes to GET registration details. It is recommended to notify the tax authorities of any change, but there is no law prescribing this.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GET, including the zero rate.

In Bonaire, the following rates of GET apply:
- Standard GET rate for services provided: 6%
- Standard GET rate for delivery of goods: 8%
- Standard GET rate for import of goods: 8%
- Other: 0%, 7%, 25%

In Sint Eustatius and Saba, the following rates of GET apply:
- Standard GET rate for services provided: 4%
- Standard GET rate for delivery of goods: 6%
- Standard GET rate for import of goods: 6%
- Other: 5%, 10%, 18%, 22%, 30%

The abovementioned standard rates of GET are applied to the payment for the delivery of goods or services provided or to the customs value of the goods imported, unless a specific measure provides for an exemption.

In Bonaire, the other GET rates of 7% and 5% apply to the supply of insurance through a broker. In Sint Eustatius and Saba, the other GET rates of 5%, 10%, 18%, 22% and 30% apply to cars and depend on the value of the car and the CO2 exhaust.

The term "exempt supplies" refers to supplies of goods and services that are not liable to GET and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Medical services
- Basic necessities such as bread, cereal, potato, rice, vegetables, dairy products
- Water and electricity services
- Public transportation services
- Betting and gaming (casino)
- Services to a trading and services depot
- Postal services
- Lease of real estate that is designed to be used as a permanent residence and is permanently used by individual residents of the BES Islands
- Specific services provided by entrepreneurs established in trading and service depots in the BES Islands
- Exported goods

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the BES Islands.

E. Time of supply

The time when GET becomes due is called the "time of supply." The basic time of supply for taxable supplies is in principle the date on which the invoice is issued or when an invoice should have been issued.

Deposits and prepayments. There are no special time of supply rules in the BES Islands for deposits and prepayments. As such, the general time of supply rules apply (as outlined above). The tax point is the earlier of either the payment or issued invoice.

Continuous supplies of services. The tax point arises at the time the invoice is issued or should have been issued for each installment. In the case of prepayment for an installment, the tax point arises at the time of receipt of payment.

Goods sent on approval for sale or return. There are no special time of supply rules in the BES Islands for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outline above). In the case of importation this would be the tax point. In the case of local supplies, the tax point is the earlier of either the payment or issued invoice for the goods or services.

Reverse-charge services. There are no special time of supply rules in the BES Islands for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in the BES Islands for supplies of leased assets. As such, the general time of supply rules apply (as outlined above). The tax point arises at the time the invoice is issued or should have been issued for each installment. In the case of prepayment for an installment, the tax point arises at the moment of payment.

Imported goods. For imported goods the time of supply is considered to be the moment of importation.

F. Recovery of GET by taxable persons

GET is nondeductible in all cases apart from the purchase of raw and auxiliary materials and semifinished products for manufacture, provided the manufactured products are supplied with GET. As such, manufacturers in the BES Islands are the only types of taxable person that may recover GET.

The time limit for a taxable person to reclaim input tax in the BES Islands is five years.

Nondeductible input tax. GET is nondeductible in all cases apart from the purchase of raw materials for manufacture.

Examples of items for which input is nondeductible

- No specific examples (all GET is nondeductible apart from raw and auxiliary materials and semi-finished products for manufacture)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Raw and auxiliary materials and semi-finished products for manufacture

GET on purchases is only recoverable on raw materials and nothing else.

Partial exemption. In general, GET is nondeductible in the BES Islands. As such, there is no distinction between input tax incurred in relation to exempt and taxable supplies. Consequently, the GET legislation does not specifically mention any regulations in connection with partial exemption.

Capital goods. In general, GET is nondeductible in the BES Islands. As such, there are no special rules regarding input tax incurred in relation to capital goods. Consequently, the GET legislation does not specifically mention any regulations in connection with capital goods.

Refunds. GET is nonrecoverable in all cases apart from the purchase of raw materials for manufacture. A refund of the recoverable GET can be requested via the local GET return. If a manufacturer did incorrectly not recover the GET, a refund request can be submitted to the tax authorities via a written letter.

Pre-registration costs. Input tax incurred on pre-registration costs in the BES Islands is not recoverable.

Bad debts. If payment for the supplied goods or services will eventually not be received by the business, a refund request can be submitted to the tax authorities.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the BES Islands.

G. Recovery of GET by non-established businesses

Input tax incurred by non-established businesses that are not registered for GET in the BES Islands is not recoverable.

H. Invoicing

GET invoices. In the BES Islands, an invoice must be issued by an entrepreneur within 15 days following the end of the month in which the supply or service takes place.

Credit notes. A GET credit note could be issued, upon request, if the BES entrepreneur can prove that one of the following circumstances has occurred:
- A part or the entire amount of the compensation has not been received.
- The fee has been refunded as a result of a price deduction or if the goods have been returned in their original state.

Electronic invoicing. Electronic invoicing is allowed in the BES Islands, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the BES Islands.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the BES Islands.

The requirements related to electronic invoicing are the same as those for paper invoicing.

Simplified GET invoices. Simplified GET invoicing is not allowed in the BES Islands. As such, full GET invoices are required.

Self-billing. Self-billing is not allowed in the BES Islands.

Proof of exports. When trade goods are exported, an electronic customs declaration or, on request, a written declaration should be submitted.

Foreign currency invoices. An invoice can also be issued in a foreign currency. However, the invoice should also state the domestic currency, which is the United States dollar (USD).

Supplies to nontaxable persons. There are no specific rules, and as such, a GET invoice should always be issued for all supplies.

Records. Taxable persons are required to keep records in such a manner that at any time their rights, obligations and all other information relevant for tax purposes is clear and readily available upon request from the tax authorities.

In the BES Islands, examples of what records must be held for GET purposes include copies of all AR invoices and foreign AP invoices for services.

In the BES Islands, GET books and records can be kept outside the country. This is provided these can be presented upon request of the tax authorities and the integrity and authenticity of the documents is safeguarded.

Record retention period. The retention period is seven years.

Electronic archiving. Electronic archiving is allowed in the BES Islands.

I. Returns and payment

Periodic returns. GET returns are generally submitted for quarterly periods. However, on request of an entrepreneur, the Inspectorate of Taxes allow that GET due is remitted for monthly or annual periods (instead of quarterly periods). Returns must be filed by the 15th day of the month following the end of the reporting period.

Period payments. GET due must be paid by the 15th day of the month following the end of the reporting period. The GET due for the period must be remitted together with the return.

Electronic filing. Electronic filing is allowed in the BES Islands, but not mandatory. Tax returns can be filed electronically with the Inspectorate of Taxes. In this regard, online credentials can be requested from the tax authorities.

Payments on account. Payments on account are not required in the BES Islands.

Special schemes. *Trading and service depots.* Specific services provided by entrepreneurs established in trading and service depots in the BES Islands are not subject to GET.

Services provided to entrepreneurs established in the trading and service depots in the BES Islands are not subject to GET, solely to the extent that the services are provided for activities that are legally permitted in a depot. Moreover, services performed, or goods delivered to entrepreneurs in the trading and service depots in the BES Islands are not subject to GET, solely to the extent that the services are performed, or goods are delivered in connection with goods or capital assets situated in such depot.

Small businesses. Small businesses are exempt from GET if it concerns an individual who:
- Is a resident of the BES Islands or has a permanent establishment in the BES Islands
- Can demonstrate they will have an annual turnover of USD30,000 or less

Cultural activities. Such supplies can be exempt from GET upon written request to the tax authorities. This is only allowed if it concerns an entrepreneur (not an individual) who exclusively or almost exclusively performs social and/or cultural activities.

Annual returns. Annual returns are not required in the BES Islands.

Supplementary filings. No supplementary filings are required in the BES Islands.

Correcting errors in previous returns. In case a taxable person needs to correct any errors, formally they will need to file a new return over the respective period, or a reconciliation return. One can also file an objection against an incorrectly filed return and thus reclaim an overpayment.

Digital tax administration. There are no transactional reporting requirements in the BES Islands.

J. Penalties

Penalties for late registration. In general, a BES entrepreneur, including a manufacturer that begins taxable activities must register with the tax authorities. Since there is no specific deadline for registration, a penalty is not imposed for late registration. However, if the late registration results in the late payment of GET or the late submission of GET returns, penalties may be imposed.

Penalties for late payment and filings. GET penalties are assessed for the late submission of a GET return or for the late payment of GET, in the following amounts:
- Late submission of a GET return: fine of up to USD1,400
- Late payment of GET: fine of up to USD5,600

If the late payment is caused by negligence or dishonest conduct, a fine equal to 100% of the GET payable may be imposed.

Penalties for errors. A negligence tax penalty of up to 100% of the additional tax due can be imposed if the deficit is attributable to the intent or gross negligence of the taxable person.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's GET registration details. For further details, see the subsection *Changes to GET registration details* above.

Penalties for fraud. Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct. In case of serious fraud, the tax authorities may submit the case with the district attorney's office for criminal prosecution. Depending on the circumstances, the district attorney may decide to prosecute for either forgery (*valsheid in geschrif*te) with a penalty of up to USD56,000 or up to six years imprisonment, or money laundering (*witwassen*) with a penalty of up to USD56,000 or up to 12 years imprisonment.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in GET declarations and reporting in the BES Islands.

Statute of limitations. The statute of limitations in the BES Islands is five years.

Bosnia and Herzegovina

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Porez na dodatu vrijednost (PDV)
Date introduced	24 February 2005
Trading bloc membership	Central European Free Trade Agreement (CEFTA)
Administered by	Indirect Taxation Authority (ITA) / Uprava za indirektno oporezivanje (UINO) (http://www.uino.gov.ba/)
VAT rates	
Standard	17%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXXXXX (12 digits)
VAT return periods	Monthly
Thresholds	
Registration	BAM100,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services deemed to take place in Bosnia and Herzegovina performed by a taxable person in Bosnia and Herzegovina against consideration while performing their regular business activity
- Importation of goods into Bosnia and Herzegovina, regardless of the status of the importer
- Services purchased by a taxable person in Bosnia and Herzegovina from service providers whose place of business is outside Bosnia and Herzegovina, with Bosnia and Herzegovina regarded as the place of supply (subject to the reverse-charge mechanism)

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Bosnia and Herzegovina, the following services are subject to the "use and enjoyment" provisions (B2B/B2C):

- Transferring, assigning, releasing and placing property rights at the disposal of someone, copyright, patent rights, licenses, trademarks and other intellectual property rights
- Advertising
- Consultants, engineers, lawyers, auditors, accountants, interpreters, data processors and providers data
- Assuming the obligation to completely or partially abandon the performance of some activity or exercising a right
- Banking, financial services and services in the field of insurance and reinsurance, except rental of safes
- Staff rental
- Providing of telecommunication services, which includes transmission, broadcasting or reception of signs, signals, text, images, sounds or information via cable, optical or other electromagnetic systems, including the right to use such transmission, broadcast or reception
- Rental of movable property including vehicle rental services
- Mediation during the provision of services listed above

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Bosnia and Herzegovina, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The acquired assets are used for business purposes in the form acquired
- The transferee is a taxable person or becomes a taxable person through the acquisition
- The transferee continues performing the same business/taxable activity
- The transferee has, or will receive, the same input tax deduction rate that the transferor had
- The transferor is obliged to inform the Indirect Taxation Authority (ITA) of the transaction (about the identity of the transferee and the amount paid for it) within eight days from the day of the sale

Transactions between related parties. In Bosnia and Herzegovina, for a transaction between related parties, the value for VAT purposes is calculated at the open market value. If the sale of goods or services involves the existence of family or other close personal ties, as well as relations of management, ownership, membership, financial or legal relations (the relationship between the employer and the employee or the employee's family or other closely related persons) between the supplier and the customer, i.e., when that connection or relationship (and not some comparable commercial reasons) lead to a value lower than the market price, the VAT base is the market value of the goods or services at the moment of their turnover without VAT.

C. Who is liable

Taxable persons are all individuals and legal entities registered, or required to be registered, for VAT. In addition, a taxable person is defined as per the VAT law as any person who independently performs an economic activity, which refers to the activity of a producer, trader or service provider that is carried out with the aim of generating income, including the activities of natural resource exploitation, agriculture, forestry and professional activities, as well as the use of property or property rights for the purpose of generating income. Also, a taxable person is the person in whose name and on whose account the transfer of goods, i.e., services or import of goods is

carried out, as well as a person who trades goods, i.e., services or imports goods in its own name, and for the account of another person.

Any taxable person making taxable supplies of goods and services that exceeds or is likely to exceed a threshold of BAM100,000 in calendar year is required to register for VAT. A taxable person who became or may become liable for VAT for the first time is obliged to submit a registration form for VAT to the ITA no later than the 20th of the calendar month following the end of the month in which the taxable person realized or is likely to realize the turnover of goods or services in the amount that is higher than the amount of the prescribed threshold.

Exemption from registration. The VAT law in Bosnia and Herzegovina does not contain any provision for exemption from registration. This means that anyone who performs taxable turnover in the amount that exceeds the prescribed threshold is obliged to register for VAT. Note that the state, government departments and similar bodies established for the purpose of performing activities within the scope of administrative bodies, as well as entities operating in the public sector, are not obliged to register for VAT in the case that they perform only trade in goods and services within the activities in which they enter as administrative bodies or as entities in the public sector.

Voluntary registration and small businesses. Upon its incorporation, a legal entity has the option to seek voluntary registration in the VAT system – immediately upon incorporation or later once the entity estimates that it will exceed taxable turnover (BAM100,000) by performing taxable activities within the calendar year whereby exact time deadline for voluntary registration is not prescribed. All rights (i.e., deduction of input tax) and obligations (i.e., calculation of output tax) from the VAT law would be applicable as of the day when VAT number is acquired (practically once appeared in tax authority's data base).

An option is available for small businesses (annual turnover below BAM100,000) to register for VAT by submitting a registration VAT form to the ITA, thereby acquiring the rights and obligations to compute and deduct VAT. The minimum obligation to be VAT registered from voluntarily registering of a small business, to account and pay VAT is for five years.

Group registration. When several taxable persons jointly perform activities that are taxable under VAT law, the ITA may, at the request of those taxable persons, grant group VAT registration. The condition for joint registration is that one taxable person, legal entity or parent company, directly or indirectly, through the possession of all shares, fully owns a subsidiary company or companies of another taxable person that are included in the group VAT registration.

After the registration procedure has been completed, the ITA assigns an identification number (VAT number) and issues a decision on VAT registration to the "parent" company.

All members of a VAT group in Bosnia and Herzegovina are jointly and severally liable for VAT debts and penalties. Note that the VAT legislation does not prescribe any further detail other than the above, and in practice the ITA considers all participants involved in a group registration to be jointly and severally liable.

There is no minimum time period required for the duration of a VAT group. However, note that group VAT registration is not common in practice.

Fixed establishment. In Bosnia and Herzegovina there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. Note that the VAT law does not define a non-established business (i.e., a business that does not have a registered establishment in Bosnia and Herzegovina) as a taxable person. Therefore, a non-established business cannot be registered for VAT in Bosnia and Herzegovina. However, in case taxable supplies goods or services are performed locally by the non-established business and as such subject to Bosnian VAT, a foreign entity/head office would

be obliged to register for VAT in Bosnia and Herzegovina by way of appointing a VAT representative.

A non-established business that does not make any supplies of goods or services in Bosnia and Herzegovina may claim a VAT refund, under prescribed conditions (see *Section G. Recovery of VAT by non-established businesses* below).

Tax representatives. Note that Bosnian VAT legislation stipulates the possibility for a non-established business to register for Bosnian VAT purposes through appointment of a VAT representative (who must have a registered seat in Bosnia and Herzegovina). In this case, a non-established business and its VAT representative are jointly liable for the VAT compliance of the non-established business. The VAT representative should comply with all the non-established business's VAT obligations, including calculation for VAT liabilities of the foreign entity.

Reverse charge. According to Bosnian tax legislation, the reverse-charge mechanism is applied for prescribed services supplied by a non-established business to an entity that is established and registered for VAT in Bosnia and Herzegovina (i.e., business-to-business (B2B) supplies). The reverse charge only applies to services if the non-established business has not appointed a tax representative in Bosnia and Herzegovina.

Under the reverse charge, the Bosnian taxable person would be required to self-assess and account for the VAT due.

Domestic reverse charge. There are no domestic reverse charges in Bosnia and Herzegovina.

Digital economy. There are no special rules for the provision of electronically supplied services.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies would be required to register and account for VAT in Bosnia and Herzegovina. This would have to be done via a tax representative (see the subsections *Non-established businesses* and *Tax representatives* above).

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Bosnia and Herzegovina. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the subsection *Reverse charge* above).

There are no other specific e-commerce rules for imported goods in Bosnia and Herzegovina.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Bosnia and Herzegovina.

Vouchers. The issuance of a voucher (only containing available amount of money to be utilized) does not represent a taxable turnover, unless the voucher is issued for a specific product/service with an exact price, in which case it is treated as an advance payment.

Registration procedures. The procedure of VAT registration is defined by the law on VAT and rulebook on the application of the law on VAT in Bosnia and Herzegovina. The following documents (which must be submitted in paper form) are required for VAT registration in Bosnia and Herzegovina:

- Prescribed form for registration (form ZR1, in Bosnian language)
- Decision on company registration in the court register (for legal entities) or decision on performing activities (for individuals)
- Certificate of registration from the competent tax administration of the entity
- ID card of the owner and other responsible persons of the company
- A work permit and registration of residence for a foreign responsible person, issued by the entity's competent authorities

- Power of attorney authorizing B&H citizen to represent taxable person in proceedings with ITA, in case of absence of foreign responsible person
- Owner's passport and/or foreign responsible person's passport
- Carton of deposited signatures signed by the commercial banks where the company has opened accounts
- Certificate on main bank account
- Deposit slip on paid administrative fees

Notwithstanding the above general documents, in registration process, the ITA has the discretion to request additional documents depending on the circumstances of the case.

Note that in practice, the ITA takes about two months to handle the application and issue the certificate on VAT registration. However, prior to receiving the final certificate of VAT registration, the taxable person can get information if registered in the VAT system earlier through the ITA's online database (it varies from case to case but usually it is visible for less than a month); practically once appeared in the ITA's database, the taxable person is considered as VAT registered.

Deregistration. The taxable person may submit a request for VAT deregistration if it meets the following conditions:
- In the previous calendar year, the taxable person's realized taxable turnover was below BAM100,000
- The taxable person has sold, ceded or transferred a registered business entity, or after the completion of bankruptcy or liquidation proceedings
- The taxable person has changed the area of business, switched from a taxable to a nontaxable business activity, or an activity that is exempt from VAT

The request for deregistration is a free form act (i.e., there is no prescribed form) with which the applicant enters and encloses its original certificate of VAT registration/entry in the Register; full name of the obligor; the address of the obligor; a detailed explanation of the reasons for termination of registration with the necessary attachments.

Changes to VAT registration details. The taxable person is obliged to report to the ITA any change in the data from the Register (address, name of company, activity type, data on responsible persons, etc.,) within eight days after the change occurs. There is no prescribed way in which changes must be submitted but having in mind that the application for registration is submitted in paper form, it is recommended the changes are submitted in the same way.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 17%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- Supply/use of goods in the free zones and warehouses
- Imported goods to the free zones and warehouses (except customs warehouses)
- Transport and other services to users of free zones that are directly related to the delivery of goods into the free zone and the construction of facilities intended for the performance of activities in the free zone

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Leasing and subletting of residential houses, apartments and residential premises for a period of longer than 60 days
- Supply of immovable property, except for the first transfer of the ownership rights or the rights to dispose of a newly built construction object or an economically divisible unit within the object
- Financial services
- Insurance and reinsurance services
- Educational services provided by private or public educational institutions
- Delivery of gold to the Central Bank of Bosnia and Herzegovina
- Postal services
- Lottery games

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Bosnia and Herzegovina.

E. Time of supply

The time of supply for a supply of goods takes place on the earlier of the following:

- When the supply of goods is performed
- When the invoice is issued
- When the payment or partial payment is made before the invoice is issued
- When the invoice is issued, and VAT amount corrected due to subsequent change of tax base
- In the case of use of goods for nonbusiness purposes, the tax liability arises at the end of the tax period in which the use was made.

A supply of goods is also considered to be "performed" on the date when the dispatch or transport of the goods starts, or on the date when ownership of the goods is transferred to the purchaser (if transport is not included). The time of supply of imported goods is considered to be the date on which the goods arrive in the Bosnian customs territory.

The time of supply for a supply of services takes place on the earlier of the following:

- When the supply of services is performed
- When the invoice is issued
- When the payment or partial payment is made before the invoice is issued
- When the invoice is issued, and VAT amount corrected due to subsequent change of tax base
- In the case of use of services for nonbusiness purposes, the tax liability arises at the end of the tax period in which the service was made

Services are considered to be "performed" on the date when the provision of the individual service is finished. Apart from this, if periodical invoices are issued for the service, the supply of that service is considered finished on the last day of the tax period for which that invoice relates. A partial service is considered to be "performed" at the moment when the provision of that part of the service is finished.

Deposits and prepayments. In case a prepayment is made before the invoice is issued, or before the supply of goods and services are performed, the time of supply is considered on the date when the prepayment is made (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Bosnia and Herzegovina for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Bosnia and Herzegovina for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The time of supply of reverse-charge services is the date when the invoice is received. As such, after receiving the invoice, the taxable person is obliged to calculate VAT, and based on such invoice to record in the book of output invoices only the amount of calculated VAT, with reference to the invoice number in the tax period when it was received. If the taxable person meets the conditions prescribed by VAT law, the taxable person has the right to deduct input tax in the tax period when the invoice was received.

Leased assets. There are separate guidelines that set out the conditions that must be fulfilled for a lease to be regarded as a sale of goods or sale of services. If a lease is regarded as a supply of goods, the time of supply is when the goods are handed over. If a lease is regarded as a supply of a service, the time of supply is when the leasing provider issues an invoice for each individual lease installment (as outlined above).

Imported goods. The time of supply of imported goods is considered to be the date on which the goods arrive in the Bosnian customs territory.

F. Recovery of VAT by taxable persons

Input tax includes VAT charged on goods and services supplied in Bosnia and Herzegovina, VAT paid on imports of goods and VAT accounted for to reverse-charge services.

The main condition that needs to be fulfilled for the deduction of input tax to be allowed is that the acquisition of goods or services that are used or should be used for the purpose of performing a taxable activity, for business purposes. Additional conditions are as follows:
- The invoices for the goods received or services performed indicate the VAT amount and are in line with the form prescribed by the VAT law
- The supply of goods or services was received from another taxable person (B2B)
- The VAT law does not exclude the right to deduct input tax for received goods or services.

The time limit for a taxable person to reclaim input tax in Bosnia and Herzegovina is five years.

Nondeductible input tax. Effectively, any expenditure that is not business related is nondeductible from an input tax perspective. Such VAT will be treated as an expense or capitalized.

Examples of items for which input tax is nondeductible

- Expenditures related to acquisition and import of cars, boats, yachts, motorcycles, aircraft, fuel and spare parts, as well as goods and services related to their maintenance and storage
- Expenditure related to business entertainment and accommodation
- Expenditures related to the acquisition of immovable property used by the taxable person or its staff as a facility for housing, children's stay or as a facility for recreation and leisure activities
- Expenditures of taxable persons and employees for "representation," e.g., entertainment expenses
- Expenditures to employees in goods

Examples of items for which input tax is deductible (if related to taxable business use)

- Employee expenses for business purposes
- Cargo vehicles for business use (the deduction of VAT on passenger vehicles is usually not allowed, except in the case when it is necessary for business, i.e., specialized transport of goods)
- Business maintenance costs

Partial exemption. If acquired goods or services are used partly for purposes of taxable supplies and partly for exempt supplies, the taxable person may not deduct input tax totally. The taxable person should divide the part of the input tax relating to taxable supplies and that which does not relate to taxable supplies.

The proportional input tax deduction calculation is determined by applying the calculated percentage to the amount of input tax reduced by the amount that the taxable person is not entitled to deduct.

If acquired goods or services will be used in an insignificant part (up to 5%) for taxable purposes, such delivery is considered to have been made entirely for nontaxable purposes. From the other side, a taxable person is not obliged to perform division of the input tax, if the established percentage of proportional input tax deduction is at least 95%, i.e., such delivery is considered to have been made entirely for taxable purposes.

Approval from the tax authorities is not required to use the partial exemption standard method in Bosnia and Herzegovina. Special methods are not allowed in Bosnia and Herzegovina.

Capital goods. Capital goods are defined as facilities and equipment that are used in a business. Input tax is generally deducted in the year in which the capital goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition.

However, the amount of input tax recovered for capital goods must be adjusted if the taxable person ceases to meet the conditions for deduction of input tax in the period of 5 years from the first usage of the equipment, 10 years from the first usage of the facilities and the investment in the facilities. A capital goods adjustment applies for a period represented in the difference between the aforementioned periods (5 or 10 years) and the period in which the taxable person had the right to deduct input tax.

Exceptionally, the taxable person does not have an obligation to adjust input tax on the capital goods in the case that equipment or facilities become unusable before the expiry of the input tax adjustment period.

Refunds. If the input tax incurred is higher than the output tax paid, the taxable person has a right to obtain a refund or to use this amount as a tax credit. To claim the input tax refund, the taxable person must tick the box in its VAT return for the input tax refund.

However, if credit is not used within six months it will be automatically refunded. The standard refund period is 60 days, whereby for taxable persons predominantly engaged in export related activities, the refund period is reduced to 30 days. If the ITA does not refund the input tax difference within the prescribed deadlines, the taxable person is entitled to the prescribed interest that begins on the first day after the deadline for refund until the day of transfer of funds to the taxable person's account.

Pre-registration costs. In Bosnian legislation it is prescribed that input tax can also be deducted from the beginning of the commencement of taxable activity, i.e., during the preparations for the beginning of the activity.

Note that this right cannot be used on received deliveries such as privately motivated investments, preparatory investments, etc., that do not lead to entrepreneurial status and entrepreneurial business. By way of further information, note that this is not commonly used or approved by ITA in practice.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Bosnia and Herzegovina. This is only allowed if prescribed conditions are met. The taxable person may claim the bad debt relief on the price that has not been paid by

the customer. This is only allowed if the amount cannot be collected after all legal remedies have been exhausted (such as possessing a final binding court decision on the completed bankruptcy proceedings, certified minutes on compulsory settlement with debtors, etc.).

Additionally, note that the taxable person is required to issue a credit note to reduce the output tax (see the subsection *Credit notes* below).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Bosnia and Herzegovina.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Bosnia and Herzegovina is recoverable. Foreign legal entities may obtain refunds of VAT incurred in Bosnia and Herzegovina solely if they do not have headquarters, residence, business unit or other form of established business, nor perform any supply of goods and services in Bosnia and Herzegovina (to the extent the input tax deduction would also be allowed for resident/established businesses). This is except for some specific services related to import and export of goods included in the customs base and except for services for which the obligation of calculation the VAT is on the recipient).

A non-established business must appoint a tax representative who represents the non-established business with the ITA in all proceedings related to a VAT refund.

The request for a VAT refund must be submitted for a period that includes at least three months, and at most a calendar year. If the application is submitted for a period of three months, it is submitted quarterly. The refund request is submitted no later than 30 June of the current year for the purchases made in previous year. The refund request shall be submitted only for VAT amounts exceeding BAM800, except if the request is submitted for a period of one calendar year, the amount of VAT for which a refund is requested may not be less than BAM100.

Note a VAT registration specifically for a VAT refund differs from a normal VAT registration for carrying out activities (for established business) in Bosnia and Herzegovina. The procedure is simpler, as it entails only acquiring a VAT number for the purpose of the VAT refund.

Bosnia and Herzegovina does not generally exclude any jurisdictions from the refund scheme for non-established businesses. The VAT refund rules apply to all nonresident entities in the same manner, regardless of the jurisdiction of its establishment, i.e., there is no reciprocity rule applicable.

The general conditions that must be met for a VAT refund for nonresident taxable persons are as follows:

- The nonresident is a VAT payer, in the jurisdiction where it has an established business, i.e., where it is performing taxable activities.
- The nonresident is not registered or has no obligation to register and account for VAT in Bosnia and Herzegovina.
- The nonresident does not have a headquarters, residence, business unit or other form of permanent business in Bosnia and Herzegovina.
- The nonresident does not perform a supply of goods/services in Bosnia and Herzegovina, except for some specific services related to import and export of goods included in the customs base and except for services for which the obligation of calculating VAT is on the recipient of services.
- The nonresident should be registered with the ITA (via its VAT representative) and obtain a record number for VAT refund purposes.

- A VAT refund can be requested only for supplies of goods and/or services for which the nonresident taxable person would be entitled to deduct the input tax both in Bosnia and Herzegovina and its resident jurisdiction.
- The nonresident taxable person must possess an original tax invoice of supplied goods and/or services in Bosnia and Herzegovina, which are issued in accordance with Bosnian VAT law.

H. Invoicing

VAT invoices. A taxable person must provide a VAT invoice for all taxable supplies made, including exports. The invoice must comply with the requirements set out in the VAT law.

Credit notes. A VAT credit note may be used to reduce the VAT charged on a supply of goods or services – provided the buyer is a taxable person and has confirmed that the input tax has been corrected or if the goods are returned after the invoice is issued; a debit note may be used to increase the amount of VAT. Tax credit and debit notes must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is allowed, but not mandatory in Bosnia and Herzegovina.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Bosnia and Herzegovina. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Bosnia and Herzegovina. The requirements related to electronic invoicing are the same as those for paper invoicing.

From a VAT perspective, which is set at the state level, and based on the official guidance from the ITA, taxable persons must issue invoice which contains all mandatory elements prescribed by VAT legislation.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Bosnia and Herzegovina. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Bosnia and Herzegovina.

Proof of exports. For proof of exports, an export declaration with confirmation that the goods have left Bosnian territory is required.

Foreign currency invoices. A Bosnian VAT invoice for domestic supplies must be issued in the domestic currency, which is the Bosnian convertible mark (BAM). If an invoice is received in a foreign currency, the amounts must be converted into BAM. The exchange rate used for imports is determined by customs, while the exchange rate for domestic VAT supplies is the middle exchange rate published by the Central Bank of Bosnia and Herzegovina, applicable on the date when the tax obligation takes place.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Bosnia and Herzegovina. As such, full VAT invoices are required.

Records. In Bosnia and Herzegovina, examples of what records that must be held for VAT purposes include the records of received invoices/transactions and records of issued invoices/transactions. Such evidence should contain certain data on invoice or customs declaration number (in case of import), the net fee paid, the applicable VAT rate, the amount of calculated VAT, the total amount of turnover during one VAT period and other data.

In Bosnia and Herzegovina, VAT books and records can be held outside of the country. Restrictions regarding the place of storage of documentation are not explicitly prescribed in the Bosnian VAT law. Those evidence are kept in accordance with accounting regulations.

Record retention period. VAT records and all supporting documents based on which the VAT records are maintained (e.g., invoices) should be kept until the expiry of statute of limitation period for determination and collection of VAT (statute of limitation period is 5 years; absolute limitation is 10 years).

Electronic archiving. Electronic archiving is allowed in Bosnia and Herzegovina. The laws on accounting (in different tax jurisdictions in Bosnia and Herzegovina) prescribes that accounting documents may be stored in original material and electronic form, in the form of an electronic record or on microfilm, a taxable person can provide authentic electronic invoices upon the request of ITA. It is recommended that the documentation should be kept in paper form, because the tax authority usually requires insight into such a form of documentation during tax audits.

Note that Bosnia and Herzegovina consists of three jurisdictions whereby each has its own tax legislation concerning direct taxes and accounting regulations. Indirect taxes like VAT and customs and excises are regulated on the state level.

I. Returns and payment

Periodic returns. The tax period in Bosnia and Herzegovina is a calendar month. VAT obligations must be reported within 10 days after the end of the tax period (i.e., the 10th of the following month for previous month). For example, the January 2023 VAT return is due by 10 February 2023.

Periodic payments. The deadline for VAT payment is the same as the deadline for the filing of VAT returns, i.e., within 10 days after the expiration of the tax period. Upon submitting the VAT return electronically via the portal e-Taxes (e-porezi), the taxable person pays the VAT liability by transferring funds to the prescribed public revenue account. The VAT payable by a taxable person for a tax period equals the VAT on the total taxable value of supplies made during the tax period minus any input tax allowed as a deduction.

Electronic filing. Electronic filing is mandatory in Bosnia and Herzegovina for all taxable persons. The submission of a VAT return, as well as the submission of D PDV, is completed electronically. Taxable persons must use the "e-Taxes portal" (https://e-porezi.uino.gov.ba:4443/Account/LogOn?ReturnUrl=%2f). It collects electronic services for the Bosnian ITA, enables all taxable persons to submit online tax forms, provides follow up on the status of submitted applications with insight into the taxable person's tax card, and provides faster and simpler fulfillment of obligations toward tax administration. This system meets high security standards that enable safe and uncompromised electronic data transfer.

Payments on account. Payments on account are not required in Bosnia and Herzegovina.

Special schemes. *Construction works.* Bosnian VAT law stipulates a special regime for construction works performed at the territory of Bosnia and Herzegovina whose total amount exceed EUR12,500. In this respect, it should be clarified who is deemed to be investor (an entity that finances construction works on its immovable property), main contractor (an entity that has directly concluded construction works agreement with the investor) and subcontractor (an entity that delivers goods needed for construction works and provides services related to delivered goods and therefore has impact on construction works). It is important to bear in mind that the special regime only applies to the relation between the main contractor and subcontractor. In this respect, the subcontractor invoices the main contractor with the VAT calculated on its invoice. However, the main contractor pays only net amount to the subcontractor while the amount of calculated VAT is paid directly to the ITA. On the other side, the subcontractor pays VAT regularly to the ITA while it can utilize the VAT paid by main contractor as input tax once it receives confirmation/proof that VAT was paid by the main contractor to the ITA.

Tour operator's scheme. Tourist services provided by a tourist agency are considered as a single service. The tax base of the single tourist service provided by a tourist agency is the amount representing the difference between total price paid by a passenger and actual expenses paid by the tourist agency for preliminary tourist services, after deducting the VAT that is included in that difference. The tourist agency is obliged to issue a VAT invoice to the service user, or any other document that serves as a tax invoice, for the performed tourist service.

Works of art, secondhand goods, antique goods. Taxable persons engaged in the trade of used goods, including secondhand goods, works of art, collector's goods and antiques determine the tax base as the difference between the sale price and the purchase price of the goods by deducting the VAT that is included in that difference. If the purchase price is higher than the sale price, the taxable amount is zero. To use this scheme, the special conditions specified in the regulations must be met.

Small businesses. Small businesses (defined as businesses whose total turnover in the previous calendar year does not exceed BAM100,000) do not charge VAT for performed trade of goods and services, do not have the right to indicate the VAT in invoices and are not entitled to deduct input tax. Also, they are not required to keep records prescribed by VAT law.

Farmers. Generally, farmers who are not taxable persons are entitled to a flat-rate input tax fee when purchasing agricultural and forestry goods and services resulting from activities subject to cadastral income tax on agriculture and forestry, provided they have previously received approval from the ITA.

Annual returns. Annual returns are not required in Bosnia and Herzegovina.

Supplementary filings. *D PDV.* Taxable persons are also obliged to file a D PDV form along with the VAT return. *Dodatak uz PDV prijavu* (D PDV) is the official name of the form and in English would be "*Addition to the VAT return*." Its purpose is a more detailed explanation of the selected items of the output and input fields in the VAT return and the corresponding input and output tax. Only data related to the tax period for which the VAT return is submitted are entered in D PDV.

E-KIF and e-KUF. Taxable persons must submit e-KIF (book of outgoing invoices) and e-KUF (book of incoming invoices) by the 20th of the month after the end of the tax period to which these records refer. Submission of data on procurement and deliveries electronically is done within the e-Taxes portal.

Correcting errors in previous returns. If a taxable person finds that the VAT return submitted to the ITA contains an error that results in an incorrectly determined amount of tax liability, or an omission of another type, it is obliged to immediately, and no later than the expiration of the statute of limitations (i.e., five years), file a corrective VAT return in which the error or omission has been rectified. The amended VAT return must be submitted electronically via the e-Taxes portal. Note, there is no obligation to include an explanatory letter to accompany the corrective VAT return. However, every corrected VAT return usually triggers VAT audit.

An administrative fee of BAM10,000 must be paid for the purposes of correcting the VAT return (the amount does not change on an annual basis). Proof of payment of the administrative fee on the changed VAT return must be sent electronically (to the official e-mail address).

Digital tax administration. There are no transactional reporting requirements in Bosnia and Herzegovina.

J. Penalties

Penalties for late registration. If a taxable person fails to notify the ITA about the commencement of it performing taxable activity (i.e., its obligation to register for VAT), the taxable person will

be fined in the amount of 100% of the obligation that was not notified due to the taxable person's omission, and at least BAM1,000.

Penalties for late payment and filings. For the late payment of VAT due, a taxable person will be fined in the amount corresponding to the amount of 50%–200% of the unpaid calculated amount, and at least in the amount of BAM100. The percentage determined on unpaid obligations (50%–200%) depends on initially unpaid amount of VAT, i.e., the significance of the omission.

For late filing of a VAT return due, a taxable person will be fined a penalty in the range of BAM300 to BAM1,000. With respect to late payment interest, note that it is currently set at the rate of 0.04% per day.

Penalties for errors. If a taxable person establishes that a VAT return, which it submitted to the ITA, contains an error that results in a wrongly determined amount of tax liability, or omission of another kind, it is obliged to immediately file a tax return in which the error or omission is remedied (see the subsection *Correcting errors in previous returns* above).

Incorrect VAT reporting may lead to penalty of 50%–200% of the difference between the correct VAT amount that should have been reported and unreported/incorrectly reported VAT amount if the error does cause economic damage to the ITA or impose economic risk on public revenues. If the error does not cause economic damage to the ITA or does not impose economic risk on public revenues, a fine in the fixed amount of BAM1,000 is prescribed. The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of BAM500. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The criminal law of Bosnia and Herzegovina prescribes key tax criminal offenses (among others) for tax evasion and filing forged/false tax returns, etc. Regarding the tax fraud/evasion, the threshold for this criminal act is very low (the amount of tax whose payment is avoided exceeds the amount of BAM10,000) and the penalty in this regard is imprisonment from six months to five years. Moreover, if the mentioned tax liability exceeds BAM100,000 the offender shall be punished by imprisonment of one to 10 years, and if tax liability exceeds BAM200,000, the offender shall be punished by imprisonment of minimum three years.

Personal liability for company officers. The general rule is that the responsible person in the legal entity is the person who on the basis of the law, regulation or authorization conducts certain managerial, supervisory or other functions in the company, as well as the person who factually conducts certain work – substance over form. This is presumably a director, although it can be proved that some other person/company official has been liable for certain activities of the company. In Bosnian legislation, a responsible person working for a legal entity (i.e., director) is subject to the same fine as the legal entity as stated above.

Statute of limitations. The statute of limitations in Bosnia and Herzegovina is five or 10 years. The statute of limitation period in Bosnia and Herzegovina in which the tax authority may go back and assess additional tax liabilities is generally set at five years, whereby the absolute statute of limitation for indirect taxes is set at 10 years.

The prescribed five years period for VAT liability assessment and VAT payment start counting from the day after the deadline for submitting VAT return, i.e., after the payment deadline.

Botswana

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 July 2002
Trading bloc membership	Southern African Customs Union, Southern African Development Community (SADC)
	African Continental Free Trade Area (AfCFTA)
Administered by	Botswana Unified Revenue Service (http://www.burs.org.bw)
VAT rates	
Standard	14%
Other	Zero-rated (0%) and exempt
VAT number format	A unique VAT number for individuals, partnerships and trusts is system-generated and auto-allocated
VAT return periods	Monthly (annual taxable supplies greater than BWP12 million) Bimonthly (annual taxable supplies below BWP12 million)
Registration thresholds	BWP1 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services in Botswana by a taxable person
- Reverse-charge services received by a person making exempt supplies in Botswana
- The importation of goods from outside Botswana, regardless of the status of the importer

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

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Botswana, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Botswana, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- All goods and services necessary for the continued operation of that taxable activity or that part of the taxable activity are supplied to the transferee.
- The transferor carries on, or is carrying on, that taxable activity or that part of the taxable activity up to the time of its transfer to the transferee.
- A notice in writing should be signed by the transferor and transferee and furnished to the Commissioner General within 21 days after the supply takes place and such notice should include the details of the supply.

Transactions between related parties. In Botswana, for a transaction between related parties the value for VAT purposes is calculated at the fair market value of that supply.

C. Who is liable

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

The VAT registration threshold is BWP1 million. A taxable person must notify the Botswana VAT authorities of its liability to register for VAT within 21 days after becoming liable.

Exemption from registration. The VAT law in Botswana does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law of Botswana provides for voluntary VAT registration where any person applies for voluntary registration where the person's turnover is below the BWP1 million threshold and meets the following criteria:

- The person has a fixed place of abode or business in Botswana.
- The person can keep proper records.
- The person submits regular and reliable VAT returns, as required under the VAT Act.

Group registration. Group VAT registration is not allowed in Botswana.

Fixed establishment. In Botswana there is no legal definition of a fixed establishment for VAT purposes.

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

Tax representatives. In the case of a nonresident person, a tax representative must be appointed to register for VAT. The representative must be resident in Botswana and is defined as a public

officer, director, trustee, partner, liquidator, or other person who controls the nonresident person's affairs in Botswana. The Commissioner General may, if they consider it necessary, declare any person to be a representative of a registered person.

Reverse charge. Under the reverse-charge mechanism, VAT is payable by the importer on the importation of a service, if the service is imported for use in making exempt or nontaxable supplies. The VAT is payable within 30 days of the importation. The importer of the service in Botswana is required to complete form VAT 017 when making the VAT payment.

Domestic reverse charge. There are no domestic reverse charges in Botswana.

Digital economy. Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT on supplies in Botswana. Instead, the customer is required to self-account for the VAT due. This only applies if the customer imports the service to make nontaxable or exempt supplies (e.g., supplies by financial institutions such as banks or life insurance businesses). In that case, the customer is not allowed to claim the VAT as input tax, so the payment would not be VAT-neutral. For B2B supplies where the customer imports the service to make taxable supplies, no VAT is accounted for on the electronically supplied service.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are not required to register and account for VAT. Instead, the customer (as an individual) is expected to self-assess VAT on the payment, as the individual will be importing the service to make nontaxable supplies.

There are no other specific e-commerce rules for imported goods in Botswana.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Botswana.

Registration procedures. Application for registration is accomplished by manually completing form BURS1 and submitting it, stamped and signed by the local bankers, by post to the Revenue Authority with copies of the following documents:
- ID or passport for two directors
- ID or passport for public officer (i.e., the tax representative, who should be a resident)
- Certificate of Incorporation
- Memorandum and Articles of Association (if available)
- Forms 2, 2A, B, C and D (list of directors)
- A list of assets (if any)
- Details of local bank accounts

Deregistration. A person who intends to deregister is required to complete application form IRD/DE-REG1. The process takes three to 12 months and may involve an audit.

Changes to VAT registration details. Registered persons shall notify the Commissioner General, in writing, of the following changes:
- Any change in the name, address, place of business, constitution or nature of the principal taxable activity or activities of the person
- Any change of address from which, or name in which, a taxable activity is carried on by the registered person, within 21 days of the change occurring

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
• Standard rate: 14%
• Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

The standard rate was increased from 12% to 14% from 1 March 2023. It was previously temporarily reduced to 12% for the six-month period beginning 3 August 2022 to 28 February 2023.

Examples of goods and services taxable at 0%

• Exports of goods and services
• Cooking oil
• International transport
• Sale of a business as a going concern to a registered person
• Fuel for vehicles
• Illuminating paraffin
• Petroleum gas
• Sorghum and maize meal for human consumption
• Bread flour, sugar, brown bread, fresh fruits, rice, milk and samp (i.e., coarsely ground corn)
• Intellectual property rights for use outside Botswana
• Household consumption of water up to 5,000 liters or 25 drums of 200 liters

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

• Medical services provided in a public medical facility
• Supply of prescription drugs
• Education
• Some agricultural farming implements
• Financial services (unless provided for a fee, charge or commission)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Botswana.

E. Time of supply

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

Other tax points are used for a variety of situations.

The following is the tax point for supplies between related persons:
• For a supply of goods, either when the goods are removed or when they are made available to the purchaser or recipient of the goods.
• For a supply of services, when the services are performed.

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

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

Deposits and prepayments. The tax point for the supply of goods or services on payment of a deposit (other than a deposit paid on a returnable basis) is when the supplier applies the deposit as consideration for the supply, or when the deposit is forfeited.

For deposits paid on a returnable basis, the time of supply is when the deposit is paid or invoiced, whichever is earlier.

The time of supply for supplies of goods or services on payment of a prepayment is when the prepayment is received.

Continuous supplies of services. As under operating leased assets, supplies are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Goods sent on approval for sale or return. There is no special time of supply rule in Botswana for supplies of goods sent on approval for sale or return. As such, the general time of supply rules applies, which as outlined above, is the earlier of the issuance of the invoice or the receipt of payment.

Reverse-charge services. The recipient of imported services is required to self-assess for VAT within 30 days of importation of the service. No reverse-charge mechanism applies in Botswana on the importation of goods.

Leased assets. For operating leases, assets are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

For finance leases (i.e., credit agreements), the time of supply is when the goods are delivered or the time any payment for the supply is received, whichever is earlier.

Imported goods. The tax point for imported goods depends on the customs regime that applies to the import. The following are the applicable rules:

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

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

VAT-registered persons may apply for a VAT-deferment account. The importer is authorized to pay VAT on imports 25 days after the end of the month in which the goods are imported. To qualify for a deferment account, the importer must place with the VAT office a bond equal to the greater of BWP20,000 or 20% of its estimated monthly imports. Input tax paid through the VAT-deferment account may be reclaimed only if it has actually been paid.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Botswana is four months. This is from the date of the invoice. Input tax includes VAT charged on goods and services purchased within Botswana and VAT paid on imports of goods.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain specified business expenses.

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

Examples of items for which input tax is nondeductible

- Purchase and hire of passenger cars
- Entertainment including food, accommodation and hospitality of any form
- Sponsorship that constitutes entertainment subscriptions to sports and recreational clubs

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire and maintenance of non-passenger motor vehicles
- Maintenance of passenger motor vehicles
- Advertising
- Parking
- Mobile phones
- Business use of a home telephone (but an employer is liable to VAT if it pays for the private telephone bills of the employee)

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

VAT that relates to making mixed supplies must be apportioned using a method acceptable to the tax authorities to allocate the VAT between taxable supplies and exempt supplies. Every registered person who is required to apportion the input tax credits should advise the Commissioner in writing of the proposed apportionment, which should be based on the prior financial year proportions between taxable and exempt turnovers. Input tax related to taxable supplies may be deducted in full. VAT related to exempt supplies may not be deducted. If taxable supplies exceed 90% of the total supplies made by a registered person, all VAT incurred by the registered person may be claimed as input tax.

Capital goods. A VAT-registered person can recover input tax incurred on acquisition or importation of capital goods used for making taxable supplies. Capital goods mean assets that are subject to capital allowances under the Income Tax Act. If the capital goods are used for taxable and exempt supplies, the portion of input tax relating to exempt supplies that is not recoverable is capitalized to be part of the cost of the asset, and so is the VAT paid on capital goods that is not recoverable as input tax, e.g., VAT on capital goods used for entertainment. The input tax is recovered at the same time and in the same manner as other VAT on the acquisition or importation of the goods.

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

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

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

Pre-registration costs. A VAT-registered person can recover input tax incurred on costs in the first tax period in which the person is registered for VAT in respect of the following:

- Taxable supplies of goods, other than capital goods, made to the person.

- Any imports of goods, other than capital goods, made by the person prior to becoming registered, to the extent that the goods are for use or resupply in a taxable activity carried on by the person after registration, provided the goods are not supplied or imported more than four months prior to the date of registration.

Bad debts. A VAT-registered person can claim VAT on a bad debt that has been written off. The VAT is claimed on the later of the date the bad debt was written off, or 12 months after the end of the tax period in which the VAT on the bad debt was accounted for. When the bad debt is recovered, the registered person is required to recoup the VAT previously allowed as input tax.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Botswana.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Botswana is not recoverable.

H. Invoicing

VAT invoices. Registered persons must provide VAT tax invoices for all taxable supplies made, including exports.

Credit notes. A VAT tax credit note may be used to reduce the VAT charged on a supply of goods or services. Tax credit and debit notes must show the same information as tax invoices.

Electronic invoicing. Electronic invoicing is allowed in Botswana, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Botswana. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Botswana. The requirements related to electronic invoicing are the same as those for paper invoicing.

There are no rules restricting the use of electronic invoicing in Botswana.

At the time of preparing this chapter, legislation detailing the guidelines on electronic invoicing is under draft and may be gazetted within 2024.

Simplified VAT invoices. A VAT-registered person can issue simplified VAT invoices (by way of a nontax invoice or receipt), provided the amount does not exceed BWP20.

Self-billing. Self-billing is allowed in Botswana. This is provided that both the buyer and seller are registered for VAT, and they have agreed that the buyer will issue the tax invoice and not the seller, and the Commissioner General has granted written approval to issue a "recipient-created tax invoice."

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

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

- For imports, the amount must be converted at the exchange rate determined by the Customs and Excise Duty Act.
- For other supplies, the amount must be converted at the exchange rate at the time when VAT is accounted for on the supply.

Supplies to nontaxable persons. Full VAT invoices do not need to be issued for supplies with consideration less than BWP20 and for supplies to any persons who are not registered for VAT.

Records. A registered person or any other person liable for tax under the VAT Act, must maintain records in Botswana, in the English or Setswana language.

In Botswana, examples of what records must be held for VAT purposes include:
- Original tax invoices, tax credit notes and tax debit notes received by the person
- A copy of all tax invoices, tax credit notes and tax debit notes issued by the person
- Customs documentation relating to imports and exports by the person
- Accounting records
- Any other records as may be prescribed by the Commissioner General

In Botswana, VAT books and records must be held within the country.

Record retention period. Records are required to be kept in Botswana for a period of seven years.

Electronic archiving. Electronic archiving is not allowed in Botswana. Hard copies of the original tax invoices received for claiming input tax should be kept, and copies of the invoices issued by the registered persons.

I. Returns and payment

Periodic returns. The VAT tax period is one month for registered persons with annual taxable supplies greater than BWP12 million and two months for registered persons with annual taxable supplies of equal to and less than BWP12 million.

Returns must be filed on or before the 25th of the month following the end of the tax period. If the due date falls on a Saturday, Sunday or public holiday, the due date is the last business day before the holiday.

Periodic payments. Payment is due in full by the same date as the return submission, i.e., on or before the 25th of the month following the end of the tax period.

Electronic filing. Electronic filing is allowed in Botswana, but not mandatory. VAT returns can be filed electronically upon application for e-services, which enable taxable persons to view the VAT returns submitted and other tax information online.

Payments on account. Payments on account are optional in Botswana. A registered person can apply to the Commissioner General to extend the time or make other arrangements for the payment of VAT, but such arrangements will not waive the charging of interest on the staggered or delayed payments.

Special schemes. No special schemes are available in Botswana.

Annual returns. Annual returns are not required in Botswana.

Supplementary filings. No supplementary filings are required in Botswana.

Correcting errors in previous returns. Where errors have occurred from a previous manual submission, taxable persons must notify the tax authorities in writing explaining the reason and result of the error. The tax authority will give direction to the taxable person regarding the next steps. Such steps include the taxable person being asked to come to the tax authorities' offices and amend the original submission and sign for the amendment.

Where the submission was made electronically, the taxable person may be asked to amend the return online and the tax authority will, if in agreement, approve the amendment so that it reflects on the taxable person's account/tax statement.

Digital tax administration. There are no transactional reporting requirements in Botswana.

J. Penalties

Penalties for late registration. The following penalties apply if a person fails to register for VAT within 21 days after becoming liable:
- If the failure was due to recklessness or made knowingly, a fine not exceeding BWP10,000 or imprisonment for a period not exceeding two years, or both
- In all other cases, a fine not exceeding BWP5,000 or imprisonment for a period not exceeding one year, or both
- A penalty of twice the output tax payable from the time when the person became liable to the time when the person registered for VAT

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

Penalties for late payment and filings. The greater of the following penalties is imposed for the late filing of the VAT return:
- BWP50 per day
  Or
- 10% of the outstanding tax for each month or part of a calendar month that the return remains outstanding.

The penalty is limited to the amount of the tax due. In the case of nil VAT returns, the maximum penalty is BWP5,000.

Interest is charged on outstanding tax at a rate of 1.5% per month (compounded).

Penalties for errors. Penalties are not charged where the Commissioner considers that any error on the VAT return is genuine, e.g., transposition of figures on the VAT return.

A person who fails to notify the Commissioner General of a change in its VAT registration details commits an offense and is liable on conviction:
- Where the failure was made knowingly or recklessly, a fine not exceeding P10,000 or imprisonment for a term not exceeding two years, or both
- In any other case, a fine not exceeding P5,000 or imprisonment for a term not exceeding one year, or both

There are no specific penalties associated with the late notification or failure to notify of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Penalties are imposed in respect of any offenses, including making false statements and obstructing a VAT officer.

Prosecution proceedings may be instituted against offenders and where a person is convicted, no penalties will be charged.

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

Personal liability for company officers. A person who was a director of the company at the time of the commission of any errors and omissions in VAT declarations and reporting shall be liable, jointly and severally, for any tax payable by the company, unless that person proves to the satisfaction of the Commissioner General that the failure by the company to pay the tax was not due to any negligence on their part.

Statute of limitations. The statute of limitations in Botswana is five years. Where the Commissioner General is not satisfied with a return or import declaration furnished by a taxable person, they can reassess the return or import declaration within five years from the date the return was furnished or when the import was made.

However, the reassessment can be made at any time where the default was due to fraud; or due to gross or willful neglect committed by, or on behalf of, the taxable person who furnished the return or import declaration.

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In 2023, Congress and Senate passed a bill regarding tax reform in Brazil that intends to revoke PIS/COFINS, ICMS, ISS and IPI and create the following new taxes:

- *CBS (contribution on goods and services) that would replace PIS/COFINS.*
- *IBS (tax on goods and services) that would replace ICMS and ISS.*
- *Imposto Seletivo (selective tax) to replace IPI. It should levy on operations with goods that are considered as a threat to the environment and to human health. However, it is still not known which criteria is going to be used to trigger such a tax.*
- *Contribuição Estadual (state contributions) would be charged on the operations of primary goods/semi processed.*

The final rate of such taxes is not known, however, the current government estimates the combined IBS and CBS will add up to 27% and would be a significant change to indirect tax in Brazil.

At the time of preparing this chapter, the bill was fully approved and is pending presidential approval. As mentioned, it will provoke a strong modification to the taxation rules in Brazil for all economical segments. It's important to point out that such changes are pending further changes and regulation, which will be done via Complementary Law possibly during 2024. In addition, tax returns are expected to be modified as well once the tax reform is approved. It's expected to produce a significant reduction of complexity in the returns.

A. At a glance

Names of the taxes	State value-added tax (ICMS) Federal value-added tax (IPI) Municipal service tax (ISS) Federal social contributions (PIS-PASEP/COFINS)
Local names	Imposto sobre circulação de mercadorias e serviços (ICMS) Imposto sobre produtos industrializados (IPI) Imposto sobre serviços (ISS) Contribuição para os programas de integração social e de formação do patrimônio público (PIS-PASEP) Contribuição para o financiamento da seguridade social (COFINS)
Date introduced	
ICMS	1989
IPI	1964
ISS	1968
PIS-PASEP	1970
COFINS	1991
Trading bloc membership	MERCOSUR
Administered by	Brazilian Ministry of Finance (IPI, PIS and COFINS) (http://www.fazenda.gov.br) Internal Revenue Service (IPI, PIS and COFINS) (http://www.receita.fazenda.gov.br) State Tax Authorities (ICMS) Municipal Tax Authorities (ISS)

VAT rates	
ICMS	0% to 35% (for supplies in the same state) 4%, 7% or 12% (for supplies made to a taxable person in a different state)
IPI	0% to 300% (depending on the IPI tariff table classification for the goods)
ISS	0% to 5% (depending on municipality and nature of service)
PIS-PASEP	0.65% (for taxable persons taxed under the deemed corporate income tax method of calculation, under the cumulative system) 1.65% (for taxable persons taxed under the annual actual income tax method, under the noncumulative system)
COFINS	3% (for taxable persons taxed under the deemed corporate income tax method of calculation, under the cumulative system) 7.6% (for taxable persons taxed under the annual actual income tax method, under the noncumulative system)
VAT number format	XX.XXX.XXX/XXXX-XX (this is a federal tax ID and it serves in all tax matters. However, there are local registration as well that identifies the taxable person before state and municipal tax authorities)
Thresholds	
Registration	
ICMS, IPI and ISS	None
PIS-PASEP/COFINS	None
VAT return periods	
ICMS, IPI, ISS, PIS-PASEP/COFINS	Monthly
Recovery of VAT by non-established businesses	No

B. Scope of the taxes

In Brazil the following types of indirect taxes (VAT) are in effect:
- State VAT (ICMS)
- Federal VAT (IPI)
- Municipal service tax (ISS)
- Federal social contributions (PIS-PASEP and COFINS)

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

ICMS applies to the following transactions carried out in Brazil, even if the transaction begins abroad:
- The circulation of goods (with ownership transfer)
- The importation of goods
- The supply of transportation services between states and between municipalities
- The supply of communication services
- The supply of electricity

Exports are exempt from ICMS.

Exclusion of ICMS from the PIS and COFINS calculation basis. For a long time, the national courts have discussed the exclusion of ICMS from the PIS and COFINS calculation bases levied on local transactions. On 15 March 2017, the Brazilian Federal Supreme Court (STF) ruled that the

inclusion of ICMS in the social contributions (PIS and COFINS) tax bases is unconstitutional. On 13 May 2021, the Supreme Court (STF) decided that the rule should apply from the publication of the decision (ex nunc), with the exception of the taxable persons who had previously filed a lawsuit or administrative request on the matter. Currently all taxable persons subject to the PIS/COFINS and to ICMS are able to exclude the amount of the ICMS from the PIS and COFINS calculation bases.

Federal VAT. The federal VAT (IPI) is charged by Brazil's federal government on national and imported goods. IPI applies to the following taxable events:

- The shipment of goods from an industrial establishment (or deemed as industrial by the law) in Brazil
- The customs clearance of goods

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

Municipal service tax. The municipal service tax (ISS) is a form of sales tax payable to municipalities in Brazil. It applies to the supply of any service that is not otherwise taxable by the state authorities (ICMS). The general list of taxable services is outlined in federal law (complementary law).

A foreign company providing services fully provided outside Brazil for the benefit of a Brazilian recipient may be subject to ISS (withheld by the Brazilian entity) even if a nonresident pays for the services.

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

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

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

Import operations (of goods and services) are also subject to PIS-PASEP and COFINS.

PIS-PASEP and COFINS rates may vary depending on the company's activity and on the revenue received.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Brazil, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where

the sale meets the conditions, the supply is treated as outside the scope of VAT. In Brazil, a TOGC may or may not be subject to VAT, depending on how such a transfer is implemented.

Transactions between related parties. Whenever a transaction is carried out between related parties, local laws shall be evaluated to verify if a minimum taxation basis will apply. IPI and ICMS has some rules on this matter that are very specific. The concept of a related party is also required to be verified, to ensure total compliance with Brazilian laws.

C. Who is liable

ICMS taxable person. An ICMS taxable person is any person or legal entity that, on a regular basis, undertakes the sale or importation of goods, or supplies communication and interstate and intermunicipal transport services. No turnover threshold applies. Any person or entity that intends to supply goods or services subject to ICMS must register in the roll of ICMS taxable persons before beginning activities.

Some companies and products are subject to special tax treatment for ICMS in which the payment is made on behalf of the whole supply chain. For example, the pharmaceutical industry pays the regular ICMS to the state where the seller is located based on the sales price and pays a complementary portion (named ICMS-ST) to the state where the customer is located based on the end consumer price list issued by this state, anticipating the wholesaler and the retailer liabilities. Other industries, such as cosmetics and electronics, also have this special treatment; however, the ICMS-ST is based on a value-added margin presumed by the state government.

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

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

PIS-PASEP and COFINS. A PIS and COFINS taxable person is any company that has business activities. Contributions are levied on companies' gross revenue on a monthly basis.

Exemption from registration. In order to pay taxes in Brazil, the company should be registered for VAT in Brazil. However, depending on how the transaction is classified, the taxes should be collected by the local customers and/or the agent in Brazil. If this is the case, the foreign company would not be required to be registered in Brazil.

Voluntary registration and small businesses. The VAT law in Brazil does not contain any provision for voluntary VAT registration. Small businesses may benefit from a simplified taxation (for all indirect taxes, not only ICMS)

Group registration. Group VAT registration is not allowed in Brazil.

Fixed establishment. In Brazil there is no legal definition of a fixed establishment for VAT purposes. However, all establishments in Brazil must obtain a tax ID, even though it is a storage branch or an office (it must be linked to a local tax ID). Thus, it will be subject to VAT if it sells goods or services.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Brazil. A non-established business is not permitted to register for VAT in Brazil. Only entities that are established under Brazilian law may become taxable persons for the purposes of

ICMS, IPI, ISS, PIS-PASEP or COFINS. The lack of formal registration, however, would not prevent tax authorities from collecting taxes if the taxable activities are executed.

If a business is considered as non-established, it does not have local tax IDs and neither does it have the obligation to file tax returns. Thus, there is no obligation to prepare returns or calculations that would allow and control tax credits. Once a business becomes established, it will need to comply with all necessary returns and fulfill all requirements posted in the law. All businesses located in Brazil must register and no obligation is in force for external companies.

Tax representatives. Tax representatives are not allowed in Brazil.

Reverse charge. If a non-established business supplies services to a Brazilian taxable person but does not register for VAT (e.g., importation of goods/services), the Brazilian taxable person may be required to account for the VAT due under reverse-charge accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax, but not in all cases (subject to the normal input tax recovery rules).

Domestic reverse charge. There are no domestic reverse charges in Brazil.

Digital economy. Business-to-business (B2B) or business-to-consumer (B2C) transactions – payments to a foreign business may be subject to the following taxes depending on how the transaction is classified: withholding income tax (IRRF), contribution on economic domain intervention (CIDE), social contributions on gross revenues (PIS/COFINS) and municipal tax on services (ISS). Remittances of funds to the principal would be subject to tax on financial operations (IOF/FX). In 2023 the government set a 20% rate on importations up to USD50. Any acquisition above this threshold would trigger a 60% rate.

Nonresidents that provide electronically supplied services in Brazil are not required to register for VAT in Brazil. Thus, in an event that a taxable person in Brazil purchases goods/services from a nonresident business, it should account for all taxes levied on the supply. No special e-commerce rules apply for imported goods.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms. Regular VAT will levy on the sale of goods (ICMS, PIS/COFINS and IPI – if manufactured or imported by the seller). Marketplaces and platforms, however, should observe local laws in order to comply with certain rules and be exempt from tax liability in relation to sales it intermediate.

Registration procedures. Companies must register with federal and state tax authorities if they intend to sell products on a commercial basis. Municipal registration is also required if the purpose is to provide services. Registration is mostly electronic and may take between 30 and 90 days. The request must be submitted with additional information such as: articles of association, address, business license issued by official entities, taxable person ID, etc. Most registration applications are submitted online (federal, state and municipal); however, it is still possible that in small cities paper registrations are still accepted.

Deregistration. Upon termination of activities, companies can deregister before federal, state and municipal tax authorities.

Changes to VAT registration details. To change a taxable person's VAT registration details, it must file a request to the tax administrations. This is usually done online but can also be done by paper request.

D. Rates

ICMS. ICMS rates vary among Brazil's 27 states. For supplies made to a customer located in the same state as the supplier, rates typically range from 0% to 35%. The standard rate of ICMS is 17% (18% in São Paulo, Minas Gerais and Paraná and 20% in Rio de Janeiro).

Reduced rates generally apply to items of basic necessity, such as food.

The rate of ICMS that applies to imported goods is the same rate that applies to supplies of goods made within the state, except that the tax base for imported goods includes any IPI and import duty payable at import, PIS and COFINS and every other custom cost that was charged to the buyer. ICMS does not apply to exported goods.

The ICMS rate on a supply of goods or services made to an ICMS taxable person resident in a different state from the state where the supplier is resident depends on where the customer is located.

- A rate of 7% generally applies to supplies of locally produced goods (with low content of imported inputs) made to taxable persons resident in states located in the northern, northeastern and central eastern regions of Brazil and in the state of Espírito Santo.
- A rate of 12% generally applies to supplies of domestic goods (with low content of imported inputs) made to taxable persons located in the states in the southern and southeastern regions of Brazil (except in the state of Espírito Santo).
- A rate of 4% generally applies to supplies of imported goods or locally produced goods with high content of imported inputs made to taxable persons located in all other states.

If the supply is made to a customer located in another state who is not an ICMS taxable person (including digital economy), the supply is taxed at the same rate as transactions made within the customer's state (i.e., the internal rate) and VAT is to be assessed and collected in two portions, as follows:

- To the state where the seller is located in the amount equivalent to the interstate rate that would apply in a supply to a regular taxable person
- To the state where the customer is located in the amount equivalent to the difference between the customer's state internal rate and the interstate rate

Some items, such as horticultural products and certain medicines, are exempt from ICMS.

IPI. IPI rates vary from a zero-rate (0%) to 300%. The rate of IPI depends on the classification of the goods under the IPI Tariff Table. The table contains many different classification codes. The IPI Tariff Table uses the same tariff classification system as the Brazilian External Tariff Code (TEC or BTEC).

The rate of IPI varies depending on how essential the product is considered to be. For example, the zero rate of IPI applies to essential products such as rice and wheat flour, a low rate of IPI (8%) applies to certain products, such as pipes, and the highest rate of IPI (300%) applies to "superfluous" or luxury products. Some goods are exempt from IPI. In other cases, essential products may benefit from a reduced tax base (which reduces the effective rate of tax) or a deferral or suspension of the tax due.

ISS. The rate of ISS varies among Brazil's 5,564 municipalities. The ISS law sets the maximum rate at 5% and Federal Constitution brings the minimum rate, which is 2%. The rates also depend on the type of service and the municipality where it is provided.

PIS-PASEP and COFINS. The PIS-PASEP rate is 0.65% for taxable persons taxed under the deemed corporate income tax method of calculation or under the cumulative system and 1.65% for taxable persons taxed under the annual actual income tax method or under the noncumulative system (without credit entitlement and with credit entitlement, respectively). On imports the PIS-PASEP rate is 2.1% for goods and 1.65% when importing services.

The COFINS rate is 3% for taxable persons taxed under the deemed corporate income tax method of calculation or under the cumulative system and 7.6% for taxable persons taxed under the annual actual income tax method or under the noncumulative system. On imports, the rate of COFINS is 9.65% for goods and 7.6% when importing services.

For certain types of goods, and depending on specific tariff code, an additional 1% of COFINS upon importation is levied. However, this additional 1% is not recoverable (no credit entitlement).

Some companies and products are subject to special tax treatment for PIS-PASEP and COFINS, which apply different rates for some products. For example, the automotive industry pays PIS-PASEP at a rate of 2% and COFINS at a rate of 9.6% on specific products. Other industries, such as the pharmaceutical, cosmetics and the beverage industries, also have special treatment for PIS-PASEP and COFINS. In addition, for these companies and products, the rates on imports are also increased.

Financial revenues are taxable at a rate of 0.65% and 4% of PIS-PASEP and COFINS, respectively.

Some essential items, such as horticultural products and wheat flour, are PIS-PASEP and COFINS zero-rated.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Brazil.

E. Time of supply

The general time of supply rule is when the sale takes place, as it is commonly the moment when the ownership changes in the case of goods. At the time of supply, the supplier must account for its taxes (ICMS, IPI and PIS/COFINS). For an example, an ICMS/IPI trigger event is the sale of a good and for PIS/COFINS it is the revenue obtained with the operation.

Deposits and prepayments. The supplier that receives a prepayment must pay PIS-PASEP and COFINS only if it has the ordered product in stock. If the company does not have the goods ready for shipment, PIS-PASEP and COFINS will be triggered only at the time of delivery.

The IPI legislation allows the taxable person to choose the tax triggering event, that is, the time of prepayment or delivery of the products. For ICMS, the triggering event must occur only when the product is delivered. In all scenarios, as a rule, payment will be made on a monthly basis.

Continuous supplies of services. There are no special time of supply rules in Brazil for continuous supplies of services. As such, the normal time of supply rules apply.

Goods sent on approval for sale or return. There are no special time of supply rules in Brazil for supplies of goods sent on approval for sale or return. ICMS and IPI will be triggered as of the delivery of the goods regardless of its sale and PIS and COFINS solely when the sale is actually concluded. If no sale is made, the taxes paid can be recovered.

Reverse-charge services. Brazilian tax law determines that, depending on the type of services being contracted, the client is responsible for withholding IRPJ, CSLL, PIS and/or COFINS, as the case may be, from the service fees being paid to the supplier of the service.

Leased assets. Leased assets are not considered a sale; however, certain states still demand ICMS collection on those transactions. Financial leases are considered as a service and are not taxed by ICMS, but ISS (municipal VAT) to the extent there is no transfer of titularity of the good. The time of supply for supplies of leased assets (ISS triggering event) is when the goods are leased (i.e., when the contract is signed, and the goods are delivered to the lessee).

Imported goods. Taxes on the importation of goods are triggered at the time of the customs clearance. Differently from other taxes, these shall be paid at this time and not on a monthly basis.

F. Recovery of VAT by taxable persons

The time limit for a taxable person to reclaim input tax (of any of the below taxes) in Brazil is five years.

ICMS. An ICMS taxable person may recover input tax (i.e., obtain a credit) for VAT charged on goods and services supplied to it that are subject to another taxable transaction. An ICMS taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. ICMS may not be recovered before a taxable person begins making taxable supplies.

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

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

IPI. IPI taxable persons deduct IPI paid as input tax from IPI charged as output tax. The rules are similar to those that applies for ICMS.

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

PIS-PASEP and COFINS. PIS-PASEP and COFINS taxable persons who use the noncumulative system are entitled to calculate PIS-PASEP and COFINS credits to offset PIS-PASEP and COFINS payments. Credits are limited to certain costs.

Expansion of the raw materials concept for PIS and COFINS. PIS and COFINS legislation allow taxable persons to deduct credits on certain expenses, such as the purchase of raw materials. The concept of raw materials has been discussed over a number of years, but in 2017 a court decision ruled that all expenses that are connected to the production process and are considered relevant or essential to perform the manufacturing process shall be considered as expenses with the right to deduct the credits of PIS and COFINS.

Nondeductible input tax. For ICMS and IPI purposes, input tax may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur or general overhead costs) or on goods acquired before registration as a taxable person.

Examples of items for which input tax is nondeductible

- Coffee breaks
- Office supplies

Examples of items for which input tax is deductible (if related to a taxable business use)

- Raw materials
- Packing materials

Partial exemption. For PIS/COFINS, the company can keep the whole amount of credits that were recovered when the input was purchased. However, for IPI and ICMS when selling a product that is exempt, the company must reverse the amount of credits related to such items (except when exporting). To measure the value of credits that can be booked, the company must calculate the percentage of taxable revenues over the total revenue. The result of such calculation is the percentage of credits over inputs that can be recovered. Approval from the tax authorities is not required to use the partial exemption standard method in Brazil. Partial exemption special methods are not allowed in Brazil. Additionally, such credits can be booked once the legislation says that the reverse wouldn't be necessary upon the creation of a new rule.

Capital goods. For PIS/COFINS, capital goods that allow the recovery of credits are machinery, equipment, tolls and building constructions. Commonly, the credits are booked at once – at the time of purchase, calculated over the value of the capital good (for building construction the company must take advantage of the credit for a 24-month period).

For ICMS purposes, the company is allowed to recover the amount related to machinery, equipment and tools only if related to the assembly of the goods. (Must take advantage of the credit for a 48-month period). There are no capital goods for IPI.

Refunds. If the amount of input tax recoverable exceeds the amount of output tax payable, the excess is generally not refunded. However, the excess may be used to offset tax payments in the following months or may be transferred in certain cases to a third party (transference is only allowed to the ICMS). IPI and PIS/COFINS credits are not eligible for transferring.

Pre-registration costs. Input tax incurred on pre-registration costs in Brazil is not recoverable. A company must be properly registered as a taxable person in order to acquire assets and stock or inventory. Therefore, any such acquisitions will generate tax credits (when applicable), which will be recorded in the tax books and will be offset against the debts raised on the outbound supply of the goods/services. Before a company has the status of a taxable person, it should not be able to acquire assets or inventory.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Brazil.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Brazil.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Brazil is not recoverable.

H. Invoicing

VAT invoices. An ICMS, IPI or ISS taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax deduction for ICMS and IPI. Companies must specify on invoices and receipts the taxes charged that are part of the total amount of the product sale price. Companies must list the amount of municipal, state and federal taxes levied for each product described on the invoice or receipt. Also, such information may be displayed in plain view at the invoices issued. Companies that fail to comply with this requirement will be subject to penalties, such as monetary fines or the suspension or revocation of the license to operate.

Credit notes. A credit note (i.e., input invoice) must contain the same information as a VAT invoice, but it is not valid in all situations. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply. A credit note must be issued within one month after the mistake or overcharge is discovered. The credit note should also refer to the number and date of the original VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Brazil for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Brazil. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Brazil. Businesses selling goods or rendering services in Brazil must issue each invoice electronically. Note that general information must be provided in the invoice, such as vendor address and telephone number, invoice number and series, nature of operation, invoice date and taxable person registry number.

Specifically, every operation regarding goods triggers the issuance of an electronic invoice. Thus, all taxable persons selling, transferring or simply sending goods to an external storage need to be followed by an electronic invoice. For the supply of services, even though this also triggers the issuance of an electronic invoice, Brazil has not implemented a standard model for electronic invoicing for supplies of services, like it has done for the supply of goods. Therefore, each municipality can implement its own required information and layout for electronic invoicing. *However, at the time of preparing this chapter, it is not known when the standard model for electronic invoicing for the supply of services will be in force. Thus, electronic invoicing is mandatory to all taxable persons no matter the revenue or the tax treatment applied to it.*

At the time of preparing this chapter, the rules on electronic invoicing are expected to change due to the upcoming tax reform. However, this is expected to be only the template not the mandatory use.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Brazil. As such, full VAT invoices are required. However, depending on the business, a special regime may be requested to facilitate the issuance of invoices (for instance, in the case of financial institutions).

Self-billing. Self-billing is allowed in Brazil. It is only allowed when importing goods or when the seller/buyer does not need to issue invoices (i.e., a nontaxable person). There are no special conditions for self-billing, and it is available for all taxable persons.

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

Foreign currency invoices. All VAT invoices must be issued in Brazilian reals (BRL).

Supplies to nontaxable persons. Companies rendering services or selling products in Brazil must send each invoice electronically to the government for validation. In the case of goods trade, the invoice must be submitted before shipping the goods. There are no special invoicing rules for supplies made to private individuals.

Records. In Brazil, examples of what records that must be held for VAT purposes include all invoices and ancillary obligations.

In Brazil, VAT books and records can be kept outside of the country. These files can be requested by tax authorities with very short notice, so it is recommended to keep records in Brazil. However, records can be stored outside of Brazil, as long as the records can be accessed in a timely fashion to provide to the tax authorities upon their request. However, in some cases ICMS's books must be kept at the taxable person's facility. This is due to local legislation (each state can create their own rules).

Record retention period. Records must be retained for five years.

Electronic archiving. Electronic archiving is allowed in Brazil. Paper archiving is possible.

I. Returns and payment

Periodic returns. *ICMS.* ICMS returns must be submitted for monthly periods. The VAT return must consist of an ICMS declaration named Digital Tax Accounting (EFD-ICMS/IPI), which lists all invoice details, including ICMS credits and debits during the period.

The specific date for submission depends on the taxable person's business activities.

IPI. For IPI, the following two different returns are required every month:
- The Declaration for Federal Taxes and Contributions (DCTF)
- The EFD-ICMS/IPI

ISS. ISS is due monthly. A return form must be completed each month. ISS returns are generally due monthly, but the rules differ between municipalities (Brazil has more than 5,500 municipalities).

PIS-PASEP and COFINS. PIS-PASEP and COFINS taxable persons must submit the DCTF to the federal tax authorities monthly. They must also submit the EFD Contribuições, which is a tax return related to PIS/PASEP and COFINS, where all the documents and transactions representing the revenues earned, as well as the costs, expenses, charges and purchases that generate credits must be reported, to the federal tax authorities on a monthly basis.

Periodic payments. *ICMS.* The VAT return must include a payment receipt (GARE). Return liabilities must be paid in Brazilian reals.

IPI. IPI is generally payable every month (depending on the type of products sold), using a payment receipt (DARF). Return liabilities must be paid in Brazilian reals.

ISS. ISS is due monthly. A specific payment must be completed each month.

ISS payments and returns are generally due monthly, but the rules differ between municipalities (Brazil has more than 5,500 municipalities).

PIS-PASEP and COFINS. PIS-PASEP and COFINS are due monthly, using a DARF.

Electronic filing. Electronic filing is mandatory in Brazil for all taxable persons. Monthly electronic filing is required from companies where the detailed throughput of goods and services are to be reported to the authorities. There are specific official applications that are provided by tax authorities through which a taxable person can upload its files and submit them to the tax authorities. Such files are created by the taxable person, usually using its ERP system, and can easily be submitted into the tax authorities' records.

Payments on account. Payments on account are not required in Brazil.

Annual returns. For specific tax books (e.g., inventory book titled "Block H" embedded in the EFD-ICMS/IPI) there are certain annual electronic filing requirements. In addition, there is a specific fiscal ledger designated to provide information to tax authorities on raw material manufacturing operations and finished product data, entitled "Block K." As part of the EFD ICMS/IPI, it has been required for some sectors since 2017, and according to the latest updates, new sectors will be required to send this tax book from 2023 on. The implementation of this obligation has been postponed many times. *At the time of preparing this chapter, the tax authorities have not announced any plans to delay it again.*

Special schemes. *"Simples Nacional" tax regime.* Companies under the "Simples Nacional" tax regime are subject to special VAT calculation/returns. The Simples Nacional tax regime (i.e., Integrated Payment of Taxes and Contributions from Micro and Small Companies) is a simplified tax regime applicable to micro and small companies that meet specific gross revenue thresholds and other legal requirements. The Simples Nacional regime allows these companies to calculate taxes applying reduced rates and calculation bases, and it also provides them with the possibility of paying several taxes together, including federal (i.e., IRPJ, CSLL, PIS, COFINS, IPI, INSS), state (i.e., ICMS) and municipal (i.e,. ISS) taxes using one payment slip and presenting VAT simplified returns.

Other regimes. There are multiple special regimes and tax benefits for specific sectors (e.g., agribusiness, pharma, automotive). However, regarding special "tax regimes/schemes," there is only the Simples Nacional tax regime *(see above)*, which is applicable depending on the company's revenue.

Supplementary filings. No supplementary filings are required in Brazil.

Correcting errors in previous returns. Since all ancillary obligations are submitted online, a taxable person may correct any errors/misunderstandings in its reports. This can be done voluntarily or by tax authorities' demand. Usually there is no need to formally notify the tax administration that a correction has been made.

Digital tax administration. Most of Brazil's ancillary obligations are filed digitally. Taxable persons are obliged to file the following before the tax authority:
- Digital invoicing (real time)
- EFD contribuições (for PIS and COFINS)
- EFD fiscal (for ICMS and IPI)

Digital invoices are issued in real time and automatically sent to tax administration. However, EFD Contribuições and EFD Fiscal are sent on a monthly basis. They are all electronic obligations that must follow a very specific and strict layout set out by tax authorities.

With these files in hands, the authorities can perform their verifications and identify any potential gaps/issues in the reports. Usually, the amount of collectable taxes is analyzed by a standard deviation method by the tax administration. However, that being said, if a significant reduction of taxes is identified on a taxable person's report, the tax authority will evaluate and ask for more information before validating.

J. Penalties

Penalties for late registration. The penalty for late registration in Brazil varies according to each local legislation. For the federal tax ID, there is no direct penalty for obtaining the late registration, but indirectly for not sending the necessary information that would have to be send once the tax ID should have been opened.

Penalties for late payment and filings. *ICMS.* A fine of 1% calculated over the total amount of the operations is due when a late filling occurs and 20% (maximum) of the uncollected amount.

IPI. The penalty for the late payment is 20% maximum of the uncollected amount and 1% of total revenue when the filling is delivery after its due.

ISS. ISS penalties may vary depending on the municipality and on the type of irregularity. In the São Paulo municipality, the fine varies from limited to 20% if paid before questioned by the tax authorities and is 50% to 100% of the ISS due after a verification is open.

PIS-PASEP and COFINS. The penalty for the late payment is 20% maximum of the uncollected amount and 1% of total revenue when the filling is delivery after its due. error connected is a fine of at least 75% of the tax due. However, it may be reduced to 20% when voluntarily disclosed by the taxable person.

Penalties for errors. *ICMS.* The penalty for errors in Brazil varies according to each local legislation. For instance, in the São Paulo muncipality, fines are 50% and 100% of the value of the transaction, dependent on the error.

IPI. The penalty for an error is a fine of 75% of the tax due.

ISS. ISS penalties may vary depending on the municipality and on the type of irregularity. For instance, in São Paulo municipality, fines range from 10% to 100% of the ISS due.

PIS-PASEP and COFINS. The penalty for an error connected is a fine of 75% of the tax due. If the error is corrected voluntarily, no penalty applies.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. For ICMS and ISS usually the penalties in case of fraud are calculated on the amount of the transaction and not on the amount of taxes not paid. For IPI and PIS and COFINS, the penalty is 150% of the amount of the tax not paid as a result of the fraud (as opposed to the standard penalty of 75%).

Personal liability for company officers. Recently, the Supreme Court ruled that intentional underpayment of taxes (i.e., ICMS) is considered as fraud and can lead to very severe charges (criminal) for companies' directors (including prison sentences). It is expected that this rule might be used in the future as a precedent for other taxes. It's important to point out that article 135 of National Tax Code indicates that to be liable for such penalties the agents may act against the law or the company's social contract.

Statute of limitations. The statute of limitations in Brazil is five years. This time limit is applicable to the tax authorities to impose penalties and taxable persons to reclaim input tax credits or unduly paid taxes. In case of fraud, the term can extend to six years.

Bulgaria

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Danak varhu dobavenata stoinost (DDS)
Date introduced	1 April 1994
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.minfin.bg)
VAT rates	
Standard	20%
Reduced	9%
Other	Zero-rated (0%) and exempt
VAT number format	BG123456789 (BG + 9 digits) – for established businesses BG1234567890 (BG + 10 digits) – for non-established businesses
VAT return periods	Monthly
Thresholds	
Registration	
Established	BGN100,000 (approx. EUR50,000)
Non-established	None
Distance selling	BGN20,000 (approx. EUR10,000)
Intra-Community acquisitions	BGN20,000 (approx. EUR10,000)
Electronically supplied services	BGN20,000 (approx. EUR10,000)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- Taxable supply of goods or services in Bulgaria
- Reverse-charge services received by a Bulgarian taxable person
- Intra-Community acquisition of goods against consideration from another European Union (EU) Member State by a VAT-registered person or a person for which a VAT registration obligation has occurred (*see the chapter on the EU*)
- Acquisition against consideration of new means of transport and of excise goods (by taxable or nontaxable legal persons)
- Importation of goods into Bulgaria, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

As of 1 January 2020, the following Quick Fixes have been adopted in the Bulgarian VAT Act and the Regulations for the Application of the VAT Act:
- Call-off stock relief – provides a simplified procedure and eliminates the need for the VAT registration of companies delivering goods on the territory of the country that are intended to be a consecutive supply to known customers within a certain period of time.
- Allocation of transportation to EU cross-border chain supplies – the new VAT rules introduce harmonized criteria for determining which of the transactions in a chain can be considered as the intra-Community supply.
- Burden of proof for intra-Community supplies – the amendments relate to specification of concrete documentary evidence that needs to be made available for purpose of proof of the intra-Community supply.
- Mandatory VAT number verification and VIES reporting – the amendments impose an obligation on the customer to provide a valid VAT number and the VIES report to be filed correctly for purpose of applying the zero rate to an intra-Community supply. In case of noncompliance, the supply will be subject to VAT in the state of dispatch.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Bulgaria, the following services are subject to the "use and enjoyment" provisions:
- For events, the place of supply both to taxable and nontaxable persons will be in Bulgaria, if the event is held in the country.
- For transport handling of goods, the place of supply provided to a nontaxable person shall be in Bulgaria, if the service is rendered in the country.
- For expertise, valuation or work on movable goods (i.e., the expertise on movable goods may refer to services provided by a person having special knowledge/credential such as valuation) the place of supply provided to a nontaxable person shall be in Bulgaria, if the service is rendered in the country.
- For restaurant and catering services, the place of supply will be in Bulgaria, if the services are performed on the territory of the country.

The place of performance of delivery of restaurant and catering services on board ships, planes or trains during the transport of passengers is in the territory of the country, when:
- The carriage of passengers begins in Bulgaria and ends in the territory of another Member State without stop in the territory of a third country or territory
- The carriage of passengers begins in Bulgaria and ends in the territory of a third country or territory with a stop in the territory of another Member State
- The carriage of passengers begins in a third country or territory and ends in the territory of another Member State and the first stop in the EU territory takes place in Bulgaria
- The transport of the passengers is carried out between two points on the territory of Bulgaria
- Telecommunications, broadcasting and electronic (TBE) services – if delivered to nontaxable persons, the place where the person is established or has his permanent address
- Transport of goods when within the EU and rendered to nontaxable persons, the place is where the transport begins, while when the transport is outside the EU, the place is determined in proportion to the distance covered
- Services related to immovable property – the place is in Bulgaria for immovable property located in the country
- The short-term hiring of vehicles to taxable and nontaxable persons is with a place in Bulgaria if the vehicles are put at the disposal of the recipient in Bulgaria

Specific services and supplies (e.g., license, patent, royalty, trademarks, consulting and engineering services, banking, finance, insurance, advertising, provision of personnel) are deemed to have a place of supply outside Bulgaria where the recipient is a nontaxable person located outside the EU.

Transfer of a going concern. According to the Bulgarian VAT legislation, the transfer of a going concern (TOGC) does not qualify as a supply within the scope of the VAT. This means that for the transfer, no VAT should be charged by the transferor. Pursuant to the local VAT legislation, the transferee would be considered a legal successor of all rights and obligations that are acquired with the transferred assets. TOGC treatment requires that the tax authorities are notified on the transfer beforehand.

Generally, the Bulgarian VAT Act provides for specific forms of business reorganizations under the Bulgarian Commercial Act, which constitute TOGC (for example, mergers, acquisitions, in-kind installments, etc.). To the extent of this and the case law of the Court of Justice of the European Union (CJEU), the Bulgarian courts sometimes tend to adopt a substance-over-form approach when assessing the existence of TOGC.

Transactions between related parties. According to the VAT Act, for transactions between related parties in Bulgaria, the tax base is the market price when the value of the transaction is as follows:
- Lower than the market price, the supply is taxable, and the recipient is not entitled to deduct a tax credit, or is entitled to a partial tax credit, or a right to a refund of the tax paid
- Lower than the market price, the supply is exempt, and the supplier is not entitled to deduct a tax credit, or is entitled to a partial tax credit, or a right to a refund of the tax paid
- Higher than the market price, the supply is taxable, and the supplier is not entitled to deduct a tax credit, or is entitled to a partial tax credit, or a right to a refund of the tax paid

C. Who is liable

A taxable person is a business entity or individual that carries out an economic activity in Bulgaria, whatever the purpose or the result of that activity. This rule applies regardless of whether the supplier is a local or foreign entity or an individual.

The VAT registration threshold for taxable persons established in Bulgaria is taxable turnover of BGN100,000 in any 12 consecutive months or within two consecutive months, which includes

turnover from taxable supplies chargeable at the standard rate of VAT (20%) or the reduced rate (9%), zero-rated supplies and financial and insurance services within the principal activity of the supplier.

There is no VAT registration threshold for taxable persons who are not established in Bulgaria and perform any of these supplies. Non-established taxable persons are obliged to apply for VAT registration seven days before VAT becomes chargeable, regardless of the generated turnover (unless a specific rule applies, such as when the local VAT is due by the Bulgarian recipient under the reverse-charge mechanism).

A taxable person, established in Bulgaria, rendering services with a place of supply in another EU Member State should register in Bulgaria regardless of its taxable turnover provided that the services are taxable in the EU state of receipt by EU VAT registered recipient.

A non-established, EU-based taxable person supplying goods to be assembled and/or installed in Bulgaria on their behalf, where the recipient is not registered for VAT in Bulgaria, must register for VAT purposes regardless of its generated turnover.

A taxable person receiving cross-border services subject to reverse charge in Bulgaria must register for VAT purposes in Bulgaria regardless of its taxable turnover.

In situations of two or more related parties, or parties that consistently carry out a homogeneous activity in the same commercial premises, the taxable turnover of each subsequent participant will include the taxable turnovers of all the persons before them, generated for the last 12 months, including the current one. A homogeneous activity will be any activity for which there is a significant identity in respect of two or more of the following elements: the goods or services offered, the assets used, the staff, the commercial mark or name of the outlet, the suppliers or the customers.

Exemption from registration. Incidental supplies of financial and insurance services (i.e., supplies that are not related to the person's principal activity), supplies of fixed assets used in the course of the person's activity, as well as supplies whereby the VAT is due by the Bulgarian recipient do not account toward the VAT registration threshold. Further, no VAT registration is required for EU taxable persons if the special call-off stock simplification is applied.

Voluntary registration and small businesses. A taxable person may register for VAT voluntarily irrespective of its taxable turnover.

An unincorporated partnership is treated as a taxable person, separate from the founding entities that constitute it. The unincorporated partnership is subject to all the general rules of the Bulgarian VAT law, including those relating to VAT registration, deregistration and reporting. The VAT registration of an unincorporated partnership does not result in the VAT registration of the entities that have entered into the contract for joint activity. However, VAT registration of the partners triggers VAT registration of the partnership. In such case, the partnership is obliged to apply for VAT registration in seven days after the date of its registration as a partnership, in a special partnership register in Bulgaria.

The VAT registration of a partner triggers the VAT registration of the partnership, if the partnership is not already registered for VAT on any other grounds. Where the VAT registration of the partnership is triggered, the application should be filed within seven days of the date of VAT registration of the partner.

Upon inheritance of a VAT-registered person (including a sole trader) and in case of continuation of the same independent economic activity, the successor is entitled to register for VAT by submitting an application within seven days of acceptance of the succession. The date of registration is the date of delivering of the registration act.

Group registration. Group VAT registration is not available in Bulgaria.

Holding companies. Group VAT registration is not available in Bulgaria.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been implemented in Bulgaria. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Bulgarian VAT law).

The Bulgarian VAT Act exempts the supply of goods and the provision of services by nonprofit organizations for the benefit of their members in return for a subscription fixed in accordance with the rules of the said organizations. In addition, a VAT exemption applies to the provision of services by independent groups of persons whose activities are exempt from or are not subject to tax for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses. The supplies are exempt if not leading to distortion of competition.

Fixed establishment. The Bulgarian VAT Act defines a fixed establishment (FE) as a trade representation, branch, office, studio, factory, workshop (factory), shop, trade warehouse, service, assembly site, construction site, mine, quarry, probe, oil or gas well, spring or other similar, extraction of natural resources, a certain room (own, rented or used on another basis) or another place through which a person carries out all or part of the economic activity on the territory of the country.

The Bulgarian tax authorities follow the approach taken in the EU legislation, where a FE is defined as any establishment characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources that would enable it to provide the services that it supplies, and/or to receive and use services supplied to it for its own needs.

Taking into account the case law of CJEU, which is followed by the Bulgarian tax authorities in their rulings, the authorities confirm that a FE could be created by using both human and technical resources.

Non-established businesses. A "non-established business" is a business that has neither a place of management/seat in Bulgaria nor a fixed establishment in Bulgaria. A non-established business must register for VAT in Bulgaria if it makes taxable supplies of goods or services (unless the reverse charge applies), intra-Community acquisitions exceeding the statutory thresholds or receives services with a place of supply in Bulgaria from a non-established foreign supplier.

Tax representatives. A foreign person established in a non-EU country that has not entered into an agreement for mutual assistance with the EU similar in scope to Directive 2010/24 and Regulation 904/2010 must appoint a resident fiscal representative to register for VAT purposes in Bulgaria. The representative assumes joint and unlimited liability for the VAT obligations of the non-established business.

Reverse charge. Bulgarian taxable persons are obliged to charge VAT on the acquisition of goods or receipt of services when the supplier is not established in Bulgaria as follows:

- Intra-Community acquisitions
- Services with a place of supply in Bulgaria where the recipient is a taxable person
- Supplies of natural gas through pipelines or electricity when the recipient is a VAT-registered person
- Supplies of goods assembled or installed by or for the account of the supplier when the recipient is a VAT-registered person in Bulgaria and the supplier is established in another Member State

Domestic reverse charge. VAT-registered taxable persons can apply the reverse charge for importation of certain base metals, organic and inorganic chemicals and mineral products if the customs value of the imported goods equals or exceeds BGN50,000.

A local reverse charge applies for domestic supplies to customers identified for VAT in Bulgaria on the acquisition of:
- Investment gold
- Waste and related services, such as scrap metal and similar supplies
- Cereals and industrial crops provided by agricultural producers (a temporary measure, applicable until 31 December 2026)
- Carbon emissions (as of 2020 and temporary until 31 December 2026)

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals) but these rules are usually referred to as "e-commerce VAT rules" because most of these transactions are conducted via the internet. In general, the place of supply is the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall below the distance selling threshold of EUR10,000). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

The Bulgarian VAT Act has introduced new rules regarding data collection and reporting of cross-border payment data related to e-commerce that will effectively come into force as of 1 January 2024. The rules essentially implement the provisions of Council Directive (EU) 2020/284 of 18 February 2020.

The adopted legislative package on payment data collection obliges payment service providers established in the EU to:
- Maintain accounts for cross-border payments processed by them to EU payers
- Keep records of the payments they process and about EU/non-EU recipients of such remittances

The reporting period shall be quarterly with cross-border payment data to be submitted in the month following the quarter to which it relates. The first reporting period is January to March 2024, for which the submission should be done from 1 April to 30 April 2024.

The submission of data to the national CESOP system by payment service providers will be performed through an electronic service in the electronic portal of the National Revenue Agency (NRA). In accordance with the rules for access to the e-portal, data can only be submitted by persons who are registered in the NRA Register. The electronic service will be accessible by the payment service provider or an authorized person (with full or partial access rights).

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Bulgaria, EU established businesses that do not apply the One-Stop-Shop (OSS) regime should follow the general VAT registration procedure and the requirements pursuant to it (for more details on the application process see the *Registration procedure* subsection below).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Bulgaria, the application for OSS registration is processed electronically via the website of the NRA. The preparation and submission of the registration applications require the use of a qualified electronic signature (QES) that is registered with the NRA. The person applying the scheme has an obligation to file a declaration to the tax administration on a quarterly basis. They must also keep an electronic register that provides sufficient information for the revenue authorities to check the proper application of the said scheme.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance ales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Bulgaria, the registration application under the IOSS scheme is submitted and processed electronically via the NRA website and requires the use of QES. The non-EU supplier should appoint a representative that is established in the EU who may also be registered under the IOSS scheme. The person applying the scheme has an obligation to file a monthly declaration to the tax administration. They must also keep an electronic register that provides sufficient information for the revenue authorities to check the proper application of the said scheme.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers. *For more details about the special scheme for postal services and couriers, see the chapter on the EU.*

The Bulgarian VAT Act prescribes for special arrangements corresponding to the scheme for postal services and couriers introduced under the EU rules. According to the Bulgarian legislation, the person applying the scheme has an obligation to file a monthly declaration to the tax administration. They must also keep an electronic register that provides sufficient information for the revenue authorities to check the proper application of the said scheme.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Bulgaria, taxable persons that facilitate sales of the covered type, including online marketplaces and platforms, could apply for registration under the OSS or IOSS scheme.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. Effective 1 January 2019, special rules for VAT treatment of transactions with vouchers entered into force. The rules introduce two types of taxable vouchers: single-purpose vouchers (SPV) and multi-purpose vouchers (MPV). Supplies of SPV are subject to VAT upon each transfer of the vouchers. The actual handing over of the goods and services in return for the SPV is not subject to VAT. On the other hand, MPVs are taxable at the time of the actual supply of the goods or services to which they relate. The transfers of the MPV before the actual handing over of the goods and services are not subject to VAT.

The new regime does not apply for discount vouchers and cinema/museum/travel and similar tickets.

Registration procedures. The VAT registration form should be completed in the Bulgarian language following a standard template and should be submitted in hard copy together with all supporting documents. If originating in a foreign language, they should be accompanied by an official translation into Bulgarian.

Online registration is also possible via a qualified electronic signature registered with the Bulgarian tax authorities on their web interface: https://inetdec.nra.bg/eservices.html.

The application should be submitted, and the registration procedure completed within the following deadlines:

- Mandatory general VAT registration: not later than the seventh day of the month following the month when the turnover has been reached; if the turnover is reached within two consecutive calendar months, the application should be filed within seven days of the date on which the turnover has been reached
- VAT registration for rendering or receiving cross-border services subject to reverse charge: at least seven days prior to the date when the tax for the supply becomes due
- VAT registration for intra-Community acquisitions: at least seven days prior to the date of the taxable event for the acquisition by which the total value of taxable intra-Community acquisitions exceeds BGN20,000 in a calendar year
- VAT registration as regards the delivery of goods to be assembled or installed in Bulgaria, performed by persons established in other EU Member States, where the recipients are not VAT registered in Bulgaria: not later than seven days before taxable event of the supply

The general documents and/or explanations that should be provided for the purposes of the VAT registration include:

- Notary certified and apostilled power of attorney (POA), as well as the details of the signatories of the POA: name(s), nationality, date/place of birth, passport (ID card) number(s), date and place of the issuing of the passport(s) or ID card(s), expiry date of the passport(s) or ID card(s) and the issuing authority, position within the business; (in case the VAT registration is performed by a proxy)
- Copy of the passport(s) of the authorized signatories of the business
- An original document evidencing the legal/commercial registration of the person – note that this document should be issued recently (not later than three months as of submission of the VAT registration application form) and be apostilled (if necessary). This certificate will indicate the address of registration, the legal representative(s), the amount of share capital and the commercial registration ID of the business
- An original certificate issued by the competent tax authorities for the current general tax registration of the person (needs to be recently issued and apostilled). The certificate should indicate the general ID number of the person
- A short summary of the business activities – description of the activities in Bulgaria leading to the VAT registration claim

Additional confirmation/documents related to the VAT registration:

- The business should provide certain general confirmations to the tax office, including for:
  - Its taxable turnover for the period of 12 consecutive calendar months prior to the calendar month when the application is filed – basic confirmation that the business has no sales with a place of supply in Bulgaria (local sales or such including zero-rated intra-Community supplies/export) or advance payments received
  - Lack of performed intra-Community acquisitions in Bulgaria for the current and previous calendar year
  - The grounds on which the business will apply for VAT registration – presumably VAT registration on voluntary basis prior to commencing local business activities
  - Means of financing the local activities (e.g., loans, own finances)
  - Information about contracts (including preliminary contracts) concluded or invoices issued/received by the business in respect of the Bulgarian activities
  - Contact data for official communications with the tax authorities, including email and postal address – it is advisable to consider that the communication will be in Bulgarian language and the person(s) responsible for such communication should preferably be carrying out or at least aware of the business's tax compliance process.

Additional confirmations (about local employees, assets, cash registers, etc.) would also likely be requested following the initial submission of the VAT registration claim. The email address

included in the application for VAT registration is assumed to be the official email address for correspondence with the tax authorities of the registered person.

Within seven days from submission of the application form and supporting documents for mandatory and voluntary VAT registration, the tax authorities verify grounds for registration. Within seven days from completing this verification, the tax authorities issue a certificate of VAT registration or a notice of rejection.

Aside from the mandatory general VAT registration (the first item above), the VAT registration procedure should be completed by the tax authorities within three days after the application is submitted.

Deregistration. A registered person may deregister when it ceases to make taxable supplies and the conditions for mandatory VAT registration are no longer met.

VAT deregistration is mandatory on the winding up of a company or on the death of a taxable individual.

Changes to VAT registration details. Any changes in a taxable person's VAT registration details (e.g., name of company, address, type of business, VAT status, etc.) should be notified to the tax authorities. This can be done in any free format (i.e., there is no mandatory template provided by the tax authorities), but submitted in hard copy, at an office of the National Revenue Agency.

There is no time limit prescribed for such notifications (unless the VAT position of the taxable person and/or its VAT obligations to the budget are affected). However, in practice such notifications are usually done within approximately two weeks.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rate: 9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Due to COVID-19, the reduced rates of 9% and 0% have temporarily been applied to certain supplies of goods and services. The reduced rates will apply from 1 July 2020 to specified dates in 2022 and 2023. Such supplies are included in the list of examples of supplies at the reduced rates below.

Examples of supplies of goods and services taxable at 0%

- Exportation of goods
- International transport and related services
- Intra-Community supplies
- Services related to the international traffic of goods
- Inward processing of goods (under certain conditions)
- Supplies related to duty-free trade
- Intermediary services of agents, brokers or other intermediaries related to zero-rated supplies
- Supply of vaccines against COVID-19 and in vitro diagnostic medical devices intended for the diagnosis of COVID-19 *(with effect from 1 January 2021 to 31 December 2023)*
- Supply of bread and flour *(with effect from 1 January 2023 to 31 December 2023)*

Examples of supplies of goods and services taxable at 9%

- Hotel accommodation
- Restaurant and catering services (these are services that consist of food delivery) whether prepared or not, including takeaway food. It does not apply to alcoholic spirits *(with effect from 1 January 2021 to 31 December 2023)*
- Books and textbooks, which include the supply of books and e-books, including textbooks and study kits, children's picture books, drawing and coloring books, printed or handwritten musical editions, etc., provided in physical and/or electronic form or both; periodicals (newspapers and magazines, in physical media or carried out electronically, or both; other than publications that are wholly or mainly intended for advertising and other than publications that are wholly or mainly composed of video content or audio-musical content becomes a permanently reduced VAT rate from 1 January 2023)
- Baby foods and hygiene items, which includes foods suitable for babies or young children, baby diapers and similar hygiene items *(becomes a permanently reduced VAT rate from 1 January 2023)*
- Supply of single service to tourists in the cases of the margin scheme, as well as excursions organized by tour operators and tourist agents with occasional bus transport of passengers *(with effect from 1 January 2021 to 31 December 2023)*
- Supply of sport facility use services *(with effect from 1 January 2021 to 31 December 2023)*
- Supply of central heating and natural gas *(with effect from 9 July 2022 to 1 July 2023)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Certain real estate transactions
- Leasing of residential buildings to individuals
- Financial services
- Insurance and reinsurance services
- Medical care services
- Education, cultural and sports services
- Betting and gambling
- Intermediary services related to international adoption procedures under the Family Code in Bulgaria

Option to tax for exempt supplies. For certain supplies, such as the sales of old buildings, the taxable person may opt for taxable or exempt treatment. Suppliers may opt to tax the following exempt supplies:

- Certain real estate transactions
- The interest element on finance lease (hire-purchase) installments

E. Time of supply

The date when VAT becomes due is called the "date of supply" or "tax point." The tax point for goods is the transfer of ownership of the goods, the transfer of another right *in rem* of the goods or the transfer of any other right to dispose of the goods. The tax point for services is the date of completion of the service. VAT also becomes due on the date of the receipt of an advance payment for supplies of goods or services to the extent of the payment received.

If the transfer of ownership in goods is deferred until the fulfillment of certain conditions, the date of supply is the date the goods are handed over.

Deposits and prepayments. VAT becomes due on advance payments, up to the amount of the payment made, before the taxable event (except for prepayments in relation to intra-Community acquisitions and intra-Community supplies). The prepayment is considered to be VAT inclusive.

The VAT should be charged, and the invoice should be issued within five days after receipt of the advance payment, full or partial.

Continuous supplies of services. The time of supply for periodic or continuous supplies each period for which there is a payment agreed is considered as a separate supply and the tax event coincides with the date on which the payment becomes due. For supplies performed in stages, the tax event coincides with the date on which each stage is completed.

If a supply is rendered continuously for more than one year and if no payment is made or due during that period, the date of supply is considered the end of the calendar year.

The time of supply for continuous intra-Community supplies of goods that continue for more than one calendar month is the end of the calendar month in which the supplies have been performed.

Goods sent on approval for sale or return. The taxable event for supplies of goods on approval for sale occurs at the moment at which they are actually received by the customer.

Return of received goods back to the supplier qualifies as cancellation of the supply. Such transactions should be documented through credit notes issued by the supplier.

Reverse-charge services. If a non-established business makes certain supplies of services to a business established in Bulgaria, the reverse charge applies. Under the reverse-charge mechanism, the recipient must charge the Bulgarian VAT on the supply. The recipient of the service must account for Bulgarian VAT on the supply, using a special form (protocol). The Bulgarian recipient of the service may fully or partially recover the self-assessed VAT (partial recovery may apply, for example, if the recipient makes both taxable and exempt supplies).

The date of supply for reverse-charge services is the date on which the service is completed or the date when payment is made, whichever is earlier.

Leased assets. The time of supply for leased assets may vary in view of the type of lease and the specific contractual arrangements:

- Operational leases (rentals) are taxed for Bulgarian VAT purposes as supplies of services. VAT becomes chargeable proportionately on each installment and the time of supply follows the rules for periodic and continuous supplies (see below).
- Finance leases are taxed either as a supply of services (rentals) or as a supply of goods depending on the contractual arrangements. VAT becomes chargeable proportionately on each installment if the lease is considered a supply of rental service. A finance lease qualifies as a supply of goods and the time of supply is upon handing over of the leased asset if one of the following is true under the contract:
  - Legal title over the leased asset will transfer upon expiry of the lease term.
  - An option for transferring the title on the leased asset is envisaged, but the total amount of the lease instalments, less the interest payments, equals the fair value of the leased asset.

VAT on the total price of the goods received under financial leasing with option to transfer their legal title, would be chargeable upon handing over of the goods if the total amount of the lease installments is identical to the fair value of the leased goods upon inception of the lease.

Imported goods. VAT for imported goods is chargeable when the goods are cleared for customs purposes.

A taxable person may postpone payment of import VAT on (i) goods imported for investment projects approved by the Ministry of Finance upon obtaining a special permission or (ii) importation of certain base metals, organic and inorganic chemicals, and mineral products if the customs value of the goods per unit equals or exceeds BGN50,000 upon declaring the use of the reverse-charge mechanism in front of the customs office in Bulgaria.

Under the postponed accounting regime, the imported goods may be released from customs control without payment of VAT. Instead, the taxable person authorized to use the regime reverse charges the import VAT. If the taxable person can recover the input tax in full, no actual payment is made.

Intra-Community acquisitions. The date of supply of intra-Community acquisitions follows the general rules. However, VAT on intra-Community acquisitions becomes chargeable on the 15th day of the month following the month in which the acquisition was made. If the supplier issues an invoice before this date, the date of supply is the date on which the invoice is issued, unless the invoice documents advance payments or unless the invoice is issued before the date of the tax event.

Intra-Community supplies of goods. The taxable event for intra-Community supplies of goods follows the general rules applicable to domestic supplies of goods. Intra-Community supplies of goods are subject to 0% VAT.

The VAT on intra-Community supplies and acquisitions becomes chargeable on the 15th day of the month following the month when the taxable event took place unless an invoice is issued before that. This does not apply if the invoice is for advance payment.

Effective 1 January 2020, to substantiate the zero VAT rate on an intra-Community supply, the supplier may use the documents previously required, i.e.:

- Transport documents, such as a bill of lading for road transportation under the Convention on the Contract for the International Carriage of Goods by Road (CMR), which verify the transportation of the goods outside Bulgaria to another EU Member State
- If the customer is responsible for organizing the transportation, a written confirmation from the customer for delivery of the goods, which should contain specific wording indicating the date and place of delivery, type and quantity of the goods, type, model and registration number of the vehicle that transported the goods, names and positions of the persons delivering and receiving the goods

Furthermore, the Bulgarian VAT rules alternatively provide that the supplier may also decide to collect and have at its disposal the documents under Article 45a of the Council Implementing Regulation (EU) 2018/1912 of 4 December 2018, i.e., the documents for the application of the EU rebuttable presumption regarding intra-Community supplies.

In addition, the 0% VAT rate shall be applied only if the recipient has provided the supplier with its valid VAT ID in advance, and if the intra-Community supply is correctly reported in the VIES return of the supplier.

If the supplier does not collect the above documents by the end of the month following the month when the 0% VAT became chargeable, he should apply 20% Bulgarian VAT on the supply. If the documents are collected later, the 20% VAT charged could be adjusted with specific documents.

Distance sales. There are no special time of supply rules in Bulgaria for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

Private use. Private use of services and goods by a taxable person for nonbusiness purposes is deemed supply for consideration. The taxable event is the last day of each month in which services were deemed supplied. The taxable amount is the attributable direct cost for rendering the supply. If capital goods are used to provide deemed supplies of services, the taxable amount is determined proportionately for each tax period, taking into account a five-year depreciation period (20 years for real estate) as of the date input tax was deducted for the capital good.

Upon purchases of immovable property and other capital goods/services that will be used both for the purposes of the taxable person's business and for private use, input tax should be deducted only up to the extent of their business use applying appropriate allocation methods.

If the purchases do not qualify as capital goods (taxable base of acquisition less than BGN5,000), and the taxable person will use them for business and private purposes, only proportionate deduction up to the extent of the business use is allowed.

Taxable persons should annually adjust (increase or decrease) the input tax deduction on their historical purchases of immovable property and capital goods depending on the actual annual business use. VAT credit should be adjusted within 20 years for immovable property and within 5 years for goods and services, which qualify as capital goods.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax by offsetting it against output tax. Input tax includes VAT charged on goods and services received in Bulgaria, VAT paid on imports and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services received (*see the chapter on the EU*).

Input tax is deductible in the same VAT period or in the following 12 months.

The amount of VAT reclaimed must be detailed on one of the following:
- A valid VAT invoice or debit note
- A protocol for reverse-charge VAT
- A customs declaration

The time limit for a taxable person to reclaim input tax in Bulgaria is 12 months.

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

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

Examples of items for which input tax is nondeductible

- Nonbusiness expenditure
- Business entertainment
- Business gifts
- Purchase of passenger cars and parking and maintenance costs (unless the car is used for core business activities)
- Home telephone costs

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease and hire of vans and trucks and other vehicles, which do not qualify as passenger cars
- Lease and hire of cars
- Fuel for vans, trucks, leased and hired cars
- Mobile phones
- Conferences and seminars
- Advertising
- Donations of foodstuff to food banks subject to a number of specific conditions being met

Partial exemption. Input tax directly related to making exempt supplies is not recoverable. If a Bulgarian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption, i.e., when the purchases are allocated to both the taxable and exempt activity of the taxable person. Zero-rated supplies are treated as taxable supplies for these purposes.

The amount of the monthly input tax that may be deducted is calculated based on the percentage of supplies that qualifies for a tax credit compared to the total amount of supplies for the preceding calendar year. The monthly calculation is adjusted annually by calculating the ratio between the supplies with right to VAT credit and the total supplies performed by a person during a year. The adjustment is made in the VAT return for the last month of the year. The recovery percentage is rounded up to two decimal places.

Approval from the tax authorities is not required to use the partial exemption standard method in Bulgaria. Special methods are not allowed in Bulgaria.

Capital goods. The period of adjustment for capital goods is 5 years and for real estate is 20 years. The input tax may be deducted in the year when the goods are acquired if the intention is to use them for taxable supplies. If they are subsequently used for exempt or nontaxable supplies within 5 or 20 years, a pro rata adjustment should be made.

In case of improvements of existing buildings as a result of which a new building is created, for the purposes of input tax corrections, a new 20-year period commences for the improvement.

If the goods are acquired with the intention that they be used for nontaxable or exempt supplies but subsequently are used for taxable supplies, the VAT can be proportionally deducted (reverse application of the capital goods scheme)

In Bulgaria, while the proportional input tax deduction method does not apply to services that are long-term assets, yearly VAT adjustments apply for such services (e.g., in case of personal use, performance of exempt supplies).

Refunds. If the input tax recoverable exceeds the output tax chargeable for a tax period, a taxable person has a VAT credit balance. A taxable person may claim a refund of the VAT credit through the submission of its VAT return to the tax authorities.

Input tax must be carried forward in the following two consecutive months and offset against VAT payables. If, at the end of the offsetting procedure, input tax exceeds the output, it can be refunded within 30 days from submission of the last VAT return. A shorter 30-day term (without offsetting procedure) applies to persons such as those whose zero-rated supplies exceed 30% of the total value of supplies made in a 12-month period.

Pre-registration costs. Input tax incurred prior to the VAT registration of a taxable person in Bulgaria may be claimed with regard to:

- Goods that qualify as assets and are available to the taxable person at the time of the VAT registration
- Services incurred with connection to the incorporation of the taxable person in the form of a legal entity under the Bulgarian Trade Act

Bad debts. The Bulgarian VAT Act contains rules for recovery of VAT in situations where output tax already accounted for by the supplier remains unpaid by the recipient (i.e., bad debts). In this regard, the Bulgarian VAT Act has introduced requirements and conditions for application of the bad-debt relief into effect as of 1 January 2023. In general, the correction of the taxable base is done by issuance of either credit note or protocol, depending on the recipient (for instance, whether the latter is a taxable/nontaxable person, whether or not it has been VAT registered at the time of the supply, etc.) where the credit note/protocol is issued within a certain time limit. Rules for respective correction of the utilized VAT credit are also introduced. Following receipt of full or partial payment by the recipient, however, the supplier (who has already utilized bad-debt rules and corrected his output VAT) is obliged to issue a debit note/protocol to "reverse" the VAT accordingly.

In this regard, in cases of full or partial nonpayment for a taxable supply (bad debt) with a place on the territory of the country whereby the receivable is irrecoverable, the supplier may reduce

the tax base and the VAT charged for the supply, where simultaneously the following conditions apply:

- An invoice has been issued for the supply
- The recipient and the supplier are not related parties at the time of the supply delivery and/or at the time when the relevant circumstances for bad debt occur
- There has been no transfer against consideration of the receivable
- The supplier can prove that it has taken action to recover the receivable
- The supplier has notified in writing the recipient that it deems the respective receivable to be irrecoverable and has a proof that the notification was sent to the recipient's registered office

The circumstances under which a claim is deemed irrecoverable are also provided for, including, inter alia, expiry of a specified period, insolvency and/or liquidation of the debtor, etc.

Where the supplier receives in whole or in part payment for a supply for which the taxable amount and the tax charged have already been reduced or the supply claim is extinguished in whole or in part by other means of consideration, it is obliged to issue a debit note in the tax period in which the payment is received or the claim is extinguished, up to the amount of the payment/consideration received.

For the reduction of the tax base exceeding BGN100,000, the supplier shall notify in writing the competent territorial directorate of the NRA within three months from the occurrence of the respective circumstances. The NRA, in turn, authorizes and confirms the issuance of a credit note.

Such explicit notification, however, is not required for full or partial nonpayment of a taxable supply with a tax base of up to BGN100,000. In such cases, within three months from the expiry of the tax period during which the relevant circumstance has occurred, the supplier shall issue a credit note to the invoice with tax charged and only where the recipient of the supply has exercised the right to deduct tax credit under that invoice.

A new rule, effective from 1 October 2023, provides that in cases of bad debts the supplier may obtain information on the VAT reporting of the invoice issued by it in the recipient's VAT purchase journal through a special electronic service provided by the NRA. Verification is to be carried out by entering the number and date of the invoice(s) and notice(s) issued by it and the VAT identification number of the recipient. Reduction of the tax base and the tax charged is not allowed in cases where the supplier knew or should have known that he will not receive the amount due on the supply (e.g., cases of joint liability where there is no supply at all or where its price significantly differs from the market prices).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Bulgaria.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Bulgaria is recoverable. The Bulgarian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Bulgaria. Non-established businesses may claim Bulgarian VAT based on special rules.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC and under Ordinance N H-9/16.12.2009. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Bulgaria during the refund period (excluding supplies covered by the reverse charge, supplies with "zero" VAT rate, transport services and services ancillary to them). The person may submit the request electronically through a portal in his own country. The applicant may be assisted by a local authorized person. *For full details, see the chapter on the EU.*

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive 86/560 and local Ordinance No H-10/24.08.2006. *For full details, see the chapter on the EU.*

Bulgaria applies the principle of reciprocity; that is, the country where the non-EU claimant is established must also provide VAT (or similar) refunds to Bulgarian businesses. The VAT refund procedure under the EU 13th Directive may be used only if the business did not perform any taxable supplies in Bulgaria during the refund period (excluding supplies covered by the reverse charge and transport services).

More specifically, the right to request a VAT refund is available to any taxable person for whom the following conditions are simultaneously fulfilled for the period to which the request for refund relates:

- The person does not have a registered office and address of management, permanent establishment, permanent address or usual residence on the territory of Bulgaria
- The person has not made supplies with a place in Bulgaria according to the VAT Act, with the exception for transport services and services related to international transport; and goods and services for which the VAT is due by the recipient of the supply
- The non-EU country in which the person is established is indicated in the list of countries approved by the Minister of Finance and the Minister of Foreign Affairs that refund VAT or other similar tax to Bulgarian persons. The countries included in the list at this moment are Israel, Iceland, Canada, Republic of Korea, Moldova, North Macedonia, Norway, Serbia, Ukraine and Switzerland.

The right to a VAT refund is exercised through an agent authorized by the foreign person, who acts in the name and on behalf of the non-EU person. The agent prepares and submit certain set of documents required by the tax authorities.

Find below specific rules for Bulgaria:

- The deadline to submit a refund claim is 30 June of the year following the year for which the claim is being submitted for.
- The claim for reimbursement may relate to a period of less than one calendar year, but not less than three months. In this case, a tax refund is allowed, provided that the amount of tax is equal to or exceeds BGN400. Also, the request for refund may relate to a period of less than three months if this period is a remainder of the calendar year and the amount of tax is not less than BGN50.
- VAT is refunded by the competent revenue authority to a bank account specified in the request for refund, within six months from the receipt of the request, and the costs of transferring the refunded tax are at the expense of the foreign person.
- Refund applications must be sent to the following address:

  21 “Aksakov” Str.
  Sofia 1000
  Bulgaria

Late payment interest. In Bulgaria, interest is not paid on late refunds to non-established businesses (for both EU and non-EU non-established businesses).

The refund procedure for EU-established entities is envisaged in Ordinance N-9/16.12.2009. The Ordinance explicitly provides that interest shall be payable on refund claims made within 10 days after the prescribed deadline. No such explicit rules are envisaged for non-EU-based entities.

H. Invoicing

VAT invoices. A Bulgarian taxable person must issue invoices for all taxable supplies made, including exports, intra-Community supplies and advance payments. Invoices are not required

for retail transactions (B2C), unless requested by the customer. Invoices may not be issued for supplies made free of charge, for financial services and for certain other supplies. A document qualifies as a valid invoice if it complies with the requirements set out in the Bulgarian VAT Act.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under EU Directive 2008/9/EC or the EU 13th Directive refund schemes (*see the chapter on the EU*).

Credit notes. Credit or debit notes are issued for reducing or increasing the tax base of previous supplies. They should explicitly indicate the invoices to which they refer and the reasons for the corrections.

Invoices and credit or debit notes can also be issued by recipients on behalf of suppliers, provided written agreements between the parties are concluded, for which the tax authorities should be notified.

A special tax document (protocol) is issued for transactions subject to reverse charge by the recipient.

Electronic invoicing. Electronic invoicing is mandatory in Bulgaria for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Bulgaria, in line with EU Directive 2014/55/EU (*see the chapter on the EU*). This is with effect from 1 November 2019. This means that pursuant to the Bulgarian Public Procurement Act, all contracting authorities are obliged to accept and process e-invoicing for payments under public procurement contracts. This is the case provided that the invoices' content meets the requirements of Art. 114, para. 1 of the Bulgarian VAT Act and the invoices comply with: (i) the European standard for electronic invoicing approved by Commission Implementing Decision (EU) 2017/1870 of 2017 on the publication of the reference number of the European standard for electronic invoicing and (ii) the list of syntaxes in accordance with Directive 2014/55/EU of the European Parliament and of the Council or an equivalent standard. In addition, under the Bulgarian Concessions Act, the grantor is obliged to accept and process e-invoicing for payments related to the concession, again provided that the above requirements (as mentioned for the public procurement contracts) are met.

For other taxable persons (B2B and B2C), electronic invoicing is allowed but not mandatory in Bulgaria, in line with EU Directive 2010/45/EU (*see the chapter on the EU*). Electronic invoicing is allowed if it is accepted by the recipient in writing (formal or informal procedure) or through tacit acceptance (i.e., by processing or paying the invoices). Taxable persons should be able to guarantee the authenticity, origin and integrity of the content of the e-invoices through a reliable audit trail. A nonmandatory example is through a qualified e-signature/EDI system.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Bulgaria.

The requirements related to electronic invoicing are the same as those for paper invoicing.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A simplified VAT invoice has been introduced that contains less compulsory information. A simplified VAT invoice can be issued by taxable persons for supplies of goods and services if the amount of the invoice is less than EUR100 (including VAT). Simplified invoices may not be issued in the case of distance sales, intra-Community supplies of goods or supplies with a place of supply in the territory of another EU Member State.

Taxable persons can issue summary invoices covering several separate supplies of goods and services, provided that VAT on the supplies mentioned in the summary invoice becomes

chargeable during the same calendar month. A summary invoice should be issued no later than the last day of the month to which it refers.

Self-billing. Self-billing is allowed in Bulgaria. For self-billing to be applied, the supplier and the recipient should conclude an explicit agreement in this regard. The Bulgarian tax authorities should also be notified by the supplier of this agreement. The signing of such agreement, however, does not release the supplier from its obligation to properly and timely document the supplies. If the recipient does not issue an invoice, it should be issued by the supplier. If the supplier or the recipient is not established in Bulgaria, the supply should be documented under the legislation of the country where the place of supply is.

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods. However, to qualify as VAT-free, export and intra-Community supplies must be supported by evidence that the goods have left Bulgaria. Acceptable proof includes the following documentation:

- For exports, a copy of the export declaration verified by the customs office and indicating the supplier as exporter or another document certifying the export, where it is possible not to submit a customs document under the customs legislation; an invoice; or, where the supplier is not obliged to issue an invoice, another document evidencing that the subject of the supply is the exported good, and transportation document (or a written confirmation by the recipient, if the goods are delivered to a third territory). When the goods are sent or transported to a third country or territory by postal and/or express shipments in accordance with Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code, to be able to apply the zero VAT rate, the supplier should possess a document from which it is evident that the goods sent or transported have been exported; an invoice; or, where the supplier is not obliged to issue an invoice, another document evidencing that the subject of the supply are the exported goods.

An amendment related to VAT reporting and exemption for exports performed by suppliers not established within the territory of the European Union (including Bulgaria) has entered into force as of 1 January 2023.

Namely, the new rule removes the requirement that such non-EU established suppliers (usually these are entities solely with Bulgarian VAT numbers) need to possess a customs declaration listing them as exporters of record (as previously required in the Regulations for the Application to the VAT Act but contrary to EU customs rules allowing only EU-established persons to act as exporters of record for customs purposes). The new VATA provision states that the customs export declaration should show that the goods are sent or transported outside the territory of the European Union, whereby cell *"Additional information/presented documents/certificates and permits"* of the declaration includes data for the non-EU established supplier's VAT identification number and the sales invoice number for the goods. The rule further presupposes that another person (established in the EU) is listed as exporter in the export customs declaration.

Thus, according to the rules laid down in the Regulations for Application of the Value Added Tax Act, where the goods are dispatched or transported to a third country by a supplier who is not established on the territory of the European Union, the supplier may apply "zero" VAT rate on the export, provided that he has the following documents:

- A customs export declaration indicating, by means of the relevant codes under the applicable Union customs legislation, the VAT identification number of the supplier and the invoice number of his supply for the goods exported
- An invoice for the supply
- A document for transportation of the goods outside the EU
- For intra-Community supplies, an invoice for the supply containing the VAT number of the recipient, as well as documents proving the dispatch of the goods to another EU Member State

The Bulgarian Regulations for the Application of the VAT Act (RAVATA) provide for written confirmation by the recipient as alternative evidence to collecting transport document in situations where the transport is performed by or on behalf of the recipient (i.e., not the supplier). This alternative existed in the local VAT Act before the introduction of the Quick Fixes (i.e., is not "linked" with the Quick Fixes). The written confirmation should indicate the date and place of receipt; the type and quantity of the goods; the type, brand and registration number of the vehicle with which the transport is affected; the name of the person who handed over the goods, as well as this person's official capacity; and the name of the person who received the goods, as well as this person's official capacity.

Foreign currency invoices. Invoices may be issued in any currency, provided that the tax base and the amount of VAT due are expressed in the domestic currency, which is the Bulgarian lev (BGN). Foreign currency invoices must be converted into Bulgarian lev at the exchange rate of the Bulgarian National Bank or the European Central Bank on the date on which tax becomes due.

Supplies to nontaxable persons. Special rules apply to the place of supply for supplies of telecommunications, broadcasting and electronic services to nontaxable customers. *For further details of the VAT rules on electronic services in the EU, refer to the EU chapter*.

Bulgarian legislation envisages that the issuance of an invoice to nontaxable person is optional unless the latter explicitly requests it. When an invoice is issued to a nontaxable person, the invoice shall contain the VAT number and details of the supplier and the recipient's personal identification number/name.

Distance selling. A taxable person, including one who manages an electronic interface, shall issue invoices for intra-Community distance sales of goods and for internal distance sales of goods with place of supply on the territory of the country when the person is not registered for the European Union regime under the Bulgarian VAT Act or in another EU Member State.

Records. In Bulgaria, examples of what records must be held for VAT purposes include detailed accounting records that are sufficient for the revenue authorities to establish the taxable person's local VAT obligations and depending on its business activity and type of supplies. For example, for goods excluded from the regimes of intra-Community acquisitions and intra-Community supplies (e.g., goods received/sent for performing services within the EU), it is required that a specific register for the goods is maintained. Also, a taxable person transferring goods under call-off stock arrangements shall keep an electronic register of such goods to enable the revenue authorities to check the proper application of said arrangements, etc.

In Bulgaria, VAT books and records can be kept outside the country. While there is no provision in the Bulgarian VAT legislation on where the records must be held, in practice, such records can be held inside or outside Bulgaria. Where the records are held outside Bulgaria, they should be accessible by the tax authorities during tax control procedures.

Record retention period. Any taxable person shall ensure the storage of the tax documents issued by or on their behalf, as well as of all tax documents received thereby, for five years after the expiry of the statute of limitation of the tax liabilities that such documents certify, in their original form. The authenticity of the origin and the integrity of content of the tax documents, as well as the readability thereof, must be guaranteed during the entire period of storage. E-invoices should be kept within 10 years of 1 January of the year following the year in which the VAT obligation under the documents has to be paid. The database storing the e-invoices should be accessible by the revenue authorities during tax control procedures.

Electronic archiving. Electronic archiving is allowed in Bulgaria. Electronic archiving should be organized by the taxable persons in such a way as to guarantee the authenticity of origin, the integrity of content and legibility of the electronic documents.

Minimum requirements for electronic archiving include:
- The taxable person has an obligation to guarantee during a tax audit an online access to the electronic archive.
- Reasonable business controls are required to create a reliable audit trail between the invoice and the supply. For electronic invoices examples of such technologies are EDI systems and qualified electronic signatures. Still, any other type of technology creating a reliable audit trail is accepted.

There are no restrictions on the location in which the electronic documents should be kept, i.e., the electronic archiving could be inland or abroad as long as an online access is guaranteed.

I. Returns and payment

Periodic returns. Bulgarian taxable persons file VAT returns monthly. VAT returns must be filed by the 14th day of the month following the tax period.

Periodic payments. Payment in full is required by the same date. VAT liabilities are due in Bulgarian lev (BGN), but they may be paid in any currency, provided the amount remitted is equivalent to the VAT due in BGN currency. The VAT must be paid by bank transfer to the bank account of the National Revenue Agency. The amount should be received by the bank account no later than the 14th day of each respective month (otherwise, a penalty interest applies daily). In case the 14th day of the month is a nonbusiness day, the VAT is due on the first business day following.

Starting from 1 October 2023, payments to the NRA via bank transfer are processed through five new BNB bank accounts. Each of these accounts is designated for the payment of specific debts. For VAT and other taxes (revenues to the central budget) the IBAN is as follows: BG88BNBG 96618000195001.

Electronic filing. Electronic filing is mandatory in Bulgaria for all taxable persons. The filing is performed via the e-portal of the National Revenue Agency (https://portal.nra.bg/details/vat-report) and requires an authorized signature.

Payments on account. Payments on account are not required in Bulgaria.

Special schemes. *Margin scheme for travel agents.* The VAT applies on the difference between the total amount paid by the traveler to the travel agent (exclusive of VAT) and the actual cost born by the travel agent for supply of goods and services provided by other taxable persons.

Margin scheme for taxable dealers of secondhand goods, works of art, collectors' items and antiques. The VAT applies on the margin being the difference between the sales price that the dealer will receive and the purchase price paid by them.

Cash accounting. Available for taxable persons with annual turnover in the previous 12 consecutive months not higher than the equivalent in Bulgarian currency of EUR 500,000. Under this regime, the VAT becomes due on the date when a full or partial payment is received.

Investment gold. According to the Bulgarian VAT Act, supplies related to investment gold are VAT exempt as follows:
- Supplies of investment gold, including investment gold represented by distributed or unallocated gold certificates; gold traded on accounts; gold loans and swaps, with ownership or claim in respect of investment gold; supplies affecting investment gold through futures and forward contracts leading to a transfer of ownership or a claim in respect of investment gold
- Services of agents who act in the name and on behalf of another, in connection with deliveries of investment gold

Taxable persons who produce investment gold or process gold into investment gold, as well as taxable persons who normally supply gold for industrial purposes, may choose to treat the

supplies as taxable. Taxable persons who provide intermediary services for the supply of investment gold may choose to be taxable for supplies where the supply in respect of which the intermediary service is provided is taxable.

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Postponed accounting for investment projects. The imposition of import VAT may be made by the importer, if the latter is a registered person and has permission to apply this regime in connection with the implementation of an investment project.

Postponed accounting for the importation of certain base metals, organic and inorganic chemicals and mineral products. This scheme can be used if the customs value of goods per unit equals or exceeds BGN50,000. These materials are exhaustively described in the VAT Act, under the chapters from EU CN Code as follows:
- Chapter 25 – Salt; sulfur; earths and stone; plastering materials, lime and cement
- Chapter 26 – Ores, slag and ashes
- Chapter 28 – Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes
- Chapter 29 – Organic chemicals
- Chapter 72 – Iron and steel
- Chapter 73 – Articles of iron and steel
- Chapter 74 – Copper and articles thereof
- Chapter 75 – Nickel and articles thereof
- Chapter 76 – Aluminum and articles thereof
- Chapter 78 – Lead and articles thereof
- Chapter 79 – Zinc and articles thereof
- Chapter 80 – Tin and articles thereof

Other special schemes. Among the special schemes already indicated, other special schemes are available for the Union and non-Union regime for TBE services, the new regimes for distance sales, the VAT domestic reverse charge for scrap metal, agriculture products and carbon emissions, the VAT incentive for investment projects, and the special rules for new vehicles.

Annual returns. Annual returns are not required in Bulgaria.

Supplementary filings. *Intrastat.* A Bulgarian taxable person trading goods with other EU countries must complete statistical reports, known as Intrastat, if the value of the goods exceeds certain thresholds. Separate reports are required for Arrivals (intra-Community imports) and Dispatches (intra-Community exports). The thresholds for declaration are determined by the National Statistics Institute and apply for the following year.

The threshold for Intrastat Arrivals for 2024 is BGN1,650,000. The threshold for Intrastat Dispatches for 2024 is BGN1,900,000.

A taxable person is not required to report the statistical value of the goods (the value of the goods plus additional transport and insurance expenses) if its turnover from intra-Community trade in goods for 2024 does not exceed the following:
- Dispatches: BGN37.2 million
- Arrivals: BGN16 million

In addition, the threshold for simplified Intrastat reporting of single low-value transactions is BGN500 .

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

Intrastat returns are submitted monthly in electronic format by the 14th day of the month following the respective month.

EU Sales Lists. Bulgarian taxable persons that make intra-Community supplies, supplies as intermediaries in triangular operations or supplies of reverse-charge services must file EU Sales Lists (ESLs; called VIES Declarations) with the Bulgarian National Revenue Agency. An ESL is not required for any period in which the taxable person has not made any supplies required to be reported in an ESL.

ESLs must be submitted monthly by the 14th day after the end of the respective month. Electronic filing of ESL returns is mandatory.

Call-off stock register. Taxable persons that apply the call-off stock regime must keep a specific register where all the movements are included from the beginning of the transport of the goods. Any subsequent changes in the circumstances, i.e., change of the final customer of the goods, must be reflected in this register in due course.

Declaration of cash balances. A new obligation for declaration of cash balances has been adopted through the Bulgarian VAT Act. The obligation is introduced for persons registered under the VAT Act that are also enterprises within the meaning of the local Accountancy Act. In this regard:

- The obligation will arise when, at the end of a calendar quarter, the total amount of cash available in the cash desks, the amount of receivables (also arising out of loans granted) from owners (natural persons), workers, employees, persons hired under management contract, as well as subreporting persons, exceeds BGN50,000
- The information should be reported in the WHT declaration under Art. 55, para. 1 of the Personal Income Tax Act and Art. 201, para. 1 of the Corporate Income Tax Act
- The deadline for reporting is the end of the month following the respective quarter
- The first reporting period is the third quarter of 2023, with extended deadline until 14 November 2023

Correcting errors in previous returns. Pursuant to the Bulgarian VAT Act, correction in filed VAT return and ledgers should be performed by the taxable person observing certain rules. On the first place, the taxable person makes the necessary adjustments in the tax period during which the error was found and includes the unrecorded document in the relevant accounting register for the same tax period – in case of unrecorded in the accounting registers documents. On the second place, the taxable person must notify in writing the competent revenue authority, which takes action to change the obligation of the person for the respective tax period – in case of incorrectly reflected in the accounting registers documents.

Digital tax administration. *Payment service providers.* With effect from 1 January 2024, there will be a general obligation for payment service providers. In accordance with the rules of Directive 2020/284, taxable persons that are payment service providers to recipients/payers in connection with cross-border payments will be required to keep specific electronic records and data for the recipients and payments for each calendar quarter.

Standard Audit File for Tax (SAF-T). Bulgaria is planning to introduce the standard electronic format for exchange of accounting and financial data with the local tax authorities (SAF-T). The upcoming introduction of SAF-T in Bulgaria will speed up the overall digitalization process in providing administrative services, specifically improving the interaction between the tax administration and businesses.

SAF-T implementation in Bulgaria will roll out gradually based on business size. The tax authorities are expected to release the official dates, legal guidelines, data requirements and file

delivery methods in 2024. Businesses operating in Bulgaria, whether residents or having activities through local establishments or Bulgarian VAT numbers, are anticipated to be affected by the reform.

At the time of preparing the chapter, the project is in the development phase in terms of the implementation of the conditions for data collection and transmission in the unified format of SAF-T. The project foresees timely inclusion of all interested parties in the reform. Good European practices will also contribute to SAF-T's optimal implementation in Bulgaria by assisting in the identification of the most suitable working model that meets the specifics of the Bulgarian tax system, as well as the approach and timing for introduction.

J. Penalties

Penalties for late registration. The penalty for non-registration ranges from BGN500 to BGN5,000. An additional penalty equal to the amount of VAT that should have been charged may be imposed. A penalty ranging from BGN500 to BGN5,000 may be assessed for failure to deregister on time.

Penalties for late payment and filings. The penalty for failing to submit VAT returns or maintain VAT ledgers (sales and purchase ledgers) or for submitting inaccurate VAT information ranges from BGN500 to BGN10,000.

The penalty for late submissions or for missing or inaccurate Intrastat declarations ranges from BGN500 to BGN5,000.

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

Penalties for errors. The penalty for failing to charge VAT is the amount of VAT not charged, but not less than BGN500. Penalties apply for delayed VAT charge – 5% of the VAT not charged, but not less than BGN200 (for a delay of up to six months) and 10% of the VAT not charged, but not less than BGN400 (for a delay between 7 and 18 months). The penalty for persons who fail to self-charge VAT is the higher of 5% of the corresponding VAT and BGN50. In case the VAT amount is self-charged in the next period, the penalty is the higher of 2% of the corresponding VAT and BGN25. Penalty of 100% of the corresponding VAT applies if input tax is nondeductible.

If failure to charge VAT is due to a technical mistake, the same may be settled by cancellation of the wrong invoice and issuance of a new one containing the respective VAT. It is also necessary that a countersigned cancellation protocol containing the grounds for the cancellation is issued and kept for tax control purposes. This, however, does not exclude the abovementioned administrative penalties.

The penalty for a failure to issue VAT documents that results in the payment of less VAT is the amount of the VAT not charged but not less than BGN1,000.

In 2022, the local legislation introduced the right of taxable persons to correct VAT documents issued for supplies that were subject to incorrect VAT treatment, including for cases where an entered-into-force tax audit act is in place. In general, the incorrect documents shall be canceled and new ones shall be issued instead, subject to specific legislative requirements. The related right of input tax deduction is also governed under new specific rules.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. If the changes impact the taxable person's VAT position/obligation, then the normal penalties may apply (as outlined in the subsections above and below). For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. If a taxable person avoids the assessment or payment of tax obligations in large amounts, i.e., over BGN3,000, by non-submission of return or by declaring wrong data in a return, they may be subject to criminal liability from one to six years imprisonment or a fine of up to BGN2,000. Should the tax obligations be in respect of large amounts, i.e., over BGN12,000, one shall be imposed to imprisonment from three to eight years and confiscation of a part or all their property.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Bulgaria.

Statute of limitations. The statute of limitations in Bulgaria is five years. This is from the first day of January of the year succeeding the year during which the public obligation became payable.

There are no specific rules on time limits for taxable persons to voluntarily correct errors in previous VAT returns. Specific rules apply only for the applications of the OSS schemes where the time frame for voluntary corrections is three years as of the deadline for submission of the VAT return.

Cambodia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	អាករលើតម្លៃបន្ថែម (អតប)
Date introduced	24 February 1997
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	General Department of Taxation (GDT) (https://www.tax.gov.kh/en/)
VAT rates	
Standard	10%
Other	Zero-rated (0%) and exempt
VAT number format	Tax Identification Number, X00X-XXXXXXXXX
VAT return periods	Monthly
Thresholds	
Registration	KHR125 million (goods)/KHR60 million (services)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supplies of taxable goods and services in Cambodia
- Appropriation of goods for own use by a taxable person
- Supplies of gifts or goods or services for less than their market value
- Import of taxable goods into the customs territory of Cambodia
- Supplies of digital goods or digital services into Cambodia

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Cambodia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Cambodia, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The business must be transferred from one person to another to continue its activities under the new ownership.
- The taxable person transferring the business must notify the tax authorities of the transfer of the business within 10 days of the date of the transfer.
- The taxable person transferring the business must seek cancellation of their registration, if appropriate.
- The recipient of the business must be registered for VAT as a taxable person at the time the business is acquired and must account for tax on the stock and assets acquired at the time of their supply.
- The recipient of the business must retain the tax records related to the business transferred for a period of 10 years.

Transactions between related parties. In Cambodia, for a transaction between related parties the value for VAT purposes is calculated by redetermination by the tax authorities.

Under the VAT regulations, the term "related" in relation to a person means the following:

- A person who owns 20% of more in value or voting power in equity interests in the person under consideration
- Having common management or directors with the person
- A member of the family or spouse or a member of the family of the spouse of the person
- An entity that has purchased 30% or more of the person's total output in any three consecutive months

The term "person" means any person or group of persons engaged in business and any other person who is related to the person.

In addition to the above, Cambodia introduced transfer pricing rule under which the term "related party" refers to:

- A member of the taxable person's family
- An enterprise that controls or is controlled by, or is under common control with, the taxable person; the term "control" means the ownership of 20% or more in the value or voting power of the equity interests in the enterprise or voting power in the enterprise's board of directors; to determine the degree of control for a taxable person who is a physical person, all equity interest owned by the taxable person and those owned direct or indirect by its spouse shall be included

C. Who is liable

A VAT taxable person is any person subject to the self-assessment regime of taxation who makes taxable supplies in Cambodia. Self-assessment taxpayers who provide taxable supplies are required

to register for VAT and charge VAT on taxable supplies. A taxable person that is making taxable supplies that fall under one of the following criteria is required to register with the General Department of Taxation (GDT):

- All types of corporations, importers, exporters and investment enterprises
- Any other enterprise with a turnover in respect of goods sold exceeding KHR125 million or in respect of services exceeding KHR60 million for the preceding three consecutive months or in the next three consecutive months
- Participates in any bidding or quotation for the supply of goods and services
  Or
- Any enterprise that, at the beginning of any three consecutive months, has any government contracts that will produce taxable turnover exceeding KHR30 million

Self-assessment-taxpayers are classified into three different types as follows:

- Large taxpayer:
  - Annual turnover over KHR4 billion for the agricultural sector; KHR6 billion for the service and trade sectors and KHR8 billion for the industrial sector
  - Registered as a subsidiary of a multinational company or a foreign company branch
    Or
  - Registered as a Qualified Investment Project (QIP), which is an investment project approved by the Council for the Development of Cambodia (CDC)
- Medium taxpayer:
  - Annual turnover between KHR1 billion and KHR4 billion for the agricultural sector; between KHR1 billion and KHR6 billion for the service and trade sectors, and between KHR1.6 billion and KHR8 billion for the industrial sector
  - Registered as a legal entity or representative office
  - A national or subnational government institution, association or nongovernmental organization, or project under these institutions
    Or
  - Foreign embassy or consulate, international organization or technical cooperation agency of another country
- Small taxpayer:
  - Annual turnover ranging from KHR250 million riels to KHR1 billion for the agricultural, service and trade sectors and between KHR250 million and KHR1.6 billion for industrial sector
  - Total turnover exceeding KHR60 million for any three consecutive calendar months
  - Expected to have a total turnover for the next three consecutive calendar months exceeding KHR60 million
    Or
  - Engages in bidding, price consulting or price surveying in the supply of goods or services

If the taxpayer declares turnover that does not reflect the actual turnover, the GDT has the right to redetermine the classification of a taxpayer as follows:

- Large taxpayer:
  - Holds assets valued above KHR2 billion for taxpayers in the agricultural, services and commercial sectors
    Or
  - Holds assets valued above KHR4 billion for taxpayers in the industrial sector
- Medium taxpayer:
  - Holds assets valued at KHR1 billion to KHR2 billion million for taxpayers in the agricultural, services and commercial sectors
    Or
  - Holds assets valued at KHR2 billion to KHR4 billion for taxpayers in the industrial sector

- Small taxpayer:
  - Holds assets valued at KHR200 million to KHR1 billion for taxpayers in the agricultural, service and commercial sectors
    Or
  - Holds assets valued at KHR200 million to KHR2 billion for taxpayers in the industrial sector

A resident taxpayer must complete a registration for VAT within 30 days after the date on which it becomes a taxable person.

Exemption from registration. A business does not have to register and account for VAT if its turnover does not (or is not expected to) exceed KHR125 million for the supply of goods or exceeds KHR60 million for the supply of services, for the preceding three consecutive months or in the next three consecutive months. Nor does a business have to register if it is not involved in importing or exporting, is not operating through a corporation, is not a QIP and does not participate in any bidding or quotation for the supply of goods and services under government contracts.

Voluntary registration and small businesses. A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold or in advance of making taxable supplies following the standard registration procedure.

Group registration. Group VAT registration is not allowed in Cambodia.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Cambodia where it has a permanent establishment. The term "permanent establishment" means a fixed place of business in Cambodia, the branch of a foreign company or an agent resident in Cambodia, through which the nonresident person carries on their business. The term "permanent establishment" also includes any other association or connection through which a nonresident person engages in economic activity in Cambodia.

Non-established businesses. Special rules apply for non-established businesses that make e-commerce supplies (see the subsections *Reverse charge* and *Digital economy* below). *At the time of preparing this chapter, other than e-commerce, there are no additional requirements for non-established businesses to register for VAT in Cambodia*.

Tax representatives. Tax representatives are not required in Cambodia.

Reverse charge. The revere-charge mechanism applies to e-commerce supplies from nonresident businesses that do not have a permanent establishment in Cambodia and to registered taxpayers in Cambodia (business-to-business supplies [B2B]). Resident taxpayers purchasing digital goods or services must account for VAT on behalf of the supplier by way of the reverse-charge mechanism. *At the time of preparing this chapter, the reverse-charge mechanism only applies to e-commerce supplies in Cambodia*.

Domestic reverse charge. There are no domestic reverse charges in Cambodia.

Digital economy. The tax authority issued Sub-Decree No. 65 (dated 8 April 2021), which laid out the conditions and mechanisms for collecting VAT on the provision of digital goods and services for consumption in Cambodia, supplied by nonresidents who do not have a permanent establishment in Cambodia. The below rules were implemented from 1 April 2022.

The standard rate of VAT applies on business-to-consumer (B2C) and B2B transactions. A new feature is the VAT reverse-charge mechanism on B2B transactions (see the *Reverse-charge* subsection above).

One of the key features of Sub-Decree No. 65 is that it requires nonresident entities not having a permanent establishment in Cambodia, who provide e-commerce goods or services to

Cambodia consumers (B2C), to register and account for VAT with the Cambodian tax authority if their actual or estimated revenue meets the threshold to register as a self-assessed taxpayer.

Sub-Decree No. 65 defines "electronic commerce" as the activities of purchasing, selling, leasing or exchanging products or services, including electronic commercial and civil commercial activities. A non-exhaustive list of examples of electronic commerce is included in an annexure to Sub-Decree No. 65 and includes: electronic ordering of tangible products, ordering/downloading of digital products, ordering/downloading of digital products for commercial use of the copyright, software updates and add-ons, limited duration software and other digital information licenses, single-use software or other digital products, application hosting separate licenses, application hosting-bundle contracts, application service providers (ASPs), ASP license fee, website hosting, software maintenance, data warehousing, computer support via a network, data retrieval, delivery of exclusive/high-value data, online advertising, electronic access to professional advice, technical information provided electronically, information delivery, access to an interactive website, online shopping portals, online auctions, sales referral programs, content acquisition transactions, streamed (real time) web-based broadcasting, carriage fees, and subscriptions to a website allowing the downloading of digital products.

In addition, the tax authority published Prakas No. 542 MEF.PrK on 8 September 2021, outlining details on the procedures for the implementation of the e-commerce rules outlined in Sub-Decree No. 65. The VAT registration thresholds for a nonresident e-commerce provider, under the self-declaration scheme, is an annual turnover of KHR250 million or expected turnover exceeding KHR60 million within any three consecutive months in the current year.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Cambodia. However, the same rules outlined above for e-commerce are also applicable if they are considered digital goods under an electronic commercial platform.

Registration procedures. Companies must register electronically through the online registration system. The following information and documents must be submitted through the online registration system:

- Reserve the company name in the system
- Copy of the passport of all shareholders (if individual)/shareholder representatives (if shareholder is legal entity), chairman and directors of the new company
- Photo (35mm*45mm) of all shareholders/representatives with a white background
- Phone numbers, addresses and email addresses of all shareholders/representatives
- Company information (i.e., address, phone numbers, main business activities, total employees, etc.)
- Land title or rental contract of the new company office address
- Property tax receipt of the new company office address or the confirmation letter from the company if the property is not subject to property tax
- Memorandum and Articles of Association (M&A) of new company
- Power of attorney
- Copy of the certificate of incorporation (COI) and M&A of shareholders, company's tax identification number of each shareholder, scan of original latest patent tax certificate and VAT of local shareholder, shareholder's resolution and bank letter

Upon submission of the above required information and documents, the company will receive a VAT certificate, patent tax certification and tax obligation letter from the GDT within 7 to 10 working days from when the company is successfully registered.

Deregistration. To deregister from VAT, taxable persons can submit an application letter to the GDT if in the preceding three calendar months, the taxable turnover does not exceed the

registration threshold and the taxable turnover for the previous 12 months does not exceed 75% of the annual registration threshold.

Changes to VAT registration details. A taxable person must notify the GDT when there is a change in the company's name, address, business activities or a change of shareholders. Such notification must be done by completing the information form as provided in the tax update form 101 to the National Tax School (NTS) within 15 working days from the date the change took place. The taxable person will then receive an approval from the NTS within 7 to 10 working days from the date the form was provided.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT (including zero rate).

The VAT rates are:
- Standard rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported services
- Services supplied for use outside Cambodia
- Any goods and services supplied by supporting industry QIPs or contractors to certain export industries

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Public postal services
- Certain medical and dental goods
- Wholly state-owned public transportation services
- Insurance services
- Primary financial services
- Educational services
- Nonprofit activities in the public interest, as recognized by the Ministry of Economy and Finance
- Educational services
- Electricity and clean water supplies
- Unprocessed agricultural products
- Solid and liquid waste removal service
- Job seeking, training, sending and managing workers or trainees to work abroad by private recruitment agencies

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Cambodia.

E. Time of supply

In Cambodia, the general time of supply rule for goods or services is the time the supplier must issue an invoice for the supply, or the time the invoice is issued (if the invoice is issued before the time it is required to be issued). The supplier is required to issue a tax invoice within seven days of the delivery of goods or the completion of the performance of services or at the time of payment if the payment is made before the delivery of goods or the completion of the performance of services.

Deposits and prepayments. There are no special time of supply rules in Cambodia for deposits and prepayments. As such, the general time of supply rules apply (as outlined above). This means that if payment is made before the delivery of goods or completion of the performance of service, the supplier is required to issue an invoice within seven days from the time of payment receipt. Hence, this is case-by-case based on characteristic of advance payment and deposit.

Continuous supplies of services. For the supply of continuous supplies of services, the time of supply is the earlier of the date on which the payment is due or received. This rule also covers supplies of goods under a rental agreement and supplies of goods or services under a multiple-payment agreement (i.e., this is an agreement that requires multiple payments rather than a one-off payment).

Goods sent on approval for sale or return. There are no special time of supply rules in Cambodia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Cambodia for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The time of supply rule for the supply of goods under a hire purchase agreement or finance lease is the date the goods are delivered, whether at the time of delivery it is characterized as a transfer of the right to use or disposal of a tangible fixed asset.

Imported goods. The time of supply for the supply of imported goods is the time at which the importer must file a declaration to the customs administration according to the regulations in force and the customs duty and other import charges are paid.

Other supplies. *Own use*. For the supply of goods that are applied to own use, the time of supply is the time at which the goods are first applied to own use.

Gifts. For the supply of goods or services by way of a gift, the time of supply is the time at which the goods are delivered or performance of the services is completed.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on taxable goods and services supplied to it for business purposes, to the extent that costs corresponding to the input tax are for taxable supplies (or imports of goods).

A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. If the input tax exceeds output tax due, this excess tax can be claimed as a refund.

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

The time limit for a taxable person to reclaim input tax in Cambodia is within the month it happens.

Nondeductible input tax. In general, input tax may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use). A taxable person must obtain a valid VAT invoice for input tax deduction. If the taxable person fails to obtain a valid VAT invoice, a VAT input credit may not be allowed, and the unrecovered input tax is also not allowed as a deductible expense for annual corporate income tax calculations.

Examples of items for which input tax is nondeductible

- Input tax without a valid VAT invoice
- Input tax from topping up an employee's personal mobile phone balance

Examples of items for which input tax is deductible (if related to taxable business use)

- Input tax from purchases of petroleum products (for non-petroleum business)
- Input tax from entertainment expenses (for businesses not involved with such entertainment)

Partial exemption. Where a taxable person makes taxable and nontaxable supplies, the input tax should be proportioned to reflect the percentage of taxable supplies,to calculate the amount of input tax that can be recoverable.

To calculate the appropriate input tax to be recovered, the taxable person must use the following formula:

A x B/C

- A is the total amount of input tax for the period.
- B is the total value of taxable supplies exclusive of VAT made by the taxable person during the period.
- C is the total value of taxable and nontaxable supplies exclusive of VAT made by the taxable person during the period.

Approval from the tax authorities is not required to use the partial exemption standard method in Cambodia. Special methods are not allowed in Cambodia.

Capital goods. In Cambodia there are no special input tax recovery rules for capital goods. The normal rules outlined above apply.

Refunds. Medium and large taxpayers can request a VAT refund from the GDT in the following cases:

- Where the monthly input tax credit is higher than the monthly output tax for taxable persons who are exporters or who are registered as an investment enterprise (i.e., QIP).
- Other taxable persons must have excess input tax credit for three or more consecutive months.
- All taxable persons must have proof of the input tax, including customs declarations (for imports), original customs receipts showing payment of taxes or original tax receipts issued by local suppliers.
- Proof of exported goods/services that are subject to VAT at the zero-rate.
- There are reliable VAT accounting books, sales/purchase journal and other supporting records.

The refund request must be manually submitted (i.e., by paper). In addition, the taxable person must also attach a copy of the original VAT return showing the VAT refund, that was filed in the GDT's system.

For diplomatic missions/foreign councils/INGOs and technical cooperation agencies of other governments the following criteria applies:

- Registration with the GDT is required.
- Submission of the VAT refund must be on a form prescribed by the GDT.
- Each invoice must have a total pre-tax amount of KHR200,000.
- Each refund request must have a total pre-tax amount of KHR200,000 or more.
- The request must have certification from the mission head to the GDT that the goods are truly purchased for use in the mission's official process.

On 8 August 20203, the GDT issued Instruction 018 MEF.GDT on certain procedures for requesting VAT credits and refunds, outlined as follows:

- To expedite the VAT refund process, a taxable person can request a VAT refund within three or six months or one year. If a taxable person requests a refund of VAT credits carried forward for more than one year, a timeline of 40 days as provided under Prakas 576 will not apply.

- VAT credits that are carried forward for longer than three years will not be eligible for a refund. For any VAT credits brought forward from before 2020, the taxable person must submit the request for a refund before the year ended 2023, otherwise those VAT credit will not be eligible for a refund.
- Taxable persons have the responsibility to ensure that their bank account details and enterprise information are up to date.
- A VAT refund can be put on hold by the GDT if taxable persons still have outstanding tax debts or reassessments (unresolved tax audit cases) with the GDT. In this case, the VAT credit will not be refunded until the outstanding tax debt or reassessment is resolved. Furthermore, in the case of any invalid VAT credits due to nonpayment of the VAT amounts to the GDT by the sellers, the GDT will keep those amounts on hold, and only approve the remaining valid VAT input amounts.

Pre-registration costs. Taxable persons can claim an input tax credit for input tax paid in respect of all taxable supplies or all imports of goods, including capital assets acquired by the person within 60 days prior to the tax registration. There is no specific process for this refund claim. It is claimed directly during the first month tax declaration after registration.

Bad debts. Output tax on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Cambodia.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Cambodia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Cambodia is not recoverable.

H. Invoicing

VAT invoices. A standard VAT invoice must be issued for all taxable supplies made by taxable persons. A taxable person in Cambodia may issue two types of invoices: a VAT invoice or a commercial invoice.

Medium and large taxpayers that provide goods and/or services are required to issue VAT invoices to customers who are registered taxpayers and commercial invoices to those customers that are not registered for tax.

Small taxpayers must issue commercial invoices to all their customers regardless of whether they are registered for tax or not.

Credit notes. A taxable person may issue a credit note for the adjustment of the VAT amount after the time of supply or the issue of a tax invoice if the following events occur:
- The supply is canceled.
- The nature of the supply has been fundamentally varied or altered.
- The previously agreed consideration of the supply has been altered by agreement with the recipient of the supply, whether due to an offer of discount or for any other reasons.
- The goods or parts thereof of have been returned to the supplier or the services have not been completed.

Electronic invoicing. Electronic invoicing is not allowed in Cambodia.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is not allowed in Cambodia.

There are no guidelines or specific rules on electronic invoicing in Cambodia. However, since Cambodia implemented e-filing for monthly tax and annual tax returns, the tax authorities accept electronic invoices in some audit cases.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Cambodia. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Cambodia.

Proof of exports. Exports of goods and services must be supported by the following evidence:
- Certified customs declaration for exports
- Copies of invoices issued to the foreign purchaser
- Transport documentations
- Orders or contracts for or with foreign purchaser
- Evidence of payment by bank transfer through a bank registered in Cambodia or by a letter of credit, it must be payable by bank registered in Cambodia with a due approval

When services are performed outside Cambodia for a nonresident entity, the services are subject to VAT at the zero-rate. The services may be considered as export services if the services are provided by a Cambodian taxable person using resident or nonresident employees to perform the services outside of Cambodia. When services are performed within Cambodia but used outside of Cambodia by a nonresident entity, the services are subject to VAT at the zero-rate if the services are used directly and entirely by a nonresident entity outside of Cambodia (i.e., the nonresident entity cannot use the services for any business purpose or economic benefit within Cambodia at any time).

A taxable person must provide the following supporting documents to claim VAT at the zero-rate:
- An agreement that clearly states the service fee, type of service and location where the services are to be performed
- Documents showing payments remitted outside of Cambodia to a bank in Cambodia
- An original invoice and related accounting records

Foreign currency invoices. The GDT requires all taxable persons in the self-assessment regime in Cambodia (see *Section C. Who is liable*) to apply the total amount in the domestic currency, which is the Cambodian riel (KHR), on invoices that are issued to customers where the items and VAT amounts can be in either KHR or United States dollars (USD). When using KHR on their invoices, taxable persons should refer to the daily official exchange rate issued by the NBC to convert from USD to KHR.

Supplies to nontaxable persons. Taxable persons must issue a commercial invoice to customers who are not registered for VAT or overseas customers. See the subsection *VAT invoices* above for more detail on commercial invoices.

Records. In Cambodia, examples of what records must be held for VAT purposes include any records related to VAT, including invoices must be held by taxable persons. This is what is done in practice because in the VAT law there is no explicit list of the type of records that must be held. Taxable persons must use sequential numbers on their invoices for a whole year and archive them for 10 years for the purposes of taxation.

An original invoice, especially the tax invoice, should be provided to customers to enable them to claim input tax credit from the GDT while the supplier can maintain a copy.

In Cambodia, VAT books and records can be kept outside the country. While there is no rule on where the VAT books and records must be held (i.e., inside or outside the country), in practice it can be either as long as records are made available if requested by the tax authorities.

Record retention period. Records must be held for 10 years.

Electronic archiving. Electronic archiving is allowed in Cambodia. However, there are no specific rules on electronic archiving. In practice, taxable persons can keep or archive hard files at a third-party warehouse and keep soft files in the company's drive.

I. Returns and payment

Periodic returns. The filing frequency for all taxable persons in Cambodia is monthly. VAT returns must be signed by authorized person and affixed with the company's stamp and filed with the GDT manually by the 20th of the following month. However, the company can file the VAT return electronically (via the e-filing system) by the 25th of the following month.

Periodic payments. The VAT payable, if any, must be settled by the same date as the filing deadline of VAT return, i.e., by the 20th of following month for paper filing and the 25th for e-filing. Generally, payments of VAT due are made electronically online, via the website of the tax authorities (i.e., internet banking or bank transfer). However, this is not mandatory, and a taxable person can still pay VAT due manually (i.e., in person).

Electronic filing. Electronic filing is allowed in Cambodia, but not mandatory. Medium and large taxpayers can file returns via e-filing either by purchasing a desktop app or online (https://www.tax.gov.kh/km/e-service). Small taxpayers can use the GDT tax prefiling app and they can make their tax payments via e-payment online.

Payments on account. Payments on account are not required in Cambodia.

Special schemes. No special schemes are available in Cambodia.

Annual returns. Annual returns are not required in Cambodia.

Supplementary filings. No supplementary filings are required in Cambodia.

Correcting errors in previous returns. Taxable persons should submit an application letter to the GDT to inform them of the change and the reason for making the amendment. The GDT may request supporting documents to verify the transactions being amended. The form is required to be submitted manually to the GDT (i.e., in paper form) after entering the amendments via e-filing. If the amendment is made before a tax audit and within six months after the submission of the original return, the additional tax of under paid tax is 10% and the interest penalty is reduced by 50%. If the amendment is made six months after the submission of the return, the interest penalty is reduced by 20%. If the amendment is made during a tax audit, the additional tax is at 10% plus 100% percent of interest penalty (see *Section J. Penalties* below).

Digital tax administration. There are no transactional reporting requirements in Cambodia.

J. Penalties

Penalties for late registration. If a taxable person registers late for VAT, penalties may be imposed on the supplies of taxable goods and services made before the date of registration. The penalties range from 10% to 40%, with interest of 1.5% per month for late or unpaid taxes.

Penalties for late payment and filings. Interest is charged for the late payment of VAT at 1.5% per each month the payment is late.

Penalties for errors. No input tax credit or income tax deduction is available with respect to the VAT on any invoice that does not follow the required format. Any taxable person failing to issue an invoice or issuing an invalid invoice is considered as obstructing the tax implementation process and will be subject to penalties that include suspending business operations, tax reassessment or in the worst and uncommon case scenario, filing criminal charges for tax evasion that may give rise to a penalty of up to KHR10 million or imprisonment for one year or both.

The late notification or failure to the notify tax authorities of changes to a taxable person's VAT registration details may result in a penalty for obstruction of the implementation of the tax laws. For further details, see the subsection above *Changes to VAT registration details*.

Penalties for fraud. Making and furnishing fraudulent records, documents, reports or any other information can be considered as an act of obstruction of the implementation of the tax laws. This can be penalized by up to a KHR10 million fine or imprisonment for one year or both.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Cambodia. The directors can be held personally liable and the penalties are the same as outlined above.

Statute of limitations. The statute of limitations in Cambodia is three to 10 years. Taxable persons may voluntarily correct errors within three years of the filing date. Tax authorities can go back to review returns up to 10 years.

The GDT carries out regular tax audits on Cambodian registered companies and audits are generally performed by either one of two departments of the GDT – the Department of Enterprise Audit (DEA) or the Department of Large Taxpayers (DLT). In practice, the DEA carries out comprehensive audits while the DLT conducts limited and desk audits. A "desk audit" refers to an examination of the taxable persons' tax returns by the auditors at the GDT's offices. A desk audit may be initiated if the auditors identify inconsistencies in the taxable person's tax returns or other information provided to the GDT. The Prakas indicates that if the auditors' findings are considered complex or high risk the desk audit may be terminated and replaced by an onsite tax audit.

The time period for initiating a desk audit is within 12 months after the submission of the tax returns. A "limited tax audit" is conducted at the taxable person's premises and is more detailed than a desk audit. The scope of a limited audit includes most types of tax including VAT refund but excluding income tax. A limited audit may be conducted only within the current tax year (N) and tax year before the current tax year (N-1) A comprehensive tax audit covers all taxes and includes a determination into whether the taxable person maintains proper accounting records. A comprehensive audit may be conducted on the current tax year (N) and the three tax years immediately preceding the current tax year (N-3). The comprehensive tax audit can be extended up to five years if there is evidence of tax evasion or tax losses or tax credits carried forward. if there is specific evidence of tax evasion and with pre-approval from the Ministry of Economy and Finance (MEF), the tax audit can be extended up to 10 years.

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A. At a glance

Name of the tax	Goods and services tax (GST) Harmonized services tax (HST)
Local name	Goods and services tax (GST) Harmonized services tax (HST)

Date introduced	1 January 1991 1 April 1997
Trading bloc membership	United States-Mexico-Canada Agreement (USMCA) Comprehensive and Progressive Agreement for Trans-Pacific Partnership Comprehensive Economic and Trade Agreement (CETA), between the European Union and Canada and currently provisionally in force
Administered by	Canada Revenue Agency (CRA) (https://www.canada.ca/en/services/taxes.html)
Sales tax rates	
GST standard	5%
HST standard	
Ontario	13%
New Brunswick	15%
Newfoundland and Labrador	15%
Nova Scotia	15%
Prince Edward Island	15%
QST standard	
Québec	9.975%
PST standard	
British Columbia	7%
Manitoba	7%
Saskatchewan	6%
Other	Zero-rated (0%) and exempt
GST/HST number format	15 characters (9 numeric/2 alpha/4 numeric)
GST/HST return periods	Monthly (turnover in excess of CAD6 million, optional for other registrants) Quarterly (turnover between CAD1.5 million to CAD6 million, optional for other registrants) with turnover of CAD1.5 million or less) Annual (turnover of CAD1.5 million or less)
Thresholds	
Registration	CAD30,000
Recovery of GST or HST by non-established businesses	No

B. Scope of the tax

Canada's federal government imposes a 5% sales tax known as the goods and services tax (GST). When a supply is made in a "participating province," the tax rate includes an additional provincial component of 8% or 10%, depending on the province. The combined 13% or 15% tax is known as the harmonized sales tax (HST).

In implementing the HST, the participating provinces repealed their individual retail sales taxes and share in the revenues generated by the HST. HST applies to the same base of goods and services that are subject to GST.

Although the province of Québec is not considered a "participating province," it replaced its own retail sales tax and eventually harmonized with the GST (subject to some exceptions) after it initially implemented its own Québec sales tax (QST) on 1 July 1992.

The provinces of British Columbia, Manitoba and Saskatchewan continue to impose their own retail sales tax (provincial sales tax [PST]), while the province of Alberta and Canada's three territories do not impose a retail sales tax.

GST/HST applies to taxable supplies of property and services made in Canada in the course of a business and to imports of goods into Canada. Specific HST rules determine when a supply is made in a participating province and when property or services are brought into a participating province.

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

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

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

The legislation contains rules that determine whether a supply has been made in Canada for GST purposes. Once it is determined whether a supply is made inside Canada or outside Canada under these GST place-of-supply rules, there is a similar but separate set of rules (known as HST place-of-supply rules) that determines whether the supply is made in a particular province in Canada.

Under the legislation, a sale of goods is deemed to be made in Canada if the tangible personal property (i.e., goods) is delivered or made available to the purchaser at a place in Canada. Any other supply of goods (otherwise than by way of sale), such as a lease, is deemed to be made either inside Canada or outside Canada depending on whether possession or use of the goods is given to the recipient or is made available to the recipient inside Canada or outside Canada.

A service is deemed to be supplied in Canada if the service is performed in whole or in part in Canada. It is deemed to be supplied outside Canada only if the service is performed wholly outside Canada. A supply of intangible personal property is deemed to be made in Canada if the property may be used in whole or in part in Canada. Conversely, a supply is deemed to be made outside Canada if the property cannot be used in Canada.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST/HST in every jurisdiction where it has customers that are not taxable persons. In Canada, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a GST/HST-registered or GST/HST-registrable business will be subject to GST/HST at the appropriate rate. However, a transfer

of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of GST/HST. In Canada, for a TOGC to be treated as outside the scope of GST/HST, the supplier and the recipient must make a joint election using Form GST44. To be eligible to make the election the following conditions must be met:

- A supplier (the vendor) makes a supply of "a business" or "part of a business."
- The business (or part) was carried on by the vendor.
- The recipient (the purchaser) is acquiring ownership, possession or use of "all or substantially all" of the property that can reasonably be regarded as being "necessary" for the purchaser to be capable of carrying on the business (or part) as a business (i.e., generally referred to 90% or more).
- The purchaser is registered for GST/HST where the vendor is registered for GST/HST.
- The vendor and the purchaser make a joint election in prescribed form.
- The purchaser files the election with the fiscal authorities no later than the due date for the return for the purchaser's first reporting period in which any of the GST/HST would have been payable.

Transactions between related parties. Closely related corporations and partnerships engaged exclusively in commercial activities may elect to deem supplies made between members of the group as being made for no consideration. See the subsection *Group registration* below. A similar election is available for corporations that are members of a closely related group that contains listed financial institutions. When the election is made, the electing corporations are deemed to be listed financial institutions and all supplies of property by lease or license and all supplies of services between the electing corporations are deemed to be supplies of financial services (exempt supplies for GST/HST purposes).

C. Who is liable

Every person who makes taxable supplies of goods or services in Canada in the course of a commercial activity is required to register for GST/HST purposes. "Commercial activity" means any of the following activities:

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

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

Crypto asset mining activity. On 22 June 2023, Canada enacted rules for the application of GST/HST to mining activities in respect of crypto assets and to remuneration received for performing such activities. The new rules are retroactive to 5 February 2022. A crypto asset mining activity includes the following:

- Validating transactions and adding them to the publicly distributed ledger on which the crypto asset exists at a digital address
- Maintaining and permitting access to the publicly distributed ledger on which the crypto asset exists at a digital address
- Allowing computing resources to be used in connection with the activities described above

In general, crypto asset mining is not considered a supply for GST/HST purposes. For example, a person that acquires a property or service for consumption, use or supply in the person's crypto asset mining activities is deemed to have done so otherwise than in the course of the person's

commercial activities. As a result, GST/HST does not apply to the provision of crypto asset mining and the person performing the mining cannot claim input tax credits (ITCs). However, the general GST/HST rules may apply if certain conditions are met (e.g., a particular person performs a mining activity for another person and the identity of that other person is known to the particular person).

Exemption from registration. The following are activities that are exceptions from requiring to register for GST/HST purposes:
- The person qualifies as a "small supplier."
- The person's only commercial activity is the supply of real property by way of sale other than in the course of a business.
- The person is a nonresident who does not carry on any business in Canada.

The definition of a "person" includes individuals, partnerships, corporations, trusts, estates of deceased individuals and bodies such as societies, unions, clubs, associations, commissions or other organizations of any kind.

A "registrant" is any person that is registered or is required to be registered for GST/HST.

Voluntary registration and small businesses. In addition to mandatory registration requirements, other persons engaged in commercial activities in Canada may apply for registration even if not required to do so under the legislation.

Small supplier threshold. A "small supplier" is a person whose annual worldwide taxable and zero-rated supplies were less than CAD30,000 in the four preceding calendar quarters. The CAD30,000 threshold is determined by reference to the aggregate of taxable and zero-rated supplies made by the person and any associates of the person in the period.

A person whose activities exceed CAD30,000 must register for GST/HST within one month after making the first supply that causes its turnover to exceed the threshold. However, if a person exceeds the CAD30,000 threshold in a single calendar quarter, it ceases to qualify as a small supplier beginning with the supply that causes it to exceed the threshold.

The small supplier threshold for a public service body (such as a charity, nonprofit organization, municipality, university, public college, school authority or hospital authority) is generally CAD50,000.

The small supplier rules do not apply to the following businesses:
- Persons who solicit orders for publications to be delivered in Canada by mail or courier
- Taxi operators (including commercial ride-sharing services)
- Nonresidents who sell taxable supplies of admissions in Canada for places of amusement, seminars, activities or events held in Canada

Persons engaged in selling real property (under taxable conditions) otherwise than in the course of a business may also register, though they are not required to do so under the legislation. Registration permits these persons to claim ITCs on land purchases at the time of purchase instead of at the time of sale, resulting in significant cash flow advantages.

Other voluntary registrations. Registration is also permitted in the case of a resident parent corporation that has no commercial activity but holds a related corporation's shares or debt deemed to be property that was last acquired or imported by the parent for use exclusively in the course of commercial activities. Also permitted is the registration of resident corporations that are acquiring or propose to acquire all or substantially all of the capital stock of another corporation.

Listed financial institutions resident in Canada are also permitted to apply for registration. Voluntary registration is also available to foreign banks in certain circumstances, as part of measures introduced to assist foreign banks to restructure under the foreign bank branching regime

in the Bank Act. These measures provide transitional GST/HST relief for the initial transfer of assets from a foreign bank's existing Canadian subsidiary to its newly established Canadian branch.

A corporation may also register for GST/HST purposes in certain circumstances, in contemplation of a distribution made in the course of a reorganization described in subparagraph 55(3)(b)(i) of the Income Tax Act (a butterfly transaction). *At the time of preparing this chapter, it should be noted that a notice of ways and means motion on 28 November 2023 would amend the legislation to remove the requirement that the reorganization be a butterfly transaction. Instead, these amendments would add conditions limiting the type of property that could be included in the supply that the corporation receives and generally requiring that the consumption, use or supply of the property before and after the supply be exclusively in the course of commercial activities. If enacted, these measures would be deemed to have come into force on 9 August 2022. However, these changes had not been enacted.*

The minister of national revenue is not required to register every person who applies for registration and is authorized to deny registration in appropriate cases.

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

However, "closely related" corporations and partnerships may elect to deem supplies made between members of the group as being made for no consideration if the members are engaged exclusively in making taxable and zero-rated supplies. This provision effectively makes sales between group members subject to the zero rate. Taxable sales of real property and any supply that is not acquired by the recipient exclusively for use in a commercial activity are not eligible for relief under the election.

In addition to closely related corporations, the election is also available to groups that include partnerships, referred to as "Canadian partnerships." A "Canadian partnership" is defined as a partnership in which each member is a corporation or partnership and is resident in Canada. *At the time of preparing this chapter, draft legislative amendments would, if enacted, repeal the "Canadian partnership" definition and replace it with the term "specified partnership," effective 10 August 2022. "Specified partnership" means a partnership each member of which is a corporation and a partnership, while the definition of "qualifying member" would be amended to include a specified partnership, each member of which is resident in Canada. On 28 November 2023, the Department of Finance tabled a notice of ways and means motion that would implement these amendments. However, they have not been enacted.*

Special rules apply if a closely related group includes a financial institution. See the subsection *Transactions between related parties* above.

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

Closely related corporations and Canadian partnerships are required to file prescribed election Form RC4616 with the Canada Revenue Agency (CRA).

There is no minimum time period required for the duration of a GST group. It is based on the degree of share ownership (as outlined below).

Changes to the definition of a "qualifying member" resulted in a general increase in the availability of the election for new members of a qualifying group. However, in the case of new members, the election is available if it is expected the new member of the group will be exclusively engaged in commercial activities throughout the 12-month period following the time when the election is made.

The prescribed form for the election in Québec is numbered FP-4616-V.

In addition to meeting a 90% or more ownership test based on the value and number of voting shares, in order for the parent and the subsidiary to be considered to be closely related, the parent corporation or partnership must hold and control 90% or more of the votes in respect of every corporate matter (i.e., the qualifying voting control) of the subsidiary corporation.

All parties to the election are jointly and severally, or solidarily (for civil law purposes), liable for tax (and penalties) that may apply in relation to supplies made among them. Liability applies even where the election had ceased to be in effect before the time the particular supply was made, but the parties conducted themselves as if the election were in effect at the time the supply was made. Liability also applies where no valid election had been made, but the parties claimed they had made an election and were conducting themselves as if an election were in effect at that time.

Fixed establishment. Generally, where a nonresident has a permanent establishment (PE) in Canada, the person is deemed to be resident in Canada regarding the activities carried on through that particular establishment. Every nonresident person deemed resident in Canada and engaged in commercial activity (i.e., the business of making taxable and zero-rated supplies) in Canada through that particular establishment is generally required to register for GST/HST. A PE, in respect of a particular person, is defined for GST/HST purposes as a fixed place of business of the person, including a place of management, branch, office, factory, workshop, mine, oil or gas well, quarry, timberland or other place of extraction of mineral resources through which supplies are made. In addition, the PE of a person includes the fixed place of business of another person (other than a broker, general commission agent or other independent agent) making supplies on behalf of the person in the ordinary course of business.

Based on the above, for a person to have a PE under the first part of the definition, the person must both have a fixed place of business and make supplies through that fixed place of business, or under the second part of the definition, have a person (other than a broker, general commission agent or other independent agent acting in the ordinary course of business) making supplies through a fixed place of business in Canada.

Non-established businesses. A nonresident business that does not carry on business in Canada but solicits orders for the supply of goods in Canada or enters into an agreement to supply certain goods, services or intangible property in Canada, may register on a voluntary basis to be eligible to claim ITCs (see *Section F. Recovery of GST/HST by taxable persons*). A nonresident business is not required to appoint a tax representative in Canada to register for GST/HST. However, a nonresident business with no PE in Canada must provide a security deposit to the GST/HST authorities to obtain registration.

In general, the amount of security is 50% of the estimated net tax (either positive or negative) for the first year of operations in Canada. The minimum acceptable amount of security is CAD5,000, and the maximum is CAD1 million. Security may be in the form of cash, certified check, money order or bond. All security deposits are payable in Canadian dollars (CADs).

A nonresident business may apply in writing to have the security requirement waived if it satisfies both of the following conditions:
- Its taxable supplies in Canada do not exceed CAD100,000 annually.
- Its net GST remittance or refund does not exceed CAD3,000 annually.

Tax representatives. A nonresident business is not required to appoint a tax representative in Canada to register for GST/HST. Form-AUT-01 is used to authorize the CRA to deal with an individual representative (such as an accountant, lawyer or employee) or a firm as a representative for business account-related GST/HST information (as well as payroll, corporation income taxes, excise taxes, excise duties and other levy accounts). A representative is required to complete the authorization request in "Represent a Client" at https://www.canada.ca/en/revenue-agency/services/e-services/represent-a-client.html to obtain online access to tax information for a business.

Reverse charge. Self-assessment of the GST or federal component of the HST is required on importations of intangible personal property and services that are acquired from unregistered, nonresident persons outside Canada and not used at least 90% in commercial activities (100% in the case of financial institutions). The tax is calculated on the amount charged for the service or intangible personal property in CADs, and the tax is payable in the reporting period in which the amount for the service or the intangible personal property was paid or became payable. Registered purchasers of real property are also required to self-assess and remit applicable tax on the consideration paid for the property.

Domestic reverse charge. There are no domestic reverse charges in Canada.

Digital economy. Prior to 1 July 2021, many online vendors who did not have a physical presence in Canada were not considered to be "carrying on business" in Canada. The obligation to pay the GST/HST on supplies was technically on the consumers, who were required to self-assess under the legislation although in practice this was rarely done.

Effective 1 July 2021, new measures were introduced to ensure that GST/HST applies fairly and effectively in the context of an increasingly digital economy. Specifically, nonresident vendors supplying digital products and services to consumers in Canada are required to register for, collect and remit GST/HST with respect to their taxable supplies to Canadian consumers. Similar requirements apply to supplies of short-term accommodation made through digital accommodation platforms, as well as to goods supplied through fulfillment warehouses, as outlined below.

Under these measures, a nonresident vendor is required to register for, collect and remit the GST/HST if the vendor's total taxable supplies of digital products or services made to consumers in Canada exceed or are expected to exceed CAD30,000 over a 12-month period. These measures also apply to a nonresident distribution platform operator if the operator's total taxable supplies of digital products or services made to consumers in Canada, including the supplies of digital products or services by nonresident vendors to consumers in Canada that the operator facilitates, exceed or are expected to exceed that threshold. For purposes of this measure, a consumer is an entity or person not registered for GST/HST and a business is any other entity or person registered for GST/HST.

A nonresident vendor or nonresident distribution platform operator that does not carry-on business in Canada may register under a simplified system allowing them to use a specific online portal for simplified GST/HST collection and remittance. Under the simplified system, they are required to collect and remit GST/HST for supplies made to consumers, but not for supplies to a registrant. As well, they may not claim ITCs to recover GST/HST paid on business inputs. However, a nonresident vendor or nonresident distribution platform operator may claim ITCs if that person registered in accordance with the regular GST/HST rules.

These rules apply to cross-border supplies of digital products and services to the extent the consideration for such supplies becomes due on or after 1 July 2021 or is paid without becoming due. Also effective on the same date, distribution platform operators are required to register under the normal GST/HST rules and to collect and remit the GST/HST for sales of goods that are located in fulfillment warehouses in Canada (or shipped from a place in Canada to a purchaser in Canada) when those sales are made by non-registered vendors through distribution platforms. Moreover, nonresident vendors are required to register under the normal GST/HST rules and to collect and remit the GST/HST for sales of goods that are stored in fulfillment warehouses in Canada when nonresident vendors make such sales on their own account.

Registration requirements apply to both resident and nonresident distribution platform operators if their total qualifying supplies of tangible personal property to purchasers in Canada, including supplies made through their platforms by third-party vendors, exceed or are expected to exceed CAD30,000 over a 12-month period.

GST/HST is also required to be collected and remitted in respect of supplies of short-term accommodation made through a digital accommodation platform. A property owner who is a registrant is required to account for GST/HST on such supplies. If the property owner is not a registrant, the accommodation platform provider is deemed to have made the supply and would be responsible for GST/HST collection and remittance.

GST/HST registration is required for an accommodation service provider if that person facilitates or expects to facilitate more than CAD30,000 in taxable supplies of short-term accommodation in Canada for unregistered third-party suppliers of the accommodation. An accommodation service provider that carries on business in Canada continues to be subject to the regular GST/HST registration regime. Nonresident accommodation platform operators that do not carry-on business in Canada may register under a simplified system allowing them to use a specific online portal for simplified GST/HST collection and remittance. Under the simplified system, they are required to collect and remit GST/HST for supplies of short-term accommodation made to consumers (defined to be a person not registered for GST/HST) but not for supplies to a registrant. Under the simplified system, they may not claim ITCs to recover GST/HST paid on business inputs.

These rules apply to supplies of short-term accommodation made on or after 1 July 2021, as well as to a supply made before that date if all the consideration for the supply is payable on or after 1 July 2021.

Initially, the CRA used the same number pattern for both regular and simplified GST/HST registrations. Because there was only one number pattern for both types of registration, there was a risk that Canadian businesses could claim undue ITCs. Effective 30 June 2023, the last four digits have been altered to visibly identify registrants under the simplified regime. The updated number should be used for reporting periods after 30 June 2023.

Québec specified registration system. Prior to the introduction of the federal e-commerce measures outlined above, Québec implemented a mandatory specified registration system for suppliers with no physical or significant presence in Québec (nonresident suppliers) to ensure the QST is collected and remitted in the context of the digital economy. Suppliers with no physical or significant presence in Québec are required to collect and remit the QST on taxable incorporeal movable property and services they supply in Québec to specified Québec consumers (i.e., persons who are not QST registrants and whose usual place of residence is located in Québec).

Mandatory registration applies to digital property and services distribution platforms with respect to taxable supplies of incorporeal movable property or services supplied to specified Québec consumers, where the digital platform controls the key elements of transactions with such consumers, such as billing, transaction terms and conditions, and delivery terms. The specified registration system took effect on:

- 1 January 2019: for nonresident suppliers outside Canada and for digital platforms enabling these suppliers to make taxable supplies of incorporeal movable property or services in Québec to specified Québec consumers
- 1 September 2019: for nonresident suppliers located in Canada and for digital platforms enabling these suppliers to make taxable supplies of incorporeal movable property or services in Québec to specified Québec consumers

Nonresident suppliers who are required to register under the specified system may elect to register under the general QST system instead if they meet the optional registration requirements under the QST system. A nonresident supplier who makes this election is also required to register for GST/HST.

Online marketplaces and platforms. In addition to the supplies in relation to the digital economy, nonresident (for tax purposes) suppliers located in Canada are required to collect and remit the QST on taxable corporeal movable property (goods) they supply in Québec to specified Québec

consumers. This mandatory registration applies to nonresident suppliers if the value of the consideration for all taxable supplies made by the supplier in Québec to consumers exceeds CAD30,000.

Canada has adopted the Organisation for Economic Co-operation and Development (OECD) model rules developed for reporting by digital platform operators on platform sellers. As a result, reporting platform operators providing support to reportable sellers for relevant activities will be required to file annual reports with the CRA indicating the jurisdiction of their reportable sellers. Under the model rules, reporting platform operators are entities that are engaged in the following:

- Contracting directly or indirectly with sellers to make the software that runs a platform available for the sellers to be connected to other users
- Collecting compensation for the relevant activities facilitated through the platform

Reporting platform operators include platform operators that are resident for tax purposes, or nonresident platform operators that facilitate relevant activities by sellers resident in Canada or with respect to renting real property located in Canada. Reportable sellers include active users that are registered on a platform to perform relevant activities. Certain sellers that represent a limited compliance risk, such as government entities, are excluded. Relevant activities include relevant services (e.g., services involving time or task-based work, rental of real property, rental of transportation) and sales of goods.

Reporting platform operators must report specified information on reportable sellers by 31 January of the year following the calendar year for which a seller is identified as a reportable seller. These measures apply to calendar years beginning after 2023. This means the first reporting and information exchanges will occur in early 2025 for the 2024 calendar year.

QST harmonization – Cross-border digital products and cross-border services. The federal measures that took effect 1 July 2021 essentially reflect the specified QST system that requires nonresident suppliers, as well as operators of specified digital platforms facilitating the transactions of such suppliers, to register with Revenu Québec and to collect and remit the QST applicable to their taxable supplies of incorporeal movable property and services made to Québec consumers.

Québec has amended its tax legislation to avoid any difference in harmonization between the QST and GST/HST systems that may result from the implementation of the federal measures relating to cross-border digital products and cross-border services, e.g., the rules relating to calculating the CAD30,000 threshold. These amendments are intended to ensure that the provisions concerning the specified QST registration and remittance system, applicable to nonresident suppliers and distribution platform operators, are harmonized with the federal legislation. As well, they are intended to ensure that QST is collected on the sale of goods from outside Canada from a warehouse in Québec and on the supply of short-term accommodations situated in Québec that are rented through digital accommodation platforms. The amendments to the Québec tax legislation are effective 1 July 2021.

QST harmonization – Goods supplied through fulfillment warehouses. Québec has amended its tax legislation to incorporate the federal measures for supplies of goods made through fulfillment warehouses. As a result, distribution platform operators and nonresident vendors are similarly required to register under the normal QST rules and to collect and remit QST, in respect of sales of goods located in fulfillment warehouses in Québec or shipped from a place in Québec to a consumer in Québec. Fulfillment businesses in Québec are also required to notify Revenu Québec that they are carrying on a fulfillment business and to maintain records on their nonresident clients and the goods they store on their behalf. Furthermore, the specified QST system is amended to ensure the collection and remittance of QST on sales of goods located in fulfillment warehouses in Canada but outside Québec, as well as on sales of goods shipped from a place in Canada but outside Québec, when such sales are made to Québec consumers.

QST harmonization – Platform-based, short-term accommodation. Québec has incorporated the GST/HST measures in respect of supplies of short-term accommodation facilitated by a digital platform operator.

Registration procedures. Persons required to register under the legislation must apply to the CRA within 30 days following the first taxable supply made in Canada. Registration can be done online (https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst-businesses/account-register.html), by mail, by fax or by telephone. To register, the following information must be provided:

- Amount of annual worldwide and domestic GST/HST taxable supplies
- Fiscal year-end
- Effective date of registration
- Reporting period
- Business name
- Business number (if the business already has one – see below)
- Type of business or organization (such as sole proprietor, partnership, corporation, registered charity)
- Name and Social Insurance Number of all owners
- Physical address
- Mailing address (if different from the physical address)
- Description of major business activity

Before registering for GST/HST (or during the process of registering), a business must obtain a business number (BN) from the CRA by using its online service at http://www.businessregistration.gc.ca; by sending in a completed Form RC1, *Request for a Business Number (BN)*; or by calling +1 (800) 959-5525.

The agency will then assign a registration number to the registrant and provide notification in writing of the registration number and the effective date of registration. Organizations can generally expect to receive confirmation of their registration and their nine-digit registration number by mail within two weeks after submitting their completed registration forms (however, the processing time may be longer for nonresident entities). GST/HST registrants who are based in the province of Québec are required to register with Revenu Québec using the online service (https://www.revenuquebec.ca/en/businesses/consumption-taxes/gsthst-and-qst/registering-for-the-gst-and-qst/how-to-register/).

Deregistration. Where a person ceases to carry on a commercial activity or becomes a small supplier and, as a result, ceases to be a registrant, the person's GST/HST registration may be canceled by the CRA on its own initiative or on request. In these circumstances, the person is deemed to have sold all its assets at fair market value upon deregistration. The non-registrant is subsequently required to account for the GST/HST on this deemed disposition in the last GST/HST return as a registrant. The person must also repay any ITCs claimed on prepaid rent and services to the extent the prepayments relate to a period after deregistration.

Conversely, tax that becomes payable by a person to suppliers after deregistration continues to qualify as a valid ITC where it relates to services rendered to the person before deregistration or to rental payments attributable to a period before deregistration.

Changes to GST/HST registration details. When certain changes occur, registrants are required to inform the CRA so that the changes can be reflected in their GST/HST account. These include changes to a business address and/or operating name, as well as changes to fiscal year-ends, legal status, business activity, ownership, directors, etc. As well, the CRA should be notified if any of the following events occur: amalgamations, purchases of another business, opening more locations or branches, selling a business, bankruptcy or receivership, among others. Depending on the type of change that occurs, the CRA should be contacted by mail, phone or fax. In certain cases, registrants can make the changes online (https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/changes-your-business.html).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are subject to GST/HST. The HST rate of 13% applies in Ontario and a rate of 15% applies in Nova Scotia, in New Brunswick, Newfoundland and Labrador and in Prince Edward Island. QST (see *Section B. Scope of the tax*) at a rate of 9.975% applies in the province of Québec. The effective combined GST/QST rate is 14.975%.

The 5% GST rate applies to supplies of property and services made elsewhere in Canada: in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba and in the Yukon, Northwest, and Nunavut Territories. A zero-rate (0%) applies to a limited range of supplies of property and services. Although tax does not apply to zero-rated supplies, a registrant may claim ITCs with respect to these supplies. As a result, zero-rated supplies bear no tax.

Examples of goods and services taxable at 0%

- Exports of goods and services
- Basic foodstuffs
- International transportation
- Prescription drugs
- Medical devices
- Certain inputs used in agriculture and fishing

Certain supplies of goods and services, referred to as "exempt supplies," are within the scope of GST/HST, but are not liable to tax. However, these exempt supplies do not give rise to ITCs.

Examples of exempt supplies of goods and services

- Supplies of used residential property
- Financial transactions
- Most supplies by charities and public-sector bodies
- Health care services
- Education services

Option to tax for exempt supplies. In some cases, the GST/HST legislation permits parties to a transaction to elect to treat particular exempt supplies as taxable. Elections are available, for example, in respect of the supply of a residential complex by a person other than a builder, particular sales of real property by an individual when made in the course of an adventure or concern in the nature of trade, certain supplies of instruction or examinations by a professional or trade association, government, vocational school, university, public college or regulatory body, certain memberships in a public service body or professional organization and some supplies of real property by public service bodies. In most cases, conditions must be satisfied before the election can be made.

E. Time of supply

In general, tax on a taxable supply becomes payable on the earlier of the date on which the consideration for the supply is paid or the date on which the consideration becomes due. The consideration is considered to be paid when the supplier receives the money (or other form of agreed consideration) for the supply. The consideration for a taxable supply is deemed to become due on the earliest of the following dates:

- The date on which the supplier issues an invoice with respect to the supply
- The date of the invoice
- The date on which the consideration falls due under a written agreement
- If an undue delay occurs in the issuance of an invoice for services, the date on which the supplier would have issued an invoice with respect to the supply, but for the delay

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

Deposits and prepayments. A deposit may be defined as money placed with a person as security or guarantee for the due performance of a contract. Most deposits are not treated as consideration under the legislation but are regarded as pools of money that become taxable only when applied as consideration for a supply or when forfeited for failure to carry out the agreement under which the supply is made. However, a prepayment of the purchase price is taxable when it is paid or becomes due. In practice, the distinction between a deposit and a prepayment is often difficult to draw because the consequences of a default by the person paying the deposit or making the prepayment can be the same.

As a general rule, there is no difference between goods or services regarding the time of supply rules for deposits and prepayments.

Continuous supplies of services. Special rules apply to water, electricity, natural gas, steam or any other property where it is delivered or made available to the purchaser on a continuous basis by means of a wire, pipeline or other conduit, provided invoices are issued to the purchaser on a regular or continuous basis. Thus, most sales by utilities are taxable when invoiced. However, some industrial products that are delivered to commercial and industrial purchasers by pipeline are invoiced irregularly on an as-needed basis. In these circumstances, the vendor must collect tax by the end of the month following the month of delivery.

Goods sent on approval for sale or return. Goods are often delivered to prospective purchasers on approval, sale or return, consignment or other similar terms. Under these arrangements, title to the goods generally does not pass to the purchaser until the purchaser notifies the seller of its approval or acceptance of the goods, or the purchaser commits some act or default that indicates its adoption of the sale. In these circumstances, the legislation requires that tax be paid no later than the end of the calendar month following the month in which the goods are resold or title to the goods passes to the purchaser.

Reverse-charge services. Generally, tax is applied to imported services or intangible property (or to commercial imports made by importers who are not entitled to ITCs, as well as on specified motor vehicles) where the supply is made outside Canada to a person who is resident in Canada, unless the supply is exempt or zero-rated, or the Canadian resident is acquiring the property or service for use exclusively in the course of commercial activities.

Leased assets. The legislation provides that where a written lease has been entered into, each lease payment is regarded as becoming due on the day on which the lease requires the payment to be made, even if an invoice for the payment is issued before the payment becomes due. Thus, tax applies to each payment of rent under the lease as it becomes due or, where rent is prepaid, on the day the prepayment is made. This rule applies to leases of both real property and tangible personal property, but not to other agreements.

Imported goods. Goods imported into Canada are subject to the GST or the federal part of the HST, except for goods that would be zero-rated if supplied in Canada, which are also zero-rated upon importation. Tax on imported goods becomes due when the goods are released by the Canada Border Services Agency for entry into Canada.

F. Recovery of GST/HST by taxable persons

A registrant (taxable person) may recover the GST/HST payable on property and services that it acquires or imports for consumption or for use or supply in its commercial activities. This is accomplished by claiming ITCs as a deduction on the registrant's GST/HST return.

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

A registrant generally claims its ITCs in the GST/HST return for the reporting period in which the tax becomes payable. However, a registrant may claim an ITC for a previous period at a later date.

The time limit for a taxable person to reclaim input tax in Canada is four years. Recovery is generally possible in any return filed within four years after the end of the reporting period in which the tax became payable. The recovery period is reduced to two years for certain large businesses (more than CAD6 million in annual taxable supplies) and listed financial institutions. However, large businesses whose supplies of goods and services are all or substantially all (90% or more) taxable in either of their last two fiscal years are excluded from this two-year limitation.

Nondeductible input tax. The provinces of British Columbia, Ontario and Prince Edward Island each adopted temporary restrictions on certain ITCs for large businesses when they adopted the HST, similar to those that were formerly in place under the QST regime. These temporary restrictions no longer apply, with Prince Edward Island being the last province to phase them out, effective 1 April 2021.

For purposes of the temporary recapture rules, a person was generally deemed to be a large business if either of the following conditions were met:
- The total amount of the value of the consideration for taxable supplies (including zero-rated supplies) made annually in Canada (other than supplies of financial services and supplies arising from the sale of real properties that are capital properties of the person) by the person and its associated persons exceeded CAD10 million in the last fiscal year that ended before a recapture period.
- The person was, or was related to, a bank, a trust company, a credit union, an insurer, a segregated fund of insurers or an investment plan.

For purposes of the temporary recapture rules, specified property or services generally included the following, with minor differences among the provinces:
- Specified energy
- Specified telecommunication services
- Specified road vehicles
- Specified fuel (other than diesel)
- Specified food, beverages and entertainment

In the province of Québec, the restrictions on ITCs for large businesses were eliminated gradually, beginning in 2018.

The elimination in Québec was affected by reducing the restriction rate by 25% per year over a three-year period commencing 1 January 2018. Large businesses were able to claim input tax refunds with respect to property and services to which restrictions currently apply, at the rate of 25% in 2018, 50% in 2019, 75% in 2020 and 100% as of 2021. As of 1 January 2021, these restrictions no longer apply in Québec.

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

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

The following lists provide examples of items of expenditure for which ITCs may not be claimed and examples of items for which ITCs are available if the expenditure is related to use to taxable business use.

Examples of items for which input tax is nondeductible

- Purchases used less than 10% in commercial activities
- Membership fees for social clubs
- 50% of business meals and entertainment costs
- Gifts to employees (subject to exceptions)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Hotel accommodation
- Attending conferences and seminars
- Purchase, lease (or hire) of cars, vans or trucks, subject to certain limits
- Maintenance and fuel for cars, vans or trucks
- Parking
- Mobile phones

Partial exemption. Tax paid on inputs related to making exempt supplies is generally not recoverable as an ITC. A GST/HST registrant that makes both exempt and taxable supplies may be limited to claiming a partial ITC.

The amount of ITCs that a business, engaged partially in exempt activities, may claim is calculated in the following two stages:

- The first stage identifies the tax on inputs that may be directly and exclusively allocated to taxable supplies and the tax on inputs that may be directly and exclusively (90% or more) allocated to exempt supplies. Tax on inputs exclusively attributable to taxable supplies is eligible for full ITCs. Tax on inputs exclusively related to exempt supplies is generally not recoverable.
- The second stage apportions tax on other inputs between taxable and exempt supplies, based on any method that is fair and reasonable in the circumstances and consistently used. The proportion that relates to commercial activities may be claimed as an ITC.

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Canada. However, this is with the exception of large banks, insurers and securities dealers that are required to either use a prescribed percentage to recover ITCs or obtain pre-approval from the CRA to use a customized ITC allocation method.

Capital goods. Although registrants are generally entitled to claim ITCs in full at the time assets are acquired, special rules apply to certain capital goods. Generally, these rules apply to goods defined to be capital property, other than real property, of the registrant within the meaning of the Income Tax Act (referred to as capital personal property), as discussed below. ITCs are available at the time of acquisition to the extent an asset is primarily for use in a commercial activity. Certain subsequent changes in the proportion of commercial use over the life of the asset may trigger adjustments in GST/HST.

For GST/HST purposes, capital property includes any property that is capital property for income tax purposes, other than property included in Class 12, 14 or 44 of the capital cost allowance classes. Capital property for income tax purposes is defined as any depreciable property (i.e., property on which capital cost allowance may be claimed) and any property, such as land, shares, bonds, debentures and mortgages, that if disposed of would result in a capital gain or loss. Class 12 includes low-value assets (e.g., small tools, dishes, cutlery and motion picture films) for which a 100% write-off for income tax purposes is allowed, while Class 14 includes franchises, concessions and licenses for a limited period. Class 44 includes patents and rights to use patented information for a limited or unlimited period. The definition of capital property for GST/HST purposes applies to a registrant whether or not the registrant is a taxable person for income tax purposes.

The GST/HST status of the disposition of capital personal property generally depends on its use immediately prior to its disposition. GST/HST applies if the most recent use was primarily in a commercial activity, since, presumably, an ITC would have been taken.

Proportional ITCs are available for acquisitions of capital real property, even where the property is not used primarily in a commercial activity. However, they are not available where the property is acquired primarily for the personal use and enjoyment of the registrant. Change-of-use rules apply if significant shifts occur in the mix of noncommercial and commercial usage.

Special rules also apply in the case of capital personal property and capital real property used by public sector bodies.

Refunds. If the ITCs claimed in a period exceed the amount of GST/HST collected or collectible in the same period, the registrant may claim a refund. An invoice or other supporting document containing prescribed information is necessary to support a claim for an ITC, refund or rebate. Where a document contains a combination of taxable and zero-rated or exempt items, the tax status of each must be shown if the document is to support an ITC claim. A statement that "prices include GST/HST where applicable" is not sufficient.

Pre-registration costs. When a person who was formerly a small supplier, i.e., with annual sales of taxable and zero-rated supplies below CAD30,000, becomes a registrant for GST/HST purposes, it can claim an ITC for the GST/HST it paid on property that was previously acquired but still on hand for use in commercial activities. This property can include capital property, real property, goods for resale and inventory. The GST/HST that can be claimed as an ITC at that time is equal to the basic tax content of the property.

An ITC may also be claimed for GST/HST that became payable before a person became a GST/HST registrant, on services to be rendered after the person becomes a registrant or on any rent, royalty or other similar payment relating to property that is attributable to a period after the person becomes a registrant. The ITC is available only to the extent that the service or rental is for consumption, use or supply in the course of a commercial activity. No ITC is allowed to the extent that the payment is for services provided before registration.

Bad debts. The legislation provides relief for tax charged but not collected in the case of bad debts incurred by a supplier, to the extent these debts are subsequently written off. Specifically, the formula in the legislation provides that the deduction is equal to the tax payable in respect of the supply multiplied by the ratio of the total amount of the bad debt written off (including GST/HST and applicable provincial taxes) to the total amount payable for the supply (including GST/HST and applicable provincial taxes). This relief is not available for bad debts in respect of which an accounting reserve has been established. The debt must be written off in the books of account to access the relief.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Canada.

G. Recovery of GST/HST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST/HST in Canada is not recoverable.

H. Invoicing

GST/HST invoices. Strict documentary requirements must be satisfied before a claim can be made to recover tax that has been paid or become payable. Suppliers are required to provide this information on request.

Credit notes. If a registrant has collected an excess amount of tax, it may refund or credit the excess amount to the customer. A registered supplier has up to two years after the day on which it was charged or collected to refund or credit the excess tax. If the supplier chooses to take this action, the supplier must, within a reasonable time, issue a credit note to the recipient for the amount of the refund or credit.

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

Similar tax adjustment measures also apply if tax has been charged or collected correctly by the supplier, but the consideration is subsequently reduced for any reason. Both volume discounts and returns are treated as price adjustments for GST/HST purposes.

Electronic invoicing. Electronic invoicing is allowed in Canada, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Canada. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Canada. The requirements related to electronic invoicing are the same as those for paper invoicing. If electronic invoicing is used, the general rules pertaining to invoices under the legislation must be followed.

The CRA has launched a multiyear initiative to explore the adoption of electronic invoicing standards and technology for integration with the Canadian tax system. The aim of this initiative is to (i) assess how electronic invoicing can benefit businesses through efficiencies, (ii) improve sales tax compliance, (iii) deter participation in the underground economy and (iv) improve the taxpayer experience. Specifically, the CRA aims to advance thinking as to how tax compliance can include the use of real or near real-time data from business transactions using modern technologies, as opposed to relying on taxpayer completed tax returns and post-filing strategies. Canada also helped prepare the OECD report, *Tax Administration 3.0 and Electronic Invoicing: Initial Findings.*

Simplified GST/HST invoices. Simplified GST/HST invoicing is allowed in Canada. Invoice requirements are based on the value of the supply. For supplies less than CAD30, the only pieces of information required on supporting documents are the vendor's name or trading name, sufficient information to identify when GST/HST in respect of the supply was paid or became payable and the total consideration paid or payable for the supply.

For supplies greater than CAD30 but less than CAD150, three additional pieces of information are required. These are the vendor's GST/HST registration number, the total amount of GST/HST charged on the supply or, if prices are on a tax-included basis, a statement to this effect and an indication of which items are taxed at the GST rate and which are taxed at the HST rate.

For supplies greater than CAD150, additional information is required. These are the purchaser's name, trading name or the name of their duly authorized representative; sufficient information to ascertain the terms of sale (e.g., cash, credit); and a description sufficient to identify the supply.

The 2021 federal budget proposed to increase the existing thresholds to CAD100 (from CAD30) and CAD500 (from CAD150). The Department of Finance introduced draft regulatory amendments to increase these thresholds, effective 20 April 2021. *At the time of preparing this chapter, a notice of ways and means motion was tabled on 28 November 2023 to implement these changes retroactive to 20 April 2021. However, these changes have not been enacted.*

Self-billing. Self-billing is allowed in Canada. This is only if the recipient provides the supplier with the prescribed information that the supplier would otherwise have the obligation to indicate on its invoice.

Proof of exports. In general, GST/HST does not apply to exported goods. If the supplier delivers the goods outside Canada, the transaction is treated as a supply outside Canada and is generally not taxable.

The CRA has indicated that several documents may constitute adequate evidence of export. The required documents in a particular case may vary, depending on the mode of transportation used to export the goods and the nature of the goods. The acceptability of the documentary evidence depends on whether the CRA is able to retrace the entire shipment of the property from its origin in Canada to the point at which the shipment leaves Canada. The necessary documentation may include:

- Purchase agreements or billings from the supplier to the recipient that identify the goods
- Transportation documents (bill of lading, waybill, probill, post office receipt, courier receipt, etc.) showing the point of delivery
- Customs brokers' invoices relating to the supply
- Import documentation required by the country of destination

In the case of motor vehicles, boats, ships and aircraft, copies of the registration from the foreign regulatory authority where the property has been licensed may also be used to establish that the property has been exported.

Customs Form B13A, *Export Declaration*, alone, is not acceptable as proof of export. For further information, see GST/HST Memorandum 4.5.2, *Exports – Tangible Personal Property, Appendix: Evidence of exportation.*

Foreign currency invoices. Suppliers may invoice in foreign currency and recipients may make payments to suppliers in foreign currency. If an invoice is issued in a foreign currency, it must be converted to CADs for reporting purposes (except under the simplified system for e-commerce where it is possible to file in US dollars or euros under certain conditions). In general, the Canadian currency equivalent may be determined by using the exchange rate in effect on the date on which the consideration for the supply is paid, the date on which the foreign currency was acquired or the average rate of exchange for the month in which tax became payable. Acceptable foreign currency exchange rates include those established by a Canadian chartered bank, the Bank of Canada or the Canada Border Services Agency. The method of conversion chosen by a registrant must be applied on a consistent basis.

Supplies to nontaxable persons. GST/HST-registered suppliers are not required to issue full GST/HST invoices to private (non-GST/HST-registered) customers. The documentary requirements are only in place for supplies made to GST/HST-registered customers, for them to be allowed the input GST/HST recovery.

Records. In Canada, examples of what records must be held for GST/HST purposes include records and books of account for GST/HST audit purposes. The records must generally be kept in French or English.

In Canada, GST/HST books and records can be kept outside the country. Records are generally required to be held at the person's place of business in Canada. However, the agency may permit a registrant to keep their records outside Canada in certain cases. To request permission, registrants should write to their tax services office. After conducting a review, the CRA will respond in writing indicating whether permission is granted and what, if any, terms and conditions apply. Where permission to maintain records outside of Canada is given, the records must be made

available in Canada for review by the CRA upon request. Otherwise, the registrant must allow CRA officials to review the records by traveling to the country where they are maintained at the expense of the registrant.

Record retention period. Generally, electronic and other records must be retained for six years from the end of the calendar year to which they relate or for such longer period as may be prescribed by the regulations. However, the minister may authorize a person to dispose of its records before the normal retention period has expired or demand that it keeps them for a longer period. The authorization or demand must be made in writing.

Electronic archiving. Electronic archiving is allowed in Canada. Persons using electronic records must retain all business records in an electronically readable format, and the data must be capable of relating back to the supporting source documents.

I. Returns and payment

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

Registrants whose turnover exceeds CAD6 million a year must file returns monthly.

Registrants whose turnover is between CAD1.5 million and CAD6 million a year must file returns quarterly (with an option of filing monthly). Registrants whose turnover does not exceed CAD1.5 million must file annually (with an option of filing monthly or quarterly).

Any registrant has the option of filing returns monthly, even if revenue from taxable and zero-rated supplies is less than CAD6 million.

Nonresident vendors or nonresident distribution platform operators registered under the simplified system for e-commerce must file on a quarterly basis.

The filing deadline for a monthly or quarterly return is one month after the end of the reporting period. The filing deadline for an annual return is generally three months after the end of the fiscal year. Specific filing requirements apply for certain listed financial institutions (e.g., the deadline can be six months after the end of the year) and individual registrants who carry on a business.

Periodic payments. The payment deadline for GST/HST due is the same as the filing deadlines. As such, the payment deadline for a monthly or quarterly returns is one month after the end of the reporting period. The payment deadline for an annual return is generally three months after the end of the fiscal year. Specific payment requirements apply for certain listed financial institutions (e.g., the deadline can be six months after the end of the year) and individual registrants who carry on a business.

Payments must be made in CADs (except under the simplified system for e-commerce where it is possible to pay in US dollars or euros under certain conditions). Payments may be made in various ways, including electronically through CRA's website, in person or through a financial institution's internet or telephone banking system, or by mailing a check or money order.

In contrast to the rule that deems a return to be filed when it is mailed, a tax remittance is regarded as having been paid only when it is received by the receiver general. If a person makes their payment or remittance through a financial institution, the CRA is not considered to have received the payment until the financial institution processes the transaction.

Payments and remittances of CAD10,000 or more must be made to the account of the receiver general at or through a bank, credit union, trust company or mortgage lender. As well, such payments must be made electronically unless the payer or remitter cannot reasonably pay the amount

in that manner. These measures apply in respect of payments and remittances made after 2023. Recent legislative amendments introduced the electronic remittance requirement and reduced the threshold for mandatory payments to be made at or through a financial institution from CAD50,000 to CAD10,000. These changes apply for payments and remittances made after 2023.

Electronic filing. Electronic filing is mandatory in Canada, for certain taxable persons.

The legislation allows a person who is required to file a GST/HST return to file returns electronically if the person meets the criteria specified in writing by the minister. There are four electronic filing options that can be used to file GST/HST returns, based on a registrant's particular reporting circumstances:

- GST/HST NETFILE is a free, internet-based filing service that allows eligible persons with a four-digit access code to file their returns directly with the CRA over the internet.
- GST/HST Electronic Data Interchange (EDI) is a computer-to-computer exchange of information in a standard format. Eligible registrants can use EDI to file their returns and remit their GST/HST payments electronically.
- GST/HST Internet File Transfer (GIFT) is an option that allows eligible registrants to utilize third-party, CRA-approved accounting software to file their returns electronically.
- GST/HST Telefile is a method that allows eligible registrants to file their GST/HST returns using their four-digit access code, a touch-tone telephone and the toll-free number +1 (800) 959-2038.

As well, certain persons are specifically required to file their returns electronically using the media specified in writing by the minister in GST/HST Memorandum 7.5, *Electronic Filing and Payment.* The following persons are required to electronically file their GST/HST returns in respect of reporting periods that begin before 2024:

- Registrants, other than charities, with greater than CAD1.5 million in annual taxable supplies (calculated by reference to the registrant and all associated persons)
- Registrants required to recapture ITCs for the provincial portion of the HST on certain inputs in Ontario and effective 1 April 2013, in Prince Edward Island
  Or
- Builders (including builders that are charities) that:
  - Sell grandfathered housing, where the purchaser is not entitled to claim a GST/HST new housing rebate or GST/HST new residential rental property rebate
  - Sell housing that is subject to HST when it was purchased on a grandfathered basis
  - Are required to report a transitional tax adjustment amount
  - Are reporting a provincial transitional new housing rebate
    Or
  - Apply for the GST/HST new housing rebate on behalf of a purchaser, pay or credit the purchaser with the rebate and claim that amount as a deduction from net tax on a GST/HST return

Nonresident vendors or nonresident distribution platform operators registered under the simplified system for e-commerce are also required to file their returns electronically.

As noted above, registrants with greater than CAD1.5 million in annual taxable supplies are required to file returns electronically for reporting periods that begin before 2024. Mandatory electronic filing thresholds for registrants (other than charities or selected listed financial institutions) have been eliminated for reporting periods beginning after 2023. As a result, most GST/HST registrants are now required to file returns electronically (i.e., not just those with annual taxable supplies exceeding CAD1.5 million*).*

Payments on account. Payments on account are not required in Canada.

Special schemes. *Small businesses*. The Streamlined Accounting (GST/HST) Regulations set out several methods that eligible small businesses as well as eligible public service bodies may elect to use for calculating their net tax liability. The methods, which are intended to simplify the calculation of net tax, are:
- The quick method
- The special quick method for public service bodies
- The streamlined ITC method

Charities that are registered or required to be registered for GST/HST purposes are required to use the special net tax calculation for charities method.

Annual returns. Annual returns are not required in Canada.

Supplementary filings. *Financial institutions.* Financial institutions are required to file an annual information schedule, Form GST111, *Financial Institution GST/HST Annual Information Return*. No other supplementary filings are required in Canada. In general, this filing requirement applies to financial institutions with notably total annual revenue exceeding CAD1 million. *At the time of preparing this chapter, a notice of the ways and means motion was tabled on 28 November 2023 that would increase the revenue threshold from CAD1 million to CAD2 million for fiscal years ending after 9 August 2022. However, this change has not been enacted.*

E-commerce. Certain persons must file information returns in accordance with the specified GST/HST regime applicable to e-commerce supplies (see the subsection *Digital economy* above). An accommodation platform operator that facilitates supplies of short-term accommodation in Canada is required to file an annual information return concerning the accommodation providers making sales through the platform. Similarly, a distribution platform operator that is a GST/HST registrant and that facilitates supplies of goods through a digital platform is required to file an annual information return concerning the vendors making sales through the platform.

To help platform operators adjust to the new reporting requirements, the CRA did not require information returns for the 2021 calendar year. Canada has adopted the OECD model rules developed for reporting by digital platform operators on platform sellers (see the subsection *Online marketplaces and platforms* above). As a result, the CRA has indicated that neither accommodation platform operators nor distribution platform operators are required to file annual information returns until further notice.

Correcting errors in previous returns. Generally, if an error is made in a previous return but the required adjustment would produce an increase in ITCs, with no corresponding increase in the tax collected for the same period (i.e., where there would be a decrease in the net tax payable for the period), an amended return should not be filed. In this case, the adjustment to increase the ITC should be made on the return for the next reporting period. There is an exception to this rule in the case of recaptured ITCs where excess amounts were recaptured, and the excessive recapture must be adjusted. If these recapture errors or any other mistakes that would involve an increase in the net tax payable for a reporting period are caught by the taxable person, refiling of the GST/HST return should be considered.

In Québec province, taxable persons must submit a prescribed form to amend a previously filed QST return. Whereas for registrants based outside of Québec, there is no prescribe form to file. Instead, a letter should be faxed to the local CRA tax center of the registrant (i.e., the tax center where returns are normally filed). This letter should indicate the registrant's business number, the reporting period being amended, the correct amounts that should have been filed (by line number), and a name and contact number of a person who may be contacted regarding the adjustments if needed. This letter must be signed by an authorized representative. The CRA will also accept amendments to previously filed returns through the My Business Account online portal.

The tax authorities are not obliged to accept amended returns, and the amended return remains subject to audit. In addition, where an error is identified that could require the submission of amended returns for multiple periods, the use of a voluntary disclosure should be considered to minimize applicable interest and penalties and ensure that all appropriate adjustments are made. For further information about the current voluntary disclosure program, see GST/HST Memorandum 16.5, *Voluntary Disclosures Program.*

Digital tax administration. There are no transactional reporting requirements in Canada.

J. Penalties

Penalties for late registration. Every person who is engaged in a commercial activity in Canada (other than a small supplier, a person whose only commercial activity is the making of supplies of real property by way of sale other than in the course of a business or a nonresident person who does not carry on any business in Canada) is required to apply to be registered for the GST/HST before the 30th day after the day the person first makes a taxable supply in Canada otherwise than as a small supplier.

A person who is required to apply to be registered is also required to collect and remit the GST/HST on taxable sales whether or not the person is actually registered. Interest is payable at the prescribed rate where a person fails to remit or pay an amount on account of tax when required under the GST/HST legislation.

Penalties for late payment and filings. If a person fails to pay or remit an amount of tax when due, interest (at a rate prescribed by law) is payable on the amount unpaid or not remitted. Interest is compounded daily.

A person who fails to file a return when required is liable to pay a penalty equal to 1% of the outstanding balance plus 0.25% per month for each complete month the return is outstanding, up to a maximum of 12 months.

A person who fails to comply with a demand to file a return for a period or transaction is liable to a penalty equal to CAD250.

Payments or remittances of CAD10,000 or more must be made through electronic services provided by a bank, credit union, trust company or mortgage lender (see the subsection *Periodic payments* above). A person that fails to comply with this requirement is liable to a penalty of CAD100 for each failure. These measures apply in respect of payments and remittances made after 2023.

Penalties for errors. Administrative monetary penalties and criminal offenses apply where electronic suppression of sales is used by businesses to modify or delete transaction records with a view to hiding sales and evading GST/HST and income taxes.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's GST/HST registration details. For further details, see the subsection *Changes to GST/HST registration details* above.

Penalties for fraud. A person who knowingly, or under circumstances amounting to gross negligence, makes or participates in making a false statement or an omission in a return or other document is liable to a penalty equal to the greater of the following:
- CAD250
- 25% of the amount of tax owing underdeclared or overclaimed rebate

In addition, tax advisors may be subject to penalties for false statements made for tax purposes. These penalties are often referred to as third-party civil penalties and, depending on the circumstances, can be substantial.

Personal liability for company officers. Where a corporation fails to remit an amount of net tax as required, the directors of the corporation at the time the corporation was required to remit the amount are jointly and severally, or solidarity, liable, together with the corporation, to pay that amount and any interest or penalties that arise. A director of a corporation may be held liable not only for unremitted net GST/HST amounts, but also for net tax refund amounts to which the corporation is not entitled.

The legislation does not define the term "director." Therefore, it is necessary to look to the corporation's governing legislation, such as the Canada Business Corporations Act or one of the provincial counterparts, e.g., the Ontario Business Corporations Act. Where an individual is formally appointed or elected as the director of a corporation under such legislation, the individual is referred to as a *de jure* director. However, an individual may also be a director of a corporation in fact (referred to as a de facto director) even if not legally appointed or elected to the position. The liability of a director generally arises only upon the conclusion of unsuccessful collection proceedings against the corporation, the liquidation or dissolution of the corporation, or the bankruptcy of the corporation.

An action or proceeding against a director to recover any amount payable must be commenced within two years after an individual last ceased to be a director of that corporation.

A director is not liable if they have exercised "the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances."

In the case of unincorporated bodies, each officer (not including a partnership, trust or estate) is jointly and severally, or solidarity, liable with the body and its other officers to pay and remit the taxes and other amounts for which the body became liable while they were an officer. Persons who may be liable under this provision include the president, chairperson, treasurer and secretary of the body. Where these officers do not exist, any member of a managing committee may be held liable. Where a body does not have such officers or a managing committee, liability falls on each of the body's members. As is the case with a director of a corporation, a former officer or member of an unincorporated body may not be assessed more than two years after they ceased being an officer or member.

In addition to the civil liability discussed above, where a person other than an individual (such as a corporation, trust, partnership or unincorporated organization) is guilty of an offense under the legislation, every officer, director or agent of the person who directed, authorized, assented to, acquiesced in or participated in the commission of the offense is a party to that offense. On conviction, the officer, director or agent is liable to the same punishment provided for that offense, whether or not the person has been prosecuted or convicted. Under this provision, the liability of an officer, director or agent does not absolve the corporation or other body of liability for the offense.

Statute of limitations. The statute of limitations in Canada is four or seven years. A GST/HST registrant or other person required to file a return for a reporting period may be assessed by the CRA for the tax payable or remittable for the period. The assessment must be made within four years after the day on which the return for the period is required to be filed. Where the return is not filed on time, the assessment may be issued within four years after the day on which the return is actually filed. The same limitation period applies to reassessments. The statute of limitations is seven years in some very specific cases.

Where a taxable person fails to collect tax on a taxable supply in Canada, the minister may assess the recipient of the supply for the tax. An assessment or reassessment of a taxable person for this tax must be issued within four years after the day on which the taxes became payable.

Generally, an assessment or reassessment of a penalty must be issued within four years after the day on which the taxable person became liable to pay the penalty.

The limitation periods on assessments may be set aside in cases of misrepresentation attributable to neglect, carelessness or willful default, or in cases of fraud. This may apply even where there has been a voluntary disclosure by the taxable person. Under the voluntary disclosure program, an administrative program run by the CRA, the CRA's policy is to not to prosecute or seek civil penalties where a taxable person has disclosed all the facts at a time when no investigation is under way as to the taxable person's liability.

Under a "stop-the-clock" rule, where requirements for information served to taxable persons or compliance orders are contested, the reassessment period is extended while the requirement for information or compliance order is contested.

Chad

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	20 December 1999
Trading bloc membership	Central African Economic and Monetary Union (CEMAC)
Administered by	General Director of Taxation
VAT rates	
Standard	19.25%
Reduced	9.9%
Other	Zero-rated (0%) and exempt
VAT number format	9000000Z
VAT return periods	Monthly or quarterly
Thresholds	
Registration	XAF50 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions made in Chad:
- Supply of goods or services made in Chad by a taxable person
- Importation of goods

The territory of Chad includes air space and other areas where, in accordance with international law, the Republic of Chad has sovereign rights for the purposes of exploration and exploitation of the natural resources of its soils, subsoil and water.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction

where it has customers that are not taxable persons. In Chad, no services are subject to the "use and enjoyment" provisions.

In Chad, the "use and enjoyment rules" refer to the "territoriality rules" in for VAT. As such, all taxable transactions carried out in Chad, even when the residence or the head office of the taxable person is located outside Chad, are subject to VAT in Chad.

As regards services, they shall be deemed to be carried out in Chad when they are used or enjoyed in Chad. As such, they shall be subject to VAT in Chad. This applies only to business-to-business (B2B) in particular when the beneficiary of the service is a taxable person for VAT purposes.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Chad, a TOGC is treated as outside the scope of VAT where a business is being transferred. This is decided upon the basis of the transfer documents and is reviewed on a case-by-case basis. Otherwise, if it is only assets being transferred, these are subject to VAT at the standard rate.

Transactions between related parties. In Chad, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services or importation of goods in the course of a business in Chad. A taxable person that begins activity must notify the tax authorities of its liability to register for VAT purposes.

"Large contributors" are also subject to VAT. "Large contributors" are taxable persons registered in the Large Taxable persons' Division with annual turnover more than XAF500 million. For entities not treated as large contributors, there are two different tax regimes depending on the business revenue. There is the "simplified" regime and "not subject" regime. The "simplified" regime is for entities that exceed the threshold from XAF50 million to XAF500 million. However, while the "simplified" regime is mandatory for such entities, they have the option of applying for the "large contributors" regime. The other regime is the "not subject" regime is for entities that are not subject to VAT obligations (turnover less than XAF50 million).

Exemption from registration. The VAT law in Chad does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Chad does not contain any provision for voluntary VAT registration.

Group registration. Group VAT registration is not allowed in Chad.

Fixed establishment. In Chad, there is no legal definition of a fixed establishment for VAT purposes. However, the permanent establishment (PE) rules that apply for direct taxation also apply for VAT purposes. Under the Chad General Tax Code, PE means a fixed place of business through which the enterprise carries on all or part of its activities, and specifically covers the following:

- A place of management or operation
- A branch office, a sale store
- A warehouse
- An office
- A factory

- A workshop
- A mine, quarry or other place of extraction of natural resources
- A construction or assembly site or supervisory activities thereon, where such site, project or activities are of a duration of more than six months
- The provision of services, including consulting, by an enterprise acting through employees or other personnel engaged by the enterprise for that purpose, but only if such activities continue for the same or a related project in the territory of Chad for a period or periods totaling more than 183 days within any 12-month period

Non-established businesses. A "non-established business" is a business that has no permanent establishment in the territory of Chad. Non-established businesses that perform taxable operations in Chad must nominate a representative who will be jointly responsible for payment of the VAT due. The representative must comply with all the obligations created under the VAT Code for taxable persons namely the declarative and registration obligations.

If no tax representative is nominated, the VAT due should be assessed and paid by the purchaser (if the purchaser is a taxable person for VAT purposes).

Tax representatives. As mentioned above, non-established businesses must appoint a tax representative for VAT purposes in Chad. In case of default (nonpayment of VAT due within the legal deadline), the representative and the non-established business are jointly liable for the payment of the VAT due.

Reverse charge. The reverse-charge mechanism is applicable in Chad. Whenever a non-established entity fails to nominate a VAT representative, the non-established entity sends to the local customer (purchaser) an invoice without local VAT. The VAT is calculated and remitted to the tax authorities by the purchaser within 15 days of the month following the supplier's payment. This VAT paid will be deducted in the declaration of the following month to the extent there is a full right of deduction.

Domestic reverse charge. There are no domestic reverse charges in Chad.

Digital economy. There are no special VAT rules in Chad for digital supplies.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT due on supplies in Chad. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are also not required to register and account for VAT due on supplies in Chad. Instead, as there is no reverse-charge mechanism for private individuals, no VAT is accounted for on B2C supplies.

There are no other specific e-commerce rules for imported goods in Chad.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Chad.

Registration procedures. Under the General Taxable person Registration regime, all Chadian businesses or non-established entities that have a head office or other establishment in Chad must be registered. The submission should be made by paper and sent to the General Taxable person Registry. The documentation needed would is the following:

- Copy of the company's deed registered by the notary
- Copy of the registration of the Company or natural person with the trade register
- Copy of the ID of the partners, directors and technicians of the company or passport/residence card (for foreign persons)

The registration must be done within 15 days following the start of its activity.

Deregistration. Individuals or companies subject to VAT must, within 15 days from the date of termination of activity, submit a Statement of Termination of Activity to the General Director of Taxation.

Changes to VAT registration details. Taxable persons must, within 15 days from the date of change in its VAT registration details, inform the General Director of Taxation. A copy of the notification of the change must be submitted by paper and sent to the General Taxable person Registry. In the case that the change is not done, the tax administration will not consider the change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 19.25%
- Reduced rate: 9.9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the reduced rate, zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods subject to a declaration signed by the customs administration, international transportation and replenishment of aircraft with JET A1 to abroad

Examples of goods and services taxable at 9.9%

- Local products only, e.g., cement, sugar, oil, soap, textile and concrete iron and by-products of the local agrifood industry excluding alcohol

Examples of exempt supplies of goods and services

- Sales made directly to consumers by farmers, livestock breeders or fishermen, of non-processed products of their farming, livestock production or fishing

The following operations provided they are subject to specific taxations exclusive of any taxation on revenue:
- Operations connected with insurance and reinsurance contracts implemented by insurance and reinsurance companies in the normal course of their business, as well as services related to such operations provided by brokers and other insurance intermediaries
- Operations whose purpose is the transmission of immovable property and intangible personal property liable to registration duties, excluding operations of the same kind performed by estate agents or those of leasing
- Operations relating to postage stamps, duty stamps and stamped documents issued by the State and local authorities
- Operations covering the import and sale of newspapers and periodicals, excluding advertising income
- Leasing operation
- Supply of super oil and gas oil collected by the distributors agreed by N'Djamena Refinery Company and sold at the pump
- Services or operations of a social, health, education, sporting, cultural, philanthropic or religious character provided by nonprofit organizations for which the management is voluntary and selfless and when these operations are directly related to the collective defense of their members' moral or material interests; but operations carried out by these organizations are taxable when they take place in a competitive sector

- Sums paid to the central bank responsible for the privilege of issuing banknotes and the proceeds of the operations carried out by this bank generating the issuance of banknotes
- Operations relative to leasing undeveloped land and empty premises
- Services coming under the statutory exercise of the medical or paramedical professions with the exception of accommodation and catering costs
- Teaching institutions practicing under approval delivered by the National Education Ministry and practicing approved pricing
- Imports of goods exempted under article 332 of the UDEAC Customs Code, supplemented by the act 2/92 UDEAC 556 CE-SE1 and the specified subsequent modifying texts, concerning equipment for mining and oil prospecting
- Sales made by painters, sculptors, engravers and basket makers when they concern only the products of their craftsmanship and provided that the amount of annual revenue does not exceed XAF20 million
- Sales, disposals or services performed by the State, regional authorities and public institutions not having an industrial or commercial character
- Equipment and goods specifically and solely intended for mining and oil prospecting that is the subject of a decree from the Finance Ministry
- Potable water produced by the Chad Water Company (STE) or any other company that may substitute for it
- Electricity produced by the Chad Electricity Company (SNE) or any other company that may substitute for it
- Potable water produced by other company
- Electricity produced by other company
- Interest remunerating external loans
- Interests on professionals' deposits with credit or financial institutions
- Examinations, consultations, treatment, hospitalization, medical biology and analysis work and the supply of prostheses performed by health facilities
- Input products for livestock breeding and fishing, used by the producers
- Leasing empty buildings used for housing
- Small items of fishing equipment, agricultural equipment and machinery
- The materials, equipment and services necessary to the production and exploitation of cotton fiber
- The materials, equipment and services necessary to the production and distribution of water and electricity
- Baked bricks manufactured locally
- Interest on loans of an amount between XAF1 and XAF1 million granted by micro-credit financial institutions with a repayment schedule of at least six months and monthly payments less than or equal to XAF100,000
- Interest on property loans granted by financial institutions
- Equipment and products used for the fight against HIV AIDS, malaria, tuberculosis, yellow fever, COVID-19 and severe viral infections related to illnesses in children and the elderly without resources, under the conditions fixed by the regulations
- The acquisition of materials and equipment used for the production and promotion of renewable energy, as well as associated services
- Interest on loans for financing the renewable energy
- Interest on loans for the acquisition of agricultural materials and equipment by relevant companies of the actual scheme
- Machines and equipment for agricultural production and processing
- Material and equipment for person with disabilities
- Fertilizers, seeds appearing in the above list
- Withdrawals and payments through electronic payment terminals and bank ATMs

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Chad.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." As a general rule, an invoice should be issued before the fifth business day following the basic time of supply. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due on the fifth business day after the basic tax point. If the payment occurs before the invoice is issued, even if only partially, VAT is due at that time on the amount paid. The same is applicable in case payment occurs or invoices are issued before the finalization of the taxable operations.

The basic time of supply for goods is when they are made available to the client or at the time the transaction was fully or partially settled (before the client has received the goods).

The basic time of supply for services is at the time the referred provision of services was fully or partially settled (before the service has been provided).

Deposits and prepayments. For advance payments, the tax point is the date on which the advance payment is received. The supplier must issue an invoice as soon as an advance payment is received.

Continuous supplies of services. For continuous supplies of services based on agreements foreseeing successive payments, the time of supply occurs at the end of the period concerning each payment. However, when the payment schedule is not defined or exceeds 12 months, the VAT is due at the end of each 12-month period.

Goods sent on approval for sale or return. There are no special time of supply rules in Chad for goods sent on approval for sale or return. As such, the normal time of supply rules apply.

Reverse-charge services. There are no special time of supply rules in Chad for reverse-charge services. As such, the normal time of supply rules apply.

Leased assets. Leasing agreements are also considered a continuous supply of services, and as such the time of supply occurs at each payment.

Imported goods. The tax point for the importation of goods will be the moment during which the formalities of customs duties are completed.

Construction works. Qualified as service providers and entrepreneurs in property renovation or enterprises with mixed activities covering the delivery of goods and the provision of services, with the exception of transactions made with the State or local authorities, may be authorized to pay VAT according to the debits. In the case of receiving installments before the debit memo, the tax is payable when the VAT is collected according to the debits.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred with the acquisition of goods and services deemed indispensable for the maintenance of the business. A taxable person generally recovers input tax by deducting it from output tax charged on the supplies of goods or services carried out as well as tax paid on the import of goods.

Input tax includes VAT charged on goods and services supplied in Chad, VAT paid on import of goods and VAT self-assessed on the reverse-charge services.

To deduct VAT, the taxable person must be in possession of invoices or other equivalent documents and this invoice must contains mandatory information provided by the Tax code.

The time limit for a taxable person to reclaim input tax in Chad is two years.

Nondeductible input tax. In principle, for registered taxable persons, VAT applied upstream on the price of a taxable operation shall be deductible from the final tax applicable to such transactions, provided that the said operation is necessary for the company exploitation. However, the Chadian General tax code has limited the deduction to certain goods and services.

Examples of items for which input tax is nondeductible

- Expenses for housing, accommodation, catering, reception, shows, vehicle hire and transport of persons. This exclusion does not concern professionals in tourism, catering and shows
- Imports of goods and merchandise re-dispatched in its current condition
- Services related to goods excluded from the right to deduction
- Oil products, with the exception of fuel purchased for resale by importers or wholesalers
- Assets transferred without remuneration or in return for remuneration much less than their normal price, particularly commissions, salaries, bonuses or gifts, whatever the capacity of the beneficiary or the form of the distribution
- Tax that has been paid on vehicles or machinery, irrespective of their type, designed or developed to transport persons or for mixed uses constituting a fixed asset
- The spare parts, accessories and expenses for maintenance and/or repairs for the said vehicles or machinery, except:
  - Road vehicles including, other than the driver's seat, more than eight seated places and used by enterprises for the exclusive transport of their personnel
  - The fixed assets of vehicle hire enterprises or enterprises for the public transport of persons
- VAT on invoice paid in cash when the amount is more than XAF500,000

Examples of items for which input tax is deductible (if related to a taxable business use)

- Raw materials and supplies used in producing goods and services
- Purchase of goods and merchandise used for business purposes
- Capital goods used for business purposes, excluding items listed above
- Purchases of assets

Partial exemption. Input tax directly related to exempt supplies of goods or services is not generally recoverable. If a Chadian taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." The VAT Code provides two methods to recover VAT when a company makes both exempt and taxable supplies.

The first is a pro rata method according to which VAT is only deductible in the same ratio as the annual amount of operations that originate deductibility versus the exempt operations. A second method, referred to as the "direct allocation method," prescribes the real allocation of all or part of the goods and services used.

Approval from the tax authorities is not required to use the partial exemption standard method in Chad. Special methods are not allowed in Chad.

Capital goods. Taxable persons are obliged to record their purchases of capital goods to allow the monitoring of the input tax deductions made.

The records should contain, for all goods, the following elements (requirements):

- Data of the acquisition
- Value of the input tax
- Value of the input deducted
- Such records should be made until the following deadlines:
  - Output operations: until the last day of the following month to which the operations refer to
  - Input operations: until the last day of the following month to which the operations refer to

The referred deadline should be counted from the earlier of the following:
- The date of the reception of the invoice or equivalent documents that proves the purchase of the good
- The date of the conclusion of the constructions works
- The date in which the rectifications should be processed

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit that will be carried forward to the next taxable periods.

However, if the taxable person has been in a credit position, the refund can be requested if the tax credit is less than 24 consecutive months from the beginning of the credit.

Pre-registration costs. Input tax incurred on pre-registration costs in Chad is not recoverable.

Bad debts. Taxable persons may deduct the VAT amount related with bad debts revealed in its accounting records, as well the irrecoverable debts resulting from the process of execution and insolvency. A bad debt is considered to exist in case of debts that nonpayment risk is duly justified namely where the credit is overdue for many months and there are objective proofs of its impairment and actions performed regarding its payment, including the asset being recognized in the accounts.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Chad.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Chad is not recoverable.

H. Invoicing

VAT invoices. Taxable persons must generally provide a VAT invoice for all taxable supplies made – including exports. Non-established entities that are required to nominate a representative must issue invoices with the VAT number and address of the chosen representative additionally to the other ordinary requirements of any invoice.

The 2023 Finance Law introduced new rules relating to standardized invoicing that shall enter into force as from 1 January 2024. Standardized invoicing refers to an authorized invoicing machine approved by the tax authorities that allows taxable persons to issue invoices this way.

Credit notes. A VAT credit note may be issued to reduce the VAT charged and reclaimed on a supply (e.g., return of the goods or a discount). A credit note must be cross-referenced to the original invoice and contain the following statement: credit note. The supplier can make the reductions if it has in its possession the proof that the customer agreed and acknowledged with such procedure.

Electronic invoicing. Electronic invoicing is not allowed in Chad.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is not allowed in Chad. As such, only paper invoices are allowed in Chad.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Chad. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Chad.

Proof of exports. VAT is charged on supplies of exported goods at the rate of 0%. For the application of this rate, exports must be supported by evidence that confirms the goods have left Chad.

Sufficient evidence is the receipt of the country of destination of the goods and proof of the repatriation of funds by the exchange services.

Foreign currency invoices. Invoices can be issued in any currency, as well as the domestic currency, which is the Central African CFA franc (XAF). A currency conversion requirement is in place, except when the invoices are related with import and export operations, which are subject to the international trade rules.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Chad. As such, full VAT invoices are required.

Records. In Chad, examples of what records must be held for VAT purposes include original invoices, contracts and submitted VAT returns.

For VAT purposes, all invoices must be recorded with a chronological number and kept available in Chad.

In Chad, VAT books and records must be held within the country.

In addition, the tax authorities can check a resident taxable person's VAT accounting software to confirm the status of the accounting entries. This is done in person in Chad.

Record retention period. All invoices or equivalent documents must be kept, according to the legislation in place, by the taxable person for 10 years.

There are no specific record keeping requirements for VAT in Chad. The documents must be kept in a form accessible to the tax authorities in case of a tax audit.

Electronic archiving. Electronic archiving is not allowed in Chad. Archiving must be made in paper form only.

I. Returns and payment

Periodic returns. VAT returns must be submitted monthly or quarterly. They must be filed together with full payment of VAT. VAT returns must be submitted within 15 days of the month following the realization of taxable operations.

State-owned companies, public and para-public institutions, as well as private companies for which the list is established and published by the General Director of Taxation, are required to withhold VAT on the invoices received from their suppliers. However, this withholding does not apply to reciprocal transactions between companies entitled to withhold VAT at source. Any compensation between withheld VAT and taxes due is prohibited. Withholding VAT must be reversed by the 15th of the following month.

Periodic payments. VAT amounts due should be paid to the collection service of the tax department, by the same date as the VAT return filing deadline, i.e., by the 15th day of the month following the realization of taxable operations.

The VAT returns, according to the template provided by tax authorities, shall be subscribed in two copies, signed and dated by the taxable person or its authorized agent. This form is submitted jointly with the proof of payment (notice of credit of tax administration bank account). When confirmation of payment is received, the tax receipt reference is mentioned on the declaration and copy given to the taxable person.

Electronic filing. Electronic filing is allowed in Chad. This is following the changes in the Finance Law 2023, which take effect from 1 January 2023. Taxable persons can submit their VAT returns by paper or electronically. The said returns must be filed with the tax authorities within the legal deadlines.

If a taxable person opts to file returns electronically, to start with they must file returns both electronically and by paper. Then the tax authorities will review the taxable person's compliance and payments. Subject to review, they will then confirm to the taxable person when they can start to file returns only electronically, and not also by paper. This process has been introduced as the implementation of electronic filing and is new and under review.

Electronic filing is made via the tax authorities' online portal (eTax).

Payments on account. Payments on account are not required in Chad.

Special schemes. No special schemes are available in Chad.

Annual returns. Taxable persons are required to file an annual tax return for the period ended 31 December. The taxable person must submit the annual return by 30 April of the following year. The annual return must include a summary of VAT payments made during the prior calendar year (January to December), including output tax, input tax and the net VAT paid to the tax administration of VAT credit position at the end of the year. This annual return must also contain the reference of tax receipts issued by the tax administration. The prescribed format of the annual return is provided by the tax authorities.

Supplementary filings. No supplementary filings are required in Chad.

Correcting errors in previous returns. A taxable person can voluntarily correct a previously filed VAT return, within the last two months from its submission. If correction is not done within this deadline, such corrections cannot be accepted by the tax administration. The penalty for failure to make such a correction is the fact that the amended return can be rejected by the tax administration.

Digital tax administration. There are no transactional reporting requirements in Chad.

J. Penalties

Penalties for late registration. Late registration of taxable persons liable to VAT generate immediate taxation by tax authorities. Immediate taxation refers to arbitrary assessment procedure in which tax authorities unilaterally determine the amount of taxes due by the taxable person. This procedure is only possible when the taxable person has not regularized its situation within seven days following reception of a reminder representing a notice to register. The taxation is based on the gross margin realized by the taxable persons. This immediate taxation is in addition to a penalty of 25% of tax due, for late registration of VAT.

Penalties for late payment and filings. Whenever the taxable person fails to submit a VAT return or pay the VAT due on time or does so after the legal deadline has passed, the amount of tax due is increased by 100%. The increase is raised to 150% in the event of a repeat offense. Notwithstanding the application of these penalties, the taxable person owes an interest of delay of 5% per month up to 50%.

If the VAT return is not submitted on time, the taxable person will receive a reminder letter to declare within seven days receiving the letter. In case of nonperformance, the tax authorities will proceed with an arbitrary assessment. The basis used to calculate due taxes is the gross margin realized with penalty of 25%.

If the taxable person fails to pay VAT assessed by the tax authorities within the established deadline, proceedings aiming at the coercive collection of tax due will ensure. However, if the taxable person voluntarily submits the missing VAT return before the deadline expires, as a result, the tax assessed by the tax authorities will no longer be due. Notwithstanding, penalties for late submission may still be applicable.

Penalties for errors. Deficiencies, omissions or inaccuracies that affect the basis or elements of taxation and that lead the tax authorities to make any adjustments will result in the application a late payment interest of 5% per month, capped at 50%. For any missing invoices, false invoices or invoicing and accounting errors, the penalties are as follows:

- Nondeduction of the VAT mentioned on the invoice in case of absence of the ID number or 5% penalty applied on invoice amount in certain circumstances
- A fine of 100% of the transaction value with a minimum of XAF500,000

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any fraudulent activities can result in the increase of 150% of the amount due without prejudice to criminal proceedings.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Chad.

Statute of limitations. The statute of limitations in Chad is three years. The time limit that the tax authorities can go back to review and identify errors and impose penalties is three years. This means that the statute of limitations starting point is 1 January of the year following that under which the input tax that is incurred. For example, input tax incurred in March 2024, the starting point is 1 January 2025, and the deadline is 31 December 2027. Hence, the tax authorities will not have the right to audit input tax incurred in 2024 after 31 December 2027.

The tax authorities allow two months for taxable persons to voluntarily correct errors in previous VAT returns.

Chile

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	31 December 1974
Trading bloc membership	MERCOSUR Pacific Alliance
Administered by	Internal Revenue Service [IRS] (Servicio de Impuestos Internos [SII], http://www.sii.cl)
VAT rates	
Standard	19%
Other	Exempt and additional taxes (ranging from 15% to 50%)
VAT number format	Tax identification number (RUT), which is used for VAT and other tax purposes (for example, 12.345.678-0)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

In general, VAT is imposed on the sale of tangible goods located in Chile and on the provision of services rendered or utilized in Chile. The following are significant aspects of the VAT rules in Chile:

- For VAT purposes, the law provides that "sales" are all transactions that result in the transfer of movable and immovable tangible goods (excluding land). A seller is any person that habitually carries out this kind of operation.

- On the other hand, "services" are all actions that any person does for another for consideration (i.e., payment). Since 1 January 2023, all services are subject to VAT, except for those particularly exempt by law (i.e., health and educational services, certain services hired through a tender process with the State of Chile, services provided by entities that qualify as "professional companies").
- VAT also applies to the importation of goods into Chile.
- Other taxable transactions specified by law include withdrawals of inventory, contributions in kind and leasing of movable goods.

The "recurrent or habitual sale" of real estate is a taxable event (regardless of whether the seller is a construction company or another entity or an individual). The law establishes certain situations in which it presumes the transaction is habitual, such as when the time elapsed between the purchase and sale of the real estate is less than one year or when condominiums are sold by floors or units. However, the sale of land is still exempt, so in calculating the taxable base, the value of the land must be subtracted.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Chile, no services are subject to the "use and enjoyment" provisions. As a general rule, only residents who are domiciled suppliers are subject tax to VAT, except in the case of digital services (as outlined below under the *Digital economy* subsection).

Transfer of a going concern. Transfer of going concern rules do not apply in Chile. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets. The VAT law states in Article 8 letter f that the sale of commercial establishments or any other universality that includes movable and immovable tangible assets of its type of business or its fixed assets, the latter, provided that they meet certain legal requirements, are subject to VAT. The transfer of ownership rights or shares is not subject to VAT.

Transactions between related parties. In Chile, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A VAT taxable person is an individual, business or entity that performs VAT taxable transactions (that is, the habitual transfer of goods or the rendering of listed services) in the course of doing business in Chile. No VAT registration threshold applies. All business entities must file a business initiation application on commencement of operations and an application for a taxable person identification number (*Rol Único Tributario [RUT]*). These measures also apply to permanent establishments of foreign entities in Chile.

Exemption from registration. The VAT law in Chile does not contain any provision regarding exemption from registration.

Voluntary registration and small businesses. The VAT law in Chile does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT). All persons subject to any Chilean tax must obtain a tax ID.

Group registration. Group VAT registration is not allowed in Chile.

Fixed establishment. In Chile there is no legal definition of a fixed establishment for VAT purposes. However, permanent establishment (PE) is defined in the income tax law as a place that

is used (exclusively or not) to carry out the activities of an entity not domiciled or resident in Chile, on a permanent or habitual basis, such as offices, agencies, facilities, construction projects and branches. Likewise, a foreign entity is considered to have a PE when it carries out its activities in Chile represented by an agent who habitually concludes contracts related to the main type of business and plays a principal role that leads to their conclusion or negotiates essential elements of them without being modified by the principal (the foreign entity). In both cases the business is not deemed a PE if the activities performed in Chile are auxiliary or preparatory of the business. PEs are subject to the same VAT taxation as companies domiciled or resident in Chile.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Chile. If a non-established business intends to carry out transactions in Chile that are subject to VAT (such as the transfer of goods or the provision of listed services), it is required to be registered for VAT purposes. Consequently, the non-established business must submit an application for a RUT number and a business initiation application and must appoint a representative in Chile to act on its behalf. However, taking these actions may result in the conclusion that the non-established business has a PE in Chile.

Tax representatives. A tax representatives must be provided with the power to represent the business in its dealings with the tax authorities and must also register an address in Chile for this purpose. If foreign individuals are appointed as the tax representatives, in addition to the obligation to register an address in Chile, they must also be in possession of a valid visa that allows them to act in this capacity.

Reverse charge. In certain circumstances, for example, if the supplier is a foreign taxable person and does not have any PE or established business in Chile and the transaction is subject to VAT, the law states the obligation to withhold VAT turns to the purchaser. The purchaser issues a "purchase invoice" and collects VAT on behalf of the foreign supplier.

Domestic reverse charge. Domestic reverse charges are available in Chile only when the law or the national director of the IRS establishes a "change of the taxable person." Cases that involve a domestic reverse charge normally are related to particularly exceptional situations in informal/undeveloped markets where there is a lack of tax compliance (e.g., multilevel marketing schemes that include multiple transactions among individuals before the products are purchased by end consumers, sales of metal scrap and agro-products from small producers).

Digital economy. In accordance with current regulation, the following digital remunerated services, performed by providers domiciled or residing abroad, are subject to VAT:

- The intermediation of services provided in Chile, whatever their nature, or of sales made in Chile or abroad, provided that the latter give rise to an import
- The supply or delivery of digital entertainment content, such as videos, music, games or other analogous content, by means of downloading, streaming or other technology, including for these purposes texts, magazines, newspapers and books; the tax authority has stated in Rulings 1660-2023/1609-2023 and 2064-2021 that in the case of this taxable event, the subscription to electronic magazines provided by a nonresident supplier is subject to VAT regardless of the fact that the purpose of the same is not entertainment but education, since the taxable event is the digital content, within which are the "digital magazines"
- The provision of software, storage, or computing platforms or infrastructure
- Advertising, regardless of the medium or means through which it is delivered, materialized or executed

Business-to-business (B2B) and business-to-consumer (B2C) transactions may fall under the digital services taxable event and should be subject to VAT. VAT may apply if the following requirements are met:

(i) The services are provided by a foreign service provider and used in Chile.
(ii) The payment is not subject to withholding tax.

Digital services provided to non-VAT-taxable persons' Chilean clients must be declared and paid by the foreign service provider through a simplified VAT regime for which they must register online. Declaration and payment can be done every month or every three months in CLP, USD or EUR. No legal invoice is required for taxable persons subject to this regime. Therefore, in this case, nonresidents providing electronically supplied services must register for VAT via the simplified regime for the purposes of declaring and paying applicable VAT.

In summary, foreign service providers that provide digital services to individuals in Chile must register for the simplified VAT regime and withhold VAT at the standard rate on the payment for digital services. Noncompliance could trigger audits from the tax authority and withholding through credit card issuers. In case of suppliers that are not registered, the local tax authorities may include them in a prohibited list of noncompliance suppliers and transfer the responsibility to charge the VAT to the local financial intermediaries (i.e., payment card issuers). Thus, local financial intermediaries would be held responsible for withholding VAT and paying it to the tax authority, which would be deducted from the fees collected among the local clients. An annual public list of noncompliant providers is posted by the tax authority. Suppliers will remain on this list unless they are registered in due course, pay the entire amount of VAT due or demonstrate that all supplies were engaged with VAT taxpayers (where the obligation to withhold and report VAT is for the Chilean entity).

For services rendered to a Chilean VAT taxable person, the reverse-charge mechanism explained above applies.

Services subject to withholding tax are normally VAT exempted. However, a detailed analysis is required to determine if withholding tax applies to a certain service.

B2C digital services described above are always exempted from withholding tax and, therefore, subject to VAT.

Imported goods that are acquired online are subject to VAT at the standard rate, to be paid by the importer. A foreign seller or intermediary may voluntarily request to declare and pay said tax through the simplified regime mentioned above.

Online marketplaces and platforms. Although the new VAT taxable events for digital services don't make a specific reference to online marketplaces or platforms, regulations from the IRS (Circular Letter No. 42 of 2020) considered them an intermediation service that should fall under the scope of these new taxable events.

Registration procedures. Every legal entity or individual that performs activities subject to income tax must register and obtain a tax identification number (RUT). Form 4415 must be completed, signed and filed before the IRS, electronically (www.sii.cl) or by hard copy.

In general terms, a legal entity must fulfill the following requirements: i) prove that it is legally incorporated by means of the public deed certificates of good standing, existence or validity – duly apostilled and translated into Spanish if required – and ii) prove that it has one or more legal representatives domiciled or resident in Chile. If the taxable person is acting through an agent or representative, it must also show the power of attorney – duly apostilled or authorized before a notary public (defending the case) – that grants the person such powers.

For VAT purposes, the IRS always will have to check the domicile and activities described in Form 4415 before authorizing VAT documentation (invoices, notes, dispatch orders, etc.). A simplified registration procedure has to be followed by the foreign digital service providers that are subject to the simplified VAT regime, which is done online on a digital VAT portal of the IRS.

Deregistration. As the RUT is for VAT and other tax purposes, there are no specific deregistration rules for VAT.

Changes to VAT registration details. Any change in the name of a taxable person, address or any other modification of the information given to the IRS must be notified to it within two months through the tax electronic folder, which will contain a form with the information to be filed and that the IRS will make available for every taxable person online. After the notification is done, the IRS will have to modify the pertinent information.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
• Standard rate: 19%

Also, additional taxes ranging from 10% to 50% may be imposed under the VAT law on the provision of specific items. Some of the taxed items and applicable rates are jewelry (15%); alcoholic beverages (from 20.5% for fermented to 31.5% for distilled); soft drinks with high sugar content (18%); other natural or artificial soft drinks, including energy or hypertonic drinks (10%); and 50% over the first sale or import of pyrotechnic items.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction. However, while the supply of exports of goods is exempt, exporters can recover input tax.

Examples of exempt supplies of goods and supply of services

• Used motorized vehicles
• Importation of goods by the National Ministry of Defense
• Certain real estate transactions
• Admission to artistic, scientific or cultural events, sponsored by the Public Education Ministry
• Premiums for or payments from life insurance contracts
• Exports of goods
• Entrance to sporting events
• Importation of cultural or sporting awards and trophies
• Freight from other countries to Chile and vice versa
• Importation of capital assets incorporated to investment projects in Chile, under certain circumstances

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Chile.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic tax point for the transfer of goods is the earlier of the following:
• The time when the goods are delivered
• The time when the invoice is issued

The basic tax point for the provision of services is the earlier of the following:
• The time when the invoice is issued
• The time when a full or partial payment of the consideration is received

Deposits and prepayments. The VAT law in Chile does not contain any provision for advance payments or deposits; therefore, the general time of supply rules apply in these circumstances. According to several rulings issued by the Chilean tax authority, if an invoice relates to an advance payment paid prior to the time when the goods are delivered, the VAT associated with that advance payment is due when the invoice is issued.

Continuous supplies of services. For the continuous supply of services, VAT is due at the final date of the payment period if this event occurs before the invoice is issued or the payment is received.

Goods sent on approval for sale or return. The VAT law in Chile does not contain any provision for goods sent on approval for sale or return, therefore the general time of supply rules apply in these circumstances (if the goods have been delivered, VAT is due when the buyer gives its approval, and the sale is legally perfected).

Reverse-charge services. The VAT law in Chile does not contain any special provision for reverse-charge services; therefore, the general time of supply rules apply in these circumstances.

Leased assets. For lease contracts of movable tangible assets, furnished immovable property and immovable property equipped with installed goods necessary for conducting a commercial or industrial activity, VAT is due when the invoice is issued, or the payment is received. For leasing of immovable tangible assets with a purchase option, VAT is due when the respective invoice or invoices are issued.

Note that a lease may trigger different taxable events (i.e., if there is an option to purchase or not) on the following scenarios:

- In the case of movable tangible assets, a lease should always be subject to VAT, regardless of if there is a purchase option.
- In the case of real property, a lease would be subject to VAT if:
  - The real property is furnished or has equipment that allows it to develop commercial or industrial activity, regardless of if there is a purchase option.
  - In case of the lease of a real property without any furnishes or equipment – but there is in place a purchase option. The lease of mere real property without furnishes, equipment and with no purchase option is not subject to VAT.

Historically the sale/purchase of real property has not been subject to VAT in Chile. Recent changes introduced VAT in respect to real properties – but mainly in the case of real estate entrepreneurs that actively purchase and sold this type of assets. The sale of a real property among two individuals should not be subject to VAT.

Note that rules regarding how to compute the VAT tax basis normally allow to deduct the value of the land from the transaction to apply the VAT. VAT is aimed to affect the "valued added," i.e., constructions, furnishes and equipment placed in the land.

Imported goods. For imports, VAT is due when the goods clear all customs procedures. In this case, the Customs Service is responsible for collecting the VAT triggered by the import.

F. Recovery of VAT by taxable persons

A VAT taxable person may recover input tax (also known as VAT credit), which has been charged on the goods acquired by it and the services provided to it, if these acquisitions are directly related to the performance of activities that are taxable for VAT purposes. VAT taxable persons generally recover input tax by deducting it from output tax (also known as VAT debit), which is VAT charged on sales made and services provided.

Input tax includes VAT charged on the goods acquired and the services provided in Chile, and VAT charged on imports of goods. In general, for input tax to be recoverable, it must arise from the acquisition of current or fixed assets or from general expenses, if these acquisitions are directly related to the performance of activities that are taxable for VAT purposes. If the taxable person performs activities that are taxable for VAT purposes, together with VAT-exempt activities or nontaxed activities, the common VAT credits can only be proportionally recovered, consistent

with the proportion that the income from activities subject to VAT represents in the taxable person's total income.

There is no set time limit for a taxable person to reclaim input tax in Chile. This mean that effectively the input tax (VAT credit) may be carried forward indefinitely until its complete recovery.

Exporters also may recover the VAT paid with respect to their export activities. However, because exports are exempt from VAT, VAT credits are recovered through cash reimbursements to exporters rather than under an input-output mechanism.

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

Nondeductible input tax. Input tax may not be recovered on the purchases of goods and services that are not directly related to the performance of activities taxable for VAT purposes. In such cases, VAT paid constitutes an additional cost of goods or a deductible expense if it satisfies all the requirements to be a deductible expense for income tax purposes. If VAT is paid for the acquisition of goods or services not related to the taxable income of the taxable person, VAT paid may not be deductible.

Examples of items for which input tax is nondeductible

- Business gifts
- Private use of business

Examples of items for which input tax is deductible (if related to a taxable business use)

- Input tax is deductible on every item that complies with the requirements (subject to VAT and related to a taxable business use).

Partial exemption. Input tax cannot be recovered if it relates to exempt or nontaxable activities. VAT taxable persons that carry on both taxable and nontaxable or exempt activities may not recover input tax in full. This situation is referred to as a "partial exemption." The percentage of input tax that may be recovered is calculated based on the value of taxable operations carried out during the period, compared to total turnover. These rules apply to any type of input tax incurred, whether it is generated by the acquisition of inventory, general expenses or capital goods. Approval from the tax authorities is not required to use the partial exemption standard method in Chile. Special methods are not allowed in Chile.

Capital goods. No special input tax rules apply for input tax incurred on capital goods. If the usage of capital goods is split between taxable and exempt, a split calculation must be carried out, in line with the partial exemption rules (see above).

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

If a VAT taxable person pays excess VAT as the result of an error, it may request a refund of the overpaid amount from the tax authorities. Taxable persons may request a refund of the overpaid tax within three years after the end of the period for which the claim is made.

Pre-registration costs. Input tax incurred on pre-registration costs in Chile is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Chile. No special conditions apply. VAT can be recovered, regardless the actual payment of the accounts receivable or the accounts payable.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Chile.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Chile is not recoverable. Chile does not refund VAT incurred by businesses that are neither established nor registered for VAT purposes in Chile unless the VAT was paid as a result of an error.

H. Invoicing

VAT invoices. A taxable person must generally provide a tax invoice for transactions subject to VAT, including exports. A tax invoice is necessary to support a claim for input tax deduction. Invoices must be issued in Chilean pesos (CLPs).

Credit notes. A VAT taxable person may also issue credit notes for rebates, discounts or transactions voided with respect to the acquirer of the goods or beneficiary of the services. A credit note must contain the same information as a VAT invoice.

A VAT taxable person may also issue debit notes for increases in the tax basis of VAT. A debit note must contain the same information as a VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Chile for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Chile. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Chile. As a general rule, taxable persons must issue electronic invoices for transactions with other sellers, importers and service providers (B2B). This includes B2G supplies. These documents must be issued in case of transactions subject to and non-subject to VAT. For B2C supplies, it is mandatory for suppliers to issue an electronic bill and receipt. An electronic bill is a type of tax document that is issued for sales or services rendered for B2C supplies. An electronic bill does not entitle the customer to a VAT tax credit. Since 2014, the law states that the vouchers generated for transactions paid by electronic payment methods (credit cards or other options) are equivalent to the issuance of an electronic bill.

The above rules also apply for other tax documents, such as debit notes, credit notes, purchase invoices, etc. There are some exceptions for taxable persons whose transactions are carried out in geographical areas without mobile data connection or electricity.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Chile. As such, full VAT invoices are required. However, taxable persons subject to the simplified VAT regime that applies to foreign digital service providers are exempted from issuing invoices.

Self-billing. Self-billing is not allowed in Chile.

Proof of exports. Chilean VAT does not apply to the export of goods. However, to qualify as VAT-free, exports must be properly supported by evidence confirming that the goods have left Chile. Invoices for export transactions must be issued in accordance with the regulations established by the National Customs Service and must be stamped by the Chilean Internal Revenue Service.

Foreign currency invoices. Generally, invoices must be issued in the domestic currency, which is the Chilean peso (CLP). Equivalent sums in foreign currency can be expressed in the detail lines of the document using the exchange rate of the day of issuance. However, as an exception, export invoices may be issued in foreign currency.

Supplies to nontaxable persons. VAT taxable persons must issue a till receipt (*una boleta*) to final customers for goods sold or services rendered. However, the Chilean tax authority may permit

small merchants and service providers that sell products or render services directly to the public to not issue till receipts for those types of transactions. A till receipt is not required for sales valued at less than CLP180.

Moreover, certain taxable persons may obtain an authorization from the Chilean tax authority to be exempted from the obligation to issue till receipts for sales made through vending machines.

Records. In Chile, examples of what records must be held for VAT purposes include tax returns, invoices, notes, dispatch orders, registry of sales and purchases and other related reporting obligations. In Chile, VAT books and records can be kept outside the country.

Record retention period. Taxable persons must keep a record of invoices issued and received on the Chilean tax authority website for six years. However, for income tax purposes it is advisable to keep documentation from the date tax losses have been generated.

Electronic archiving. Electronic archiving is allowed in Chile. Taxable persons may keep their VAT records in Chile or abroad, either electronically or on paper. Also consider that VAT documentation (e.g., tax returns, invoices, notes, dispatch orders, registry of sales and purchases, other related reporting obligations) will be kept in the IRS's online system. The IRS online system (the electronic purchase and sales registry) in which the electronic invoices issued by or to a taxable person are registered automatically. There is no limitation for taxable persons to maintain or store their VAT records in Chile or abroad.

I. Returns and payment

Periodic returns. VAT returns are submitted for monthly periods on Form 29. VAT returns are due by the 12th day of the month following the end of the return period. For taxable persons that issue electronic tax documents, VAT returns are due by the 20th day of the month following the end of the return period.

Periodic payments. Payments in full are due by the 12th day of the month following the end of the return period. For taxable persons that issue electronic tax documents, payment in full is due by the 20th day of the month following the end of the return period. Return liabilities must be paid in Chilean pesos (CLPs).

Electronic filing. Electronic filing is mandatory in Chile for all taxable persons. VAT returns and VAT payments must be filed through the Chilean IRS website. To do this, taxable persons will need a password associated with their tax ID that must be requested from the Chilean tax authority by the taxable person.

Payments on account. Payments on account are not required in Chile.

Special schemes. *Small businesses.* Certain small businesses, as selected by the tax authority, that sell products or render services directly to the public may opt for a simplified VAT regime. In this simplified regime, the monthly VAT basis is determined by decree to every activity or group of taxable persons. The tax basis is calculated considering variables such as the estimated amount of sales or services, stock turn rate and other factors. The VAT rate is not modified. Only natural persons may opt for this regime.

Educational establishments. Income obtained by educational establishments for their education activities is out of scope of VAT.

Passenger transportation. Income from transport of passengers received by airlines, cruise companies, train companies and bus companies is out of scope of VAT.

Non-regular suppliers. Income obtained by a non-regular seller is out of scope of VAT. Nonetheless, this should be reviewed case by case as it is a subjective matter.

Professional services. Income obtained by professional services is out of scope of VAT but should be reviewed case by case.

Annual returns. Annual returns are not required in Chile.

Supplementary filings. No supplementary filings are required in Chile.

Correcting errors in previous returns. If VAT was underpaid due to an omission or mistake (i.e., an invoice issued was not considered), the appropriate way to regularize this situation should be by replacing the VAT tax return by filing an amended VAT tax return (i.e., Form 29 monthly tax return) and paying any VAT difference that may arise (plus applicable penalties, which may include adjustments, interest and fines, if any).

Digital tax administration. There are no transactional reporting requirements in Chile.

J. Penalties

Penalties for late registration. Penalties related to late registration normally involve fines up to CLP600,000 (approx. USD800). However, additional penalties may result if this leads to, as a consequence of the late registration, a late payment of VAT.

Penalties for late payment and filings. Penalties in case of late payments and filings are subject to interest (1.5% per month) and fines of up to 60% of due taxes.

Penalties for errors. Penalties are assessed for a range of errors and omissions related to VAT accounting. In general, penalties for VAT errors are calculated as a percentage of the tax underpaid; penalty measures may also include closure of the business. The amount of the penalty depends on the severity and frequency of the error. The following are the classes of offenses:
- Serious: e.g., failure to issue an invoice
- Less serious: e.g., omitting a required detail from an invoice
- Light: e.g., failure to issue a credit note

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

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty from approximately USD65 to USD780. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Criminal tax evasion may be punished by a term of imprisonment, a fine or both, depending on the severity of the case. There are no implications for tax advisors in case of fraud, as penal responsibilities are personal responsibilities of the taxable person.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Chile.

Statute of limitations. The statute of limitations in Chile is three to six years. The general time limit for the tax authorities to audit returns is three years from the date on which the tax return was filed. However, if no tax return was filed or if it was maliciously false or untrue, the limit is six years. The same time limit should apply to voluntary rectifications.

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"China" in this publication refers to the mainland China tax jurisdiction.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Zeng Zhi Shui (增值税)
Date introduced	1 January 1994
Trading bloc membership	None
Administered by	Ministry of Finance (MOF) State Taxation Administration (STA) (http://www.chinatax.gov.cn)
VAT rates	
Standard	13%
Reduced	3%, 5%, 6%, 9%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXXXXXXXXXXX (1-digit Registration Management Department code + 1-digit entity type code + 6-digit administrative division code + 9-digit organization code + 1-digit verification code)
VAT return periods	Tax periods range from one day to one quarter
Thresholds	
Registration	Monthly turnover from CNY5,000 to CNY20,000 for supplies of goods Monthly turnover from CNY5,000 to CNY20,000 for supplies of services Daily turnover from CNY300 to CNY500 (the local tax offices set the actual thresholds within the above ranges)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or taxable services for consideration in China, by a taxable person in the course or furtherance of any business
- The importation of goods into China, regardless of the status of the importer

The following transactions are treated as supplies of goods:

- Sales made through an agent
- Sales of goods on consignment
- The application or appropriation of goods by a taxable person for any of the following purposes:
  - VAT-exempt activities
  - Capital investment
  - Appropriation to shareholders or investors
  - Collective welfare or personal consumption
  - Making gifts

A transfer of goods from one branch to another branch of the same taxable person for the purpose of sale is also treated as a supply of goods, regardless of whether any consideration is paid, unless the branches are located in the same county (municipality).

A self-supply of goods occurs if a taxable person diverts goods to private or exempt use and if the goods were manufactured or otherwise acquired by the taxable person and the person was entitled to an input tax deduction *(see Section F below)*.

The aforementioned taxable services include the following types of services:
- Processing services *(see below)*
- Repair and replacement services *(see below)*
- VAT pilot services *(see below)*

The term "processing services" means services supplied by a contractor for producing goods in accordance with a customer's specifications by using raw materials and principal parts consigned by the customer. The term "repair and replacement services" means repairing damaged taxable goods and returning them to their original condition.

The terms "VAT pilot services" refers to services that are within the taxable scope of the pilot program of switching from business tax to VAT (B2V) which was first started in 2012 and later extended to all sectors across China in 2016 with the announcement of Caishui [2016] No. 36 (Circular 36) Notice regarding the final stage of the VAT pilot arrangements. The title of "pilot" is still effective because the enactment of the VAT law is still in progress in China, thus the principal scope of VAT is still entitled by Circular 36 and the Provisional Regulations on VAT.

VAT pilot services include the following:
- Sales of services *(see below)*
- Sales of intangible assets *(see below)*
- Sales of immovable properties *(see below)*

Sale of intangible assets refer to activities of transferring ownership or rights of use of intangible assets. Intangible assets must refer to assets that can bring out economic interest without tangible forms, including technologies, trademarks, copyrights, goodwill, rights of use of natural resources and other beneficial intangible assets.

Sale of immovable properties refer to activities of transferring ownership or rights of use of immovable properties. Immovable properties must refer to the properties that cannot be moved or will be changed in nature or in shape after moved, including buildings, structures, etc.

Sale of services includes the following:
- Transportation
- Postal
- Telecommunications
- Construction
- Financial
- Research and development
- Information and technology
- Cultural, creative and sports
- Logistics supporting
- Leasing
- Authentication and consulting
- Radio, film and television
- Business support
- Education and medical

- Tourism and entertainment
- Catering and accommodation
- Daily residential services (e.g., municipal administration, housekeeping, care and nursing)

The following supplies are considered as supplies outside of China and are not subject to VAT:
- Supplies made by overseas entities or individuals that supply taxable services or intangible assets that are completely incurred overseas to entities or individuals within the territory
- Supplies made by overseas entities or individuals that lease tangible property that is completely used overseas by entities or individuals within the territory
- Other circumstances regulated by the MOF and STA

Special rules apply to mixed transactions consisting of sales of taxable goods and supplies of taxable services. To ease tax administration, mixed transactions carried on by enterprises and sole proprietor businesses engaged in or mainly engaged in the production, wholesale and retail supply of goods are deemed to be supplies of goods. Other units and individuals that supply mixed transactions are regarded as providing taxable services.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In China, no services are subject to the "use and enjoyment" provisions. However, services, intangible assets sold by overseas entities or individuals and tangible movables rented by overseas entities or individuals to entities or individuals in China shall not be deemed sales of services or intangible assets in China and thus are out of the scope of VAT if such supplies occur entirely outside of China.

Certain cross-border services that are consumed entirely outside China may apply the zero-rate or tax exemption with condition (registration with tax authority required). Refer to *Section D Rates,* subsections *Examples of goods and services taxable at 0%* and *Examples of exempt supplies of goods and services* below.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In China, the transfer of goods in an asset restructuring (involving the transfer of entire or partial tangible assets together with their related creditor's rights and liabilities) shall not be subject to VAT. In a complicated restructuring of a corporate group that involves multiple transfers of goods in an asset restructuring (involving multiple transfers of entire or partial tangible assets together with their related creditor's rights and liabilities), such multiple transfers are also considered to be not taxable for VAT purposes, as long as ultimately the assets/rights/liabilities and manpower are transferred to the same transferee.

Transactions between related parties. In China, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, generally in cases where the price of a taxable supply by a taxable person is evidently low or high for no reasonable commercial purpose, or there is no sales amount for a supply deemed to be a supply of goods or services, the tax authorities in charge shall have the right to determine the sales amount in accordance with the following sequence:
- Determine according to the average price of the same type of services, intangible assets or immovables of the taxable person's recent supplies

- Determine according to the average price of the same type of services, intangible assets or immovables of other taxable persons' recent supplies
- Determine according to composite taxable value. The formula for computation of the composite taxable value is:

$$\text{Composite taxable value} = \text{cost} \times (1 + \text{profit rate of cost})$$

The profit rate of cost shall be determined by the STA.

"No reasonable commercial purpose" shall mean reduction, exemption or deferred payment of VAT or increase of VAT refund through contrived arrangements for the purpose of reaping tax benefits.

If the transactions between related parties fall into the above situation, the tax authority may revalue the taxable sale amount based on statutory computation method.

C. Who is liable

A taxable person is any business "unit" or individual that sells goods or supplies taxable services in China, unless the person's sales are below the relevant taxable thresholds. VAT is also payable on the importation of goods. The term "unit" includes enterprises, administrative units, business units, military units and social organizations.

There are two classes of taxable persons:
- General taxable persons, which are taxable persons with an annual turnover of CNY5 million or more
- Small-scale taxable persons, which are taxable persons with an annual turnover of less than CNY5 million

For these purposes, the term annual turnover refers to cumulative VAT taxable sales within an ongoing operational period of up to 12 months, including the taxable sales amounts shown on tax returns, taxable sales amounts not yet paid and the adjusted taxable sales amount resulting from a tax assessment.

State and local authorities including administration units, business units, military units, social organizations and other government units are treated as taxable persons for the purpose of VAT.

Exemption from registration. The VAT regulations in China do not contain any provision for exemption from registration. However, there are special rules for small businesses with monthly sales amounts or turnover of less than CNY100,000. The sales could be exempted from VAT. See the subsection *Voluntary registration and small businesses* below.

Voluntary registration and small businesses. The VAT regulations in China do not contain any provision for voluntary VAT registration. However, voluntary registration is applicable for a small-scale taxable person that wishes to convert into a general taxable person. A small-scale taxable person may elect to register and pay VAT in accordance with the relevant provisions applicable to general taxable persons if it can demonstrate that it has a sound accounting system, maintains proper accounting records and is capable of generating accurate information for VAT assessment purposes.

To support the development of small businesses, small-scale taxable persons with a monthly sales amount or turnover of less than CNY20,000 may be exempted from VAT. This threshold has undergone multiple changes. The current applicable threshold is CNY100,000 of monthly sales amounts (or CNY300,000 for small-scale taxable persons who adopt the quarterly filing basis) for the period from 1 January 2023 to 31 December 2027.

Group registration. Group VAT registration is not allowed in China.

Branches of the same enterprise are required to register separately for VAT, unless the head office and the branch(es) are located in the same county (municipality). However, subject to the approval of the tax authorities, the head office of an enterprise may be allowed to submit combined VAT returns for branches located in different counties (municipalities).

Transactions between branches may be subject to VAT, unless the relevant branches are located in the same county (municipality). A movement of goods between branches located in different counties (municipalities) is subject to VAT regardless of whether any consideration is paid. A distinction is made between a movement of goods to a branch for the purpose of a sale to customers and a 5201 movement of goods to a branch for storage. By default, a movement of goods from one branch to another is deemed to be for the purpose of sale to customers unless the enterprise can prove that it fulfills both of the following conditions to the STA is faction of the tax authorities:

- The branch that receives the goods will not sell the goods to customers on its own account, issue the relevant invoices or collect sales proceeds from the customers.
- The enterprise has obtained a special permit from its supervising tax authority that allows it to keep inventory outside the place where it is established.

If both of these conditions are fulfilled, the goods may be regarded as being moved to a branch for pure storage purposes and the transaction is not liable to VAT.

There is no minimum time period required for the use of combined returns. Generally, a branch can be removed from the combined VAT return if approved by the tax authority.

At the time of preparing this chapter, there is currently no nationwide VAT regulation clarifying if VAT group members are jointly and severally liable for VAT debts and penalties. According to local requirements, the tax authority would regularly inspect the head office and group members to check their compliance status in relation to the combined VAT returns, and in case of any noncompliance or underpayment, the assessed tax payment, late payment surcharge and penalty shall be settled locally by the relevant group member. Such noncompliance or underpayment may also affect the qualification for the combined VAT returns.

Fixed establishment. In China there is no legal definition of a fixed establishment for VAT purposes. However, there is a similar definition for "fixed premise," which refers to the contents stated in the "manufacturing and business address" column of the VAT General Taxpayer Registration Form. The definition of a "fixed establishment" in other laws and regulation outside the scope of VAT do not also apply for VAT, as there is no VAT rules addressing cross reference on this matter.

Non-established businesses. Subsidiaries of foreign enterprises that supply goods or taxable services in China are treated in the same manner as other taxable persons.

Foreign enterprises that do not sell goods or taxable services in China may not register for VAT. If a foreign unit or individual outside China provides taxable services in China and does not have a business office in China, the purchaser must be the withholding agent.

Tax representatives. A taxable person or withholding agent may appoint a tax agent to handle various tax matters on its behalf, including but not limited to filing of tax returns, tax consultation, tax planning, tax-related authentication, tax payment review, bookkeeping and other tax-related services. The tax agent must comply with the relevant measures and requirements specified by the STA.

Representative office. Under the current business regulatory rules, a representative office of a foreign enterprise may engage only in certain activities, such as liaison and support. A representative office may not engage in direct profit-making activities, and it is prohibited from making sales of goods. Consequently, in general, VAT is not payable with respect to the activities of a

representative office and VAT registration is not permitted. However, if a representative office engages in profit-making activities, it could be liable to VAT for any revenues generated.

Reverse charge. The reverse charge does not apply in China. As such, where an entity or individual located outside the territory of China conducts taxable activities within the territory without establishing an operating institution within the territory, the corresponding buyer must be the VAT withholding agent, unless as otherwise specified by the MOF and the STA. The VAT withholding agent can recover the VAT withheld as input tax.

Domestic reverse charge. There are no domestic reverse charges in China.

Digital economy. Imports supplied cross-border via the internet (i.e., e-commerce) must, according to the types of goods, be subject to import VAT. Individuals purchasing any imported goods retailed through cross-border e-commerce must be taxable persons; the actual transaction prices must be a dutiable price; and e-commerce corporations, corporations specialized in e-commercial transaction platforms or logistic enterprises can be the withholding agent for VAT.

Imported goods retailed through cross-border e-commerce are subject to single transaction limits of CNY5,000 and annual individual limits of CNY26,000. The tariff for any commodities imported within these transaction limits are fixed at 0% temporarily; and the exemption for import VAT and consumption tax are canceled and temporarily levied at 70% of the statutory tax. Where the single transaction is beyond the single transaction limits and the annual transaction limits and the dutiable price is greater than CNY5,000, for single indivisible goods, the tax is levied in full.

Where cross-border e-commerce retail imports are returned within 30 days from the date of customs clearance, a tax refund may be claimed, and individual transaction limits should be adjusted accordingly.

For supplies of e-commerce services, the individual buyer shall be treated as the taxable person (liable to pay the VAT) while the e-commerce company, platform or the logistic company can be the withholding agent. For electronically supplied services provided by nonresidents, the buyer is the withholding agent, and the nonresident supplier is not required to register for VAT in China except for a temporary tax registration, which is required for the withholding process. For this temporary tax registration, the nonresident supplier does not need to provide any information.

At the time of preparing this chapter, a new draft law, along with integrating numerous existing rules, proposes that foreign suppliers of digital services in China should comply with the local VAT laws. On 28 August 2023, the second draft of the VAT law was submitted to the fifth session of the standing committee of the 14th National People's Congress for deliberation and subsequently sought public opinions in September. There has not been any confirmation on the enforcement of this draft law.

Online marketplaces and platforms. Domestic e-commerce activities conducted within the territory of China must be governed by the "E-commerce Law of the People's Republic of China." Operators of e-commerce platforms and e-commerce operators must register and fulfill their tax obligations according to the existing laws and regulations. E-commerce operators must issue paper or electronic invoices for selling commodities or providing services.

Registration procedures. To register for VAT, enterprises (i.e., incorporated or similar) should apply to the administrative departments of market regulation for the business licenses with a unified social credit code, which could be used for tax affairs purposes.

In general, the following documents are required for the application of business license:
- Application form
- Articles of association

- Proof of identity of the investor
- Appointment document of legal representative, directors, supervisors and managers
- Identification document of legal representative, directors, supervisors and managers
- Proof of use of the residence (i.e., lease agreement)
- Other prerequisite documents if necessary

The above documents are required for the business license, and the tax registration must be done within 30 days of obtaining the business license. Normally there is no additional document required for the tax registration.

The application for a business license may be submitted in person (or through a local agent) or online.

Deregistration. Where a taxable person's obligation to pay tax is terminated in accordance with the law due to dissolution, bankruptcy, cancellation or other reasons, the taxable person must provide the relevant certificates or materials and go through the formalities for tax deregistration with the tax authorities that handled its original tax registration before it proceeds to deregister with the industry and commerce administrative authorities and other relevant bodies.

As for taxable persons who do not need a deregistration with the market regulation administrative authorities and other relevant bodies, it must, within 15 days after obtaining relevant approval or termination announcement, provide the relevant certificates or materials and go through the formalities for tax deregistration with its original tax authorities.

Where a taxable person's business registration is revoked by the market regulation administrative authorities, or when the registration is canceled by other relevant authorities, the taxable person must go through the formalities for tax deregistration with its original tax authorities within 15 days after the business registration has been revoked or canceled.

Where a change of tax registration authorities is required for a taxable person due to a change in its domicile or business place, the taxable person must provide the relevant certificates or materials and go through the formalities for tax deregistration with its original tax authorities before it proceeds to modify registration or deregister with the market regulation administrative authorities and other relevant bodies, or to change its domicile or business place. It is also required to apply for tax registration with the tax authorities at the new location within 30 days after the tax deregistration.

Where a foreign enterprise is engaged in construction, installation, assembling or exploration or provides services in China, it must provide the relevant certificates or materials and go through the formalities for tax deregistration with its original tax authorities after the project is completed and no less than 15 days before its departure from China.

Changes to VAT registration details. Where a change occurs in the contents of the tax registration of a taxable person, the taxable person must, within 30 days of the date of completing the formalities for such change in the business registration with the authorities for the administration of market regulation, report to and complete the formalities for the change of tax registration with the tax authorities upon presentation of the relevant supporting documents.

Examples of the change include company name, address, legal representative, registered capital, business scope, etc.

The change of tax registration can be done online or in person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to VAT at any rate.

The VAT rates are:
- Standard rate: 13%
- Reduced rates: 3%, 5%, 6%, 9%
- Special rates: 3%, 5% (for small-scale taxable persons)
- Zero-rate: 0%

The standard VAT rate applies to all supplies of goods or services, unless a specific measure provides for a reduced rate or an exemption.

Some supplies are classified as tax exempt with credit (zero-rated), which means that no VAT is chargeable, but the supplier may recover the related input tax.

To further support the development of small- and micro-sized enterprises (SMEs) and individual business, the VAT reduction and exemption policies for small-scale taxable persons has been extended again. From 1 April 2021 till 31 December 2027, all small-scale taxable persons will be subject to a lowered rate of 1% on their taxable sales revenues subject to VAT rate of 3% on a deemed basis; for items subject to prepayment of VAT at the rate of 3%, the VAT prepayment will be made at a reduced rate of 1%.

Other temporary rate changes are in place from 1 May 2020 till 31 December 2027: When taxable persons engaged in the distribution of used vehicles sell used vehicles they have acquired, VAT will be levied under the simple taxation method at the rate of 0.5%, instead of 2%, after a reduction from the 3% rate on a deemed basis.

Examples of goods and services taxable at 3%

- Certain taxable used goods
- Consignment goods sold by consignment agencies
- Certain goods sold by pawnbrokers
- Specific duty-free items sold by duty-free shops
- Certain electricity produced by qualified hydroelectric-generating businesses
- Certain construction materials
- Certain biological products
- Tap water (rate applies if taxable person chooses simplified computation method with no input tax recovery)
- Certain concrete cement goods sold by general taxable persons
- Non-academic education services
- Interest income from agricultural loan provided by Agricultural Development Bank of China and its affiliates
- Certain rare disease drugs (orphan drugs)

Examples of goods and services taxable at 5%

- Labor dispatching service
- Human resource outsourcing service

Examples of goods and services taxable at 6%

- R&D and technology services
- Information and technology services
- Culture and creative services
- Logistics supporting services
- Authentication and consulting services
- Radio, film and television services
- Business supporting services
- Other modern services
- Value-added telecommunication services
- Loan services

- Direct financial services
- Insurance services
- Financial product trading
- Cultural and sports services
- Education and medical services
- Tourism and entertainment services
- Catering and accommodation services
- Daily services
- Other lifestyle services
- Sales of intangible assets

Examples of goods and services taxable at 9%

- Agricultural products (including grains)
- Tap water
- Heating
- Liquefied petroleum gas
- Natural gas
- Edible vegetable oil
- Air conditioning
- Hot water
- Coal gas
- Coal products for household use
- Food-grade salt
- Farm machinery
- Fodder, pesticides
- Agricultural film
- Fertilizer
- Methane gas
- Dimethyl ether
- Books
- Newspapers
- Magazines
- Audiovisual products
- Transportation services
- Postal services
- Basic telecommunication services
- Construction services
- Sales of immovable properties acquired or developed after 1 May 2016
- Leasing of immovable properties acquired or developed after 1 May 2016
- Transfer of land use right

The following lists provide examples of goods and services taxable at the different rates, for small-scale taxable persons.

Examples of goods and services taxable at 3%

- Other VAT pilot services

Examples of goods and services taxable at 5%

- Sales of immovable properties
- Leasing of immovable properties
- Transfer of land use rights
- Labor dispatching service

A taxable person that supplies goods or services taxable at different VAT rates must separately book the value of sales of goods and taxable services at each rate. The highest rate of VAT applies if the sales made at different rates are not accounted for separately.

Examples of goods and services taxable at 0% (i.e., exempt-with-credit)

- Exports of goods (excluding prohibited or restricted exports)
- Services rendered by domestic entities or individuals to overseas entities and consumed entirely outside of mainland China:
  - International transportation services, including transportation services for Hong Kong, Macau and Taiwan
  - Space transportation services
  - Research and development services
  - Contractual energy performance services
  - Design services
  - Radio, film and television programs (works) production and distribution services
  - Software services
  - Circuit design and test service
  - Information systems services
  - Business process management services
  - Offshore outsourcing services, including information technology outsourcing (ITO), business process outsourcing (BPO) and knowledge process outsourcing (KPO)
  - Technology transfer

Examples of exempt supplies of goods and services (i.e., exempt-without-credit)

- Goods:
  - Agricultural products produced and sold by primary agricultural producers
  - Contraceptive medicines and appliances
  - Antique books
  - Imported equipment and apparatus used directly for scientific education, scientific research, development and experiments
  - Imported products and equipment in the form of free economic assistance from foreign governments and international organizations
  - Products imported by organizations for the handicapped for their exclusive use
  - Sale of secondhand goods by individuals
- Cross-border services:
  - Construction service with the construction project outside China
  - Engineering supervision services with the construction project outside China
  - Engineering survey services with the engineering and mineral resources outside China
  - Conference and exhibition services for conferences and exhibitions that take place outside China
  - Warehousing services for storage locations outside China
  - Tangible personal property leasing services with the subject used outside China
  - Radio, film and television programs (works) broadcast services
  - Cultural and sports services, education and medical services, tourism services provided outside China
  - Postal service, collection and dispatching service and insurance services provided for export goods
  - International transportation services that are not eligible for a zero VAT rating
  - Transportation services from and to Hong Kong, Macau and Taiwan, as well as transportation services in Hong Kong, Macau and Taiwan that are not eligible for a zero VAT rating

- Taxable services rendered to overseas entities or units and consumed entirely outside mainland China
- International transportation services provided by non-transport operating carriers
- Direct chargeable financial services provided for the monetary financing between entities outside the territory and other financial business operations, which are not related to any goods, intangible assets or real property within the territory

Taxable persons that supply items eligible for tax exemption or tax reduction must book these sales separately. Otherwise, no tax exemption or reduction applies.

Special rules apply to sales of used fixed assets.

Option to tax for exempt supplies. Taxable persons that could be eligible for VAT exemption may choose to give up the right of VAT exemption and pay VAT. Once the choice is made, the taxable person cannot switch back to applying for VAT exemption within 36 months.

E. Time of supply

The "time of supply" is the time when VAT becomes due (that is, the tax-triggering point).

The following are the principal aspects of the time of supply rules for goods:

- If the sales proceeds are received directly from the buyer, the time of supply is when sales payment is received or when evidence for demanding the sales payment is issued, whichever is earlier, regardless of whether the goods have been delivered.
- By "sales payment is received," it means that the payment is received by the taxable person in the course of or after the sales of services, intangible assets or real property.
- "The day when evidence for demanding the sales payment is issued" refers to the payment date as stipulated in the written contract; or in the absence of a written contract or stipulation about such payment date in the written contract, refers to the date when the provision of the services or transfer of the intangible assets is completed or the ownership of the real property changes.
- If the sales proceeds are collected through a bank, the time of supply is when the goods are dispatched.
- If payments are made by installments in accordance with a sales and purchase agreement, the time of supply is when each installment is due. In the absence of a written contract or specification of the date of collection in the contract, the tax point is the date on which the goods are dispatched.
- If payment is made in advance, the time of supply is when the goods are dispatched. For large-scale machines and equipment, ships, aircraft and other goods whose production period exceeds 12 months, the time of supply is the date on which the advance payment is received, or the date of collection specified in the written contract.
- For supplies of goods made through a consignment agent, the VAT payable by the consignor is due when the consignor receives the sales confirmation list or the payment from the consignment agent, whichever is earlier. However, if the consignor receives neither the sales confirmation list nor the payment from the consignee within 180 days from the date of dispatching goods, the goods are regarded as having been supplied to the consignee and VAT will be payable accordingly.

The time of supply for the provision of taxable services is when the payment for the sale of the service is received or when evidence for demanding the sales payment is issued, whichever is earlier.

If the taxable person is engaged in the transfer of financial instruments, the time of supply is the day when the ownership of the financial instruments changes.

If the taxable person provides services or the transfer of the intangible assets or real property, the time of supply is the day when the provision of the services or transfer of the intangible assets is completed or the ownership of the real property changes.

The obligation to withhold VAT arises on the day when the VAT payment obligation arises for the taxable person.

Deposits and prepayments. For a refundable deposit, in general it would not be subject to VAT and no VAT invoice should be issued (but if VAT invoices are issued, VAT would be due). A refundable deposit is not perceived as a consideration for a supply. In this regard, the treatment would be the same whether the supply takes place or not. With regard to a nonrefundable deposit, VAT is due if the nonrefundable deposit is treated as part of the consideration to be paid by the purchaser. VAT would not be due if a nonrefundable deposit has no linkage with the consideration and the supply, and it is solely for the purpose of securing the transaction.

If payment is made in advance, the time of supply for goods is when the goods are dispatched. For large-scale machinery and equipment, ships, aircraft and other goods whose production period exceeds 12 months, the time of supply is the date on which the advance payment is received, or the date of collection specified in the written contract.

Where payment is made in advance for leasing services provided by the taxable person, the time of supply on the prepayments is on the day when the advance payment is received. The taxable person must prepay tax to the competent tax office within the tax declaration period for the month following the month when the advanced payment is received.

Continuous supplies of services. There is no specific regulation for the time of supply rule for continuous supplies. As such, the normal time of supply rules for services apply.

Goods sent on approval for sale or return. Goods sent on approval would not create a time of supply under the general rules. The general time of supply rules mentioned above would apply; in other words, the date of VAT invoice issuance, the date when sales proceeds are received or evidence for demanding the sales proceeds is issued, and the date when goods are dispatched would be assessed to judge when the VAT obligation would arise, subject to business trading mode.

In an event that a VAT invoice has been issued, if the goods are returned in the following months, a red-letter invoice (credit note) should be issued. If goods are returned in the current month, the VAT invoice could be canceled and reissued.

Reverse-charge services. The reverse charge does not apply in China. As such, where an entity or individual located outside the territory of China conducts taxable activities within the territory without establishing an operating institution within the territory, the corresponding buyer must be the VAT withholding agent, unless as otherwise specified by the MOF and the STA. There is no special time of supply rule for such supplies, and as such the general rules apply.

Leased assets. The general time of supply rules noted above apply to leases. If payment is made in advance for leasing services provided by the taxable person, the time of supply for the prepayments is the day when the advance payment is received. The taxable persons must prepay the tax to the competent tax office within the tax declaration period for the month following the month when the advanced payment is received.

Imported goods. VAT is payable for imported goods when the goods are declared to customs.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by crediting it against

output tax, which is VAT charged on supplies made. However, input tax credit is not allowed for small-scale taxable persons that are subject to VAT at a flat rate (see Section D). Input tax includes VAT paid by a taxable person on the acquisition and importation of taxable goods and services that are acquired for the purposes of the taxable person's business activities. No credit is permitted with respect to purchases made for other purposes. To claim input tax credits, a taxable person must comply with the following conditions:

- It must be registered with the tax authorities as a general taxable person (not as a small-scale taxable person).
- It must maintain a reliable accounting system and provide accurate information for assessing its VAT liabilities.
- It must hold a valid VAT invoice obtained from the vendor (see Section H), a tax certificate issued by the customs authorities or other valid supporting documents including transportation invoices and agricultural product procurement certificates.

A taxable person may recover input tax as soon as it has a valid VAT invoice, or a tax certificate issued by the customs authorities or other valid supporting documents. It is not necessary to wait until the purchaser has paid for the goods or the supplier has paid the output tax to the tax authorities.

The time limit for a taxable person to reclaim input tax in China is the same month that the invoice is verified. In rare cases (e.g., force majeure), the taxable person may apply for reclaiming input tax by special application. This time limit is abolished for invoices issued after 1 January 2017. The claim for input tax credit must be made in the VAT return for the period in which the invoice or other documents are validated by the tax authorities.

For the tax invoices and other documents issued before 31 December 2016, a taxable person must verify all input tax invoices and other documents within 360 days after the date of issuance of the documents; for tax invoices and other documents issued from 1 January 2017, there is no period limit for verification and declaration of deductions.

In calculating its net VAT payable, a taxable person may also claim an input tax credit equal to 11% of the purchase value of VAT-exempt agricultural products purchased from primary agricultural producers or agricultural cooperative societies. The input tax on road, bridge and gate tolls paid by general taxable persons can be calculated on the basis of the fee amount indicated in the toll invoice received by the taxable persons.

Input tax on real estate acquired by a taxable person after 1 May 2016 and accounted for as fixed assets under the accounting system, as well as real estate construction in progress after 1 May 2016, is deducted from output tax in two yearly installments at a deduction ratio of 60% in the first month and 40% in the 13th month of obtaining the special VAT invoices. Starting from 1 April 2019, it can be offset (one-off) by the output tax upon obtaining the special VAT invoices.

A taxable person that supplies goods for export must register with the relevant local authorities responsible for overseeing foreign trade to obtain an approved Foreign Trade Operator Registration Form. It can use this form to complete a registration with the relevant tax authorities and confirm its entitlement to export refund.

With the exception of certain types of goods, exports of goods are generally exempt with credit; that is, input tax previously paid on the purchase of goods and services used for the production of goods for export is refunded on application. This procedure is commonly known as the "VAT export refund." However, the VAT exemption with credit mechanism does not apply to certain types of goods. For those goods whose VAT export refund rates are less than the applicable VAT rates for normal supply, the taxable person must bear the difference as a cost, even though the goods are sold for export. Such VAT cost is commonly referred to as an "export VAT leakage" or "input tax disallowance."

Depending on the type of exporting enterprise, the VAT export refund and the input tax disallowance are calculated based on different methods.

Eligible enterprises or other entities may file a tax refund (exemption) application. After approval, enterprises or other entities must make the declaration on VAT refund (exemption) and exemption with the competent authority within the declaration period of VAT payment.

For the goods exported through an agent, the entrusting party must be responsible for declaring VAT refund (exemption). For the water, electricity and gas supplied to the special areas, the manufacturing enterprises within the special areas, as the purchasers, must be responsible for declaring the tax refund.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable business purposes.

Examples of items for which input tax is nondeductible

- Goods or services used in VAT-exempt activities
- Goods or services used in activities subject to VAT on a simplified basis
- Goods or services for collective welfare or personal consumption
- The "abnormal loss" of purchased taxable goods and associated processing, repair or replacement services or transportation services
- The abnormal wastage of purchased taxable goods or services consumed in the production of merchandise or finished products
- The abnormal loss of real estate and associated purchased goods, design services or construction services consumed
- The abnormal wastage of purchased goods, design services or construction services in the construction of real estate
- The purchase of loan services, catering services, residential daily services and entertainment services
- Other situations that are specified by the Ministry of Finance and the State Administration of Taxation

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease or hire of a car, van or truck
- Fuel for cars, vans and trucks
- Car maintenance
- Business travel (see the subsection *Domestic passenger traveling expenses* below)
- Advertising
- Hotel accommodation
- Mobile phone expenses

Partial exemption. Taxable persons that make taxable supplies and other supplies (such as exempt supplies and outside the scope supplies) are only entitled to claim input tax incurred in making their taxable supplies as credits. Input tax is not creditable for any purchases that are directly related to making exempt supplies.

If a taxable person has purchases or imports that are used to make both taxable and exempt or outside the scope supplies while the non-creditable input tax could not be distinguished, an apportionment of input tax is allowed. The allowable input tax credit must be calculated using the ratio of turnover from taxable supplies compared with the total turnover of that month from all supplies.

Approval from the tax authorities is not required to use the partial exemption apportionment method (i.e., the standard method) in China.

Capital goods. The same rules apply for goods and services supplied for business purposes. There is also no specific definition for capital goods. However, starting from 1 January 2018, input tax on fixed assets or immovable properties rented by taxable persons that are used for supplies subject to tax under the general calculation method and a taxable item subject to tax under the simplified calculation method, a VAT-exempt item, collective welfare or personal consumption purposes is allowed to be recovered in full, against the output tax.

Refunds. Upon discovering that a taxable person has paid an amount in excess of the tax payable, the tax authorities must immediately refund the excess amount to the taxable person.

When a taxable person discovers that it has paid in excess of the tax payable within three years from the date the tax payment was made, it may claim from the tax authorities a refund of the excess amount and interest based on bank deposit for the same period.

Upon examination and verification, the tax authorities must immediately make the refund. If the refund involves returns from the State Treasury, the refund must be given according to the provisions of laws and administrative regulations relating to the administration of State Treasury.

Incremental excess input tax refund regime. The incremental excess input tax refund regime came into effect from 1 April 2019. Taxable persons meeting all the following criteria may apply to their in-charge tax authority for the refund of incremental excess input tax:

- Starting from the tax filing period of April 2019, the incremental excess input tax is more than zero for a consecutive six months (or consecutive two quarters if the filing is on a quarterly basis), and the incremental excess input tax at the sixth month is not lower than CNY500,000
- The taxable person's tax credit rating would need to reach Grade A or Grade B
- Within the 36 months before applying for the incremental excess input tax refund, the taxable person has not committed any fraudulent application for tax refund from (1) excess input tax, (2) export VAT refund and (3) false issuance of special VAT invoice
- Within the 36 months before applying for incremental excess input tax refund, the tax authorities have not punished the taxable persons for more than two times (including two times) due to tax evasion
- They have not adopted any of the Refund Upon Collection as well as Collection First Refund Later measures

The incremental excess input tax refundable to a taxable person for the current period must be computed using the formula below:

$$\text{Amount of incremental excess input tax refund} = \text{Incremental amount of excess input tax} \times 60\% \times \text{input tax ratio}$$

The input tax ratio refers to the proportion of the VAT specified in the special VAT invoices, customs importation special VAT payment certificates and tax payment certificate for remitting taxes from April 2019 to the tax period before the application for an incremental excess input tax refund in all credited input tax in the same period.

In addition, from 1 June 2019, eligible taxable persons in the advanced manufacturing industry manufacturing and selling nonmetallic mineral products, general purpose equipment, special purpose equipment and computers, communication and other electronic equipment may apply for a refund of the incremental tax credit monthly from 31 March 2019. An allowed refund of an incremental retained tax credit = the incremental retained tax credit x the input composition ratio.

From 1 April 2021, the advanced manufacturing industries of pharmaceuticals, chemical fibers, railway, marine, aerospace and other transport equipment, electrical machinery and equipment, instruments and apparatus are also included and eligible for this preferential treatment.

From 1 July 2021, the scope of qualifying taxable persons has further expanded to include enterprises (including self-employed industrial and commercial households) in the following industries: retail and wholesale; agricultural, forestry, animal husbandry and fishery; accommodation and catering; resident services, repairs and other services; education; hygiene and social work; culture, sports and entertainment industries. The eligible enterprises engaging in the above-mentioned seven industries may apply for a refund of incremental input tax credits and accumulated input tax credits brought forward from previous periods (a lump sum) in the VAT filing to be completed in July 2022 or onwards.

Super input tax credit regime. From 1 January 2023 to 31 December 2023, general taxable persons whose aggregate sales derived from qualifying services (i.e. postal services, telecommunications services, modern services and life services) of more than 50% of their total sales, would be eligible for an additional 5% super input tax credit. From 1 January 2023 to 31 December 2023, a general taxable person whose aggregate sales derived from lifestyle services (i.e., culture and sports services, education and medical services, tourism and entertainment services, catering and accommodation services, daily services for individuals, other lifestyle services) exceed 50% of their total sales would be eligible for an additional 10% super input tax credit.

From 1 January 2023 to 31 December 2027, advanced manufacturing enterprises, which refers to general taxable persons of high and new technology enterprises (including their unincorporated branches) in the manufacturing industry are entitled to an additional 5% super input tax credit. It is notable that lists of advanced manufacturing enterprises shall be determined by provincial/municipal industry and information technology departments in conjunction with other relevant departments.

From 1 January 2023 to 31 December 2027, general taxable persons engaging in integrated circuit design, manufacturing, equipment, materials, packaging and testing, as well as general taxable persons manufacturing and selling advanced industrial machinery products, are entitled to an additional 15% super input tax credit. These are also subject to approval by the STA and the relevant authorities.

Qualifying taxable persons must submit a declaration to their in-charge tax authority to confirm the sales amount on an annual basis to be eligible for the additional input tax.

Domestic passenger travel expenses. General taxable persons can recover input tax when they have collected specific documentary evidence for the domestic passenger travel costs/expenses that are for business purpose. Where the taxable person cannot obtain a special VAT invoice, the input tax must be tentatively determined in accordance with the following:

- Where an electronic normal VAT invoice is obtained, the tax amount indicated on the invoice must apply
- Where an e-ticket itinerary receipt for air transport with passenger identity information indicated is obtained, the input tax must be calculated as per the following formula:

$$\text{Input tax for air passenger transport} = (\text{airfare} + \text{fuel surcharge}) / (1 + 9\%) \times 9\%$$

- Where a railway ticket with passenger identity information indicated is obtained, the input tax must be calculated as per the following formula:

$$\text{Input tax for railway passenger transport} = \text{face value} / (1+9\%) \times 9\%$$

- Where other passenger tickets for roads, waterways, etc., with passenger identity information indicated are obtained, the input tax must be calculated as per the following formula:

$$\text{Input tax for other passenger transport such as roads and waterways} = \text{face value} / (1 + 3\%) \times 3\%$$

Pre-registration costs. Input tax incurred on pre-registration costs in China is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in China.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in China.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in China is not recoverable.

H. Invoicing

VAT invoices. A general taxable person must register and procure approved VAT invoices from the tax authorities. The taxable person must also designate and register an individual employee as a representative who is responsible for administering the custody and control of VAT invoices. A valid VAT invoice is needed to support any claim for input tax recovery.

A special VAT invoice may only be issued for supplies of taxable goods or services made to taxable recipients. The supplier may not issue a special VAT invoice for the following:
- The supply of goods (such as cigarettes, alcohol, foods, garments, shoes, hats and cosmetics) to ultimate consumers by taxable persons that engage in retail sales
- The supply of taxable services to individuals
- The sale of VAT-exempt goods unless otherwise stipulated by specific rules or regulations
- The supply of taxable goods or services by small-scale taxable persons, except for certain cases the small-scale taxable persons are eligible to issue special VAT invoices by its own; however, small-scale taxable persons can apply to the relevant tax authority to issue VAT invoices on their behalf for supplies of taxable goods or services

Credit notes. If goods are returned after an invoice has been issued, a credit note (also known in China as a "red-letter invoice") must be issued. The original invoice must be returned and "invalid" written clearly on it, or a notification must be obtained from the other party.

If sales discount is given after an invoice has been issued, the original invoice must be returned and "invalid" written clearly on it before reissuing a new invoice, or a red-letter invoice must be issued after a notification is obtained from the other party.

Electronic invoicing. Electronic invoicing is allowed in China, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in China. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in China.

Currently, there are two main types of electronic invoices in use (1) an electronic VAT invoice; and (2) fully digitalized e-invoice. Both types are allowed but not mandatory.

The electronic VAT invoice applies for normal VAT invoices only; taxable persons may choose to issue either a normal electronic VAT invoice or normal paper VAT invoice. Electronic invoicing for normal VAT invoices has been implemented in China for all taxable persons from 1 December 2015. In addition, for special VAT invoices, from 21 January 2021, the electronic invoicing of special VAT invoices has been implemented for new taxable person throughout the nation.

Pilots for the fully digitalized e-invoices were launched from 1 December 2021 in selected areas with selected taxable persons as a more evolved replacement of the electronic VAT invoice. Under the pilots, the fully digitalized e-invoices include special VAT invoices and normal VAT invoices, which serve the same purpose as the existing paper invoices. The scope of taxable

persons that may receive the fully digitalized e-invoices has steadily expanded to all taxable persons in China by the end of 2022. Meanwhile, the scope of the taxable person that may issue fully digitalized e-invoices has also extended to more taxable persons in more cities and provinces.

At the time of preparing this chapter, most of regions in China have launched the pilots of fully digitalized e-invoicing. In regions that have launched the pilots, the scope of taxable persons that may issue the fully digitalized e-invoices includes the newly established and registered taxable person, and pilot taxable persons who are selected by the local tax authority. As China aims to achieve the goal of implementing fully digitalized e-invoices to cover all business sectors, transactions and elements by 2025, it is only a matter of time until the pilots are further expanded and eventually implemented on a national basis.

Generally speaking:
- Taxable persons not within the fully digitalized e-invoicing pilot region: taxable persons are still using old invoices, including paper invoices and old electronic VAT invoice
- Taxable persons that are within the fully digitalized e-invoicing pilot region: the new fully digitalized e-invoicing applies to:
  - The newly established and registered taxable persons (included in the pilot by default)
  - Pilot taxable persons that are selected by the local tax authority (the criteria for the selection of pilot taxable persons are not disclose to the public)

Simplified VAT invoices. Subject to the following circumstances, a full VAT invoice is not required to be issued:
- Selling any service, intangible asset or real property to any individual consumer
- Any taxable activity to which the provisions on VAT exemption apply

For the above circumstances, what is known as a "normal" VAT invoice must be issued.

Normal VAT invoices are simplified VAT invoices issued to small-scale taxable persons and individuals. However, general taxable persons would not be able to recover input tax with normal VAT invoices, except for domestic passenger travel expenses. For supplies to general taxable persons, special VAT invoices (i.e., full VAT invoices) must be issued for the taxable person to recover respective input tax.

Self-billing. Self-billing is not allowed in China.

Proof of exports. For proof of export, the requirements include:
- Declaration forms required by tax authority for exemption, deduction or refund of tax on exported goods
- Foreign exchange declaration for the export of goods (copy for export refund)
- Export invoice
- For goods exported on assignment, verification issued by the assignee for the export of the goods and a photocopy of the export agency agreement

For foreign trade enterprises, the requirements include:
- Declaration forms required by tax authority for exemption, deduction or refund of tax on exported goods
- Foreign exchange declaration for the export of goods
- VAT invoice (credit copy), declaration by batch form for imported goods with export refund, tax payment certificate for imported goods
- For goods exported on assignment, verification certificates issued by assignees in charge tax authorities for the export of goods on assignment and a photocopy of the export agency agreement
- For items subject to consumption tax, consumption tax payment certificate, consumption tax payment certificate for imported goods

Foreign currency invoices. VAT invoices are issued and printed through the Golden Tax System (GTS) – a tax control system connected to the database of the tax authorities. VAT invoices in China must be issued in Chinese yuan (CNY). Where a taxable person settles the sales amount in any currency other than CNY, the average CNY exchange rate on the date the sales amount occurs or on the first day of the current month may be used at the discretion of the taxable person. The taxable person must decide in advance on a conversion rate and may not change it within 12 months once such a conversion rate is determined.

Supplies to nontaxable persons. The supplier should not issue a special VAT invoice for the supply of goods (such as cigarettes, alcohol, foods, garments, shoes, hats and cosmetics) to final consumers by taxable persons that engage in retail sales but should issue a normal VAT invoice upon request.

Records. In China, examples of records that must be held for VAT purposes include accounting books, account supporting vouchers, tax payment receipts and other relevant information.

Taxable persons and withholding agents must establish accounting books in accordance with the relevant laws, administrative regulations and provisions formulated by the authorized fiscal or tax department under the State Council and keep records and carry out accounting based on legitimate and valid vouchers.

The taxable persons engaging in production or business operations must submit their financial and accounting systems or methods and accounting software to the tax authorities for record.

Accounting books, account supporting vouchers, tax payment receipts and other relevant information must not be forged, revised or damaged without approval.

In China, VAT books and records can be kept outside of the country. While no special rules apply to the location where such records must be held, in the case of a request by the tax authority, the taxable person is allowed to hold the records outside of China and then provide them to the tax authority within a reasonable time period.

Record retention period. The accounting books, accounting vouchers, statements, receipts of tax payments, invoices, vouchers for exportation and other tax-related materials must be kept for 10 years unless otherwise specified in the laws and administrative regulations.

Electronic archiving. Electronic archiving is allowed in China. Taxable persons may keep electronic accounting documents created in the course of transactions in electronic format in accordance with the measures and requirements specified by the MOF and the National Archives Administration (NAA).

I. Returns and payment

Periodic returns. In China, VAT periods vary in length. A VAT period may be one day, three days, five days, 10 days, 15 days, one month or one quarter. The length of the tax period is determined by the local tax authorities, based on the amount of VAT payable by the taxable person.

Taxable persons that have a VAT tax period of one month or one quarter must submit VAT returns on a monthly or quarterly basis within 15 days after the end of the period. Taxable persons that have a VAT tax period shorter than one month must submit a VAT return for the previous month by the 15th day of the following month.

Periodic payments. If VAT payments cannot be made on a fixed-period basis, VAT may be paid on a transaction basis.

Taxable persons that have a VAT tax period of one month or one quarter must pay the VAT due on a monthly or quarterly basis within 15 days after the end of the period. Taxable persons that

have a VAT tax period shorter than one month must make provisional VAT payments within five days after the end of the tax period. They must also settle the VAT payable for the previous month by the 15th day of the following month.

VAT payments are made through bank transfer, and only amounts in CNY are acceptable.

Electronic filing. Electronic filing is allowed in China, but not mandatory. However, electronic filing is recommended by tax authorities in China. Taxable persons can log in to the tax declaration website and file the electronic VAT tax return with the relevant appendix. When electronic filing is unsuccessful or encounters any difficulties, paper filing is acceptable.

Payments on account. Payments on account are not required in China.

Special schemes. *Secondhand goods.* In general, sales of secondhand taxable goods by taxable persons are chargeable to VAT on a simplified basis at a rate of 3% with a further reduction to 2%. Sales of secondhand taxable goods by nontaxable individuals are exempt from VAT.

Flat rate. Small-scale taxable persons account for VAT at a rate of 3% on a simplified flat rate basis and input tax paid on purchases is not deductible.

Netting mechanism. The VAT pilot rules contain a new computation method, which incorporates the "netting" mechanism. Only the following services specified by law could be applicable to the netting mechanism:

- Financial leasing with approval from the People's Bank of China, the Ministry of Commerce and the China Banking Regulatory Commission. The sales amount must be the balance of the total price and expenses (including residual value) after deduction of the loan interest (including foreign currency loan and CNY loan interest), interest of bond issuance, vehicle purchase tax.
- Transfer of financial products
- Agency services
- Tourism services
- Construction services applicable to simplified methods
- Sale of immovable properties developed by the real estate companies that are taxable persons
- Labor dispatching services
- HR outsourcing services

Annual returns. Annual returns are not required in China.

Supplementary filings. Taxable persons are required to file returns for the following local surcharges, which are calculated based on the amount of VAT payable at the same time of the VAT returns filing.

Urban construction and maintenance tax. An urban construction and maintenance tax is levied at a certain rate on the amount of indirect tax payable (i.e., VAT payable) by the taxable person. There are three different rates depending on the taxable person's location, i.e., 7% for urban areas, 5% for county areas and 1% for other areas.

Educational surcharge. An educational surcharge is levied at 3% on the amount of indirect tax payable (i.e., VAT payable) by the taxable person.

Local educational surcharge. A local educational surcharge is levied at 2% on the amount of indirect tax payable (i.e., VAT payable) by the taxable person.

Correcting errors in previous returns. Amendments to the VAT returns for prior periods can be submitted online or in paper. Depending on the amendment result, the taxable person may need to settle the additional tax payable or apply for a tax refund.

Digital tax administration. Taxable persons may file a VAT return in an electronic form online or in paper at tax authorities. From 2015, the STA implemented the "1,000 Accounts Plan," which is targeted at large enterprises, requesting access to detailed transaction detail to account for all tax types. The list of qualified enterprises is announced by STA on an annual basis.

J. Penalties

Penalties for late registration. The VAT regulations in China do not contain any penalty provision for late VAT registration. But there are penalties for small-scale taxable persons who do not register as general taxable persons in time when their annual taxable sales amount exceeds the threshold.

Taxable persons must settle the relevant formalities within 15 working days from the end of the tax declaration period in the month (or quarter) when the annual taxable sales amount exceeds the threshold. If a taxable person fails to comply within a prescribed time limit, the competent tax authorities must produce a Notice of the Tax Affairs within five working days after the end of the prescribed time limit and notify the taxable person that it must settle the relevant formalities at the competent tax authorities within five working days; if the taxable person still fails to comply after the expiration of this time limit, the tax payable is calculated based on the sales amount and the VAT rate as of the following month, and the taxable person is not allowed to deduct input tax and use special VAT invoices until it completes the relevant formalities.

Penalties for late payment and filings. Where a taxable person underpays or fails to pay taxes within the time limit prescribed in provisions or a withholding agent underremits or fails to remit taxes within the time limit prescribed in provisions, the tax authorities must, in addition to ordering the taxable person or withholding agent to pay or remit the taxes within a prescribed time limit, impose a fine on a daily basis at the rate of 0.05% of the amount of tax in arrears, commencing on the day the tax payment was defaulted.

If the taxable person or withholding agent fails to pay the tax within the new time limit, the tax authorities may impose a fine of not less than 50% and not more than 500% of the amount of tax in arrears.

If a withholding agent fails to withhold or levy an amount of tax that should have been withheld or levied, the tax authorities must seek the payment of the tax from the taxable person and concurrently impose on the withholding agent a fine of not less than 50% and not more than 300% of the amount of tax that should have been withheld or levied.

Authorized tax officers have extensive powers relating to the inspection and seizure of records. If a tax officer is of the opinion that a taxable person has underpaid the VAT due, the officer may issue an assessment based on the correct figures or on an estimate.

Penalties for errors. In the event that a taxable person or withholding agent fails to pay taxes or underpay taxes due to its own errors such as a miscalculation, the tax authorities may, within three years, pursue the payment of the tax amount and late payment fines. In special circumstances, such time period for pursuing payment may be extended to five years.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a fine of not more than CNY2,000. The tax authorities may also order the taxable person to make rectifications within a time limit. In serious cases, the tax authorities may impose a fine of not less than CNY2,000 and not more than CNY10,000 on the taxable person. For further details, see the subsection above *Changes to VAT registration details*.

Penalties for fraud. Where a taxable person fails to pay or underpays the amount of tax payable by means of forging, altering, concealing or, without permission, destroying accounting books or

account supporting vouchers or overstating expenses or failing to state or understating incomes in accounting books or refusing to report tax returns after being notified by the tax authorities to do so or filing false tax returns, it must be regarded as tax evasion. For taxable persons who evade taxes, the tax authorities must seek from them the payment of the unpaid or underpaid taxes and late payment fines, and concurrently impose a fine not less than 50% of and not more than 500% of the amount of taxes unpaid or underpaid. For cases that constitute crimes, criminal liabilities must be investigated according to law.

If a withholding agent fails to remit or underremits the amount of tax withheld or collected by the means listed in the above paragraph, the tax authorities must seek the remittance of unremitted or underremitted taxes and late payment fines, and concurrently impose a fine not less than 50% of and not more than 500% of the amount of taxes unremitted or underremitted. For cases that constitute crimes, criminal liabilities must be investigated according to law.

If a taxable person or withholding agent falsifies tax calculation bases, the tax authorities must order him to make rectifications within a given time limit and impose a fine of not more than CNY50,000.

In the cases of tax evasion, tax refusal or tax fraud, the tax authorities must not be restricted by the time limit set forth in the preceding paragraph in pursuing payments of taxes unpaid or underpaid, late payment fines or tax amount defrauded.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in China.

Statute of limitations. The statute of limitations in China is three years. This depends on the situation, as the time limit for tax authorities to impose penalties is generally three years but can increase to five years (for amount more than CNY100,000), or no limit (in the case of tax evasion, tax refusal or tax fraud). Normally the time limit for taxable persons to voluntarily correct errors in previous VAT returns is three years from the time of submission.

Where a taxable person or withholding agent fails to pay or underpays tax due to the responsibility of the tax authority, the tax authority may, within three years, require the taxpayer or withholding agent to pay back the tax, but no late payment fee shall be imposed.

In the event that a taxable person or withholding agent fails to pay taxes or underpays taxes due to its own errors, such as a miscalculation, the tax authorities may, within three years, pursue the payment of the tax amount and late payment fines. In special circumstances, such time period for pursuing payment may be extended to five years.

In the case of tax evasion, tax refusal or tax fraud, the taxation authorities must not be restricted by the time limit set forth in the preceding paragraph in pursuing payments of taxes unpaid or underpaid, late payment fines or tax amount defrauded.

Upon discovering that a taxable person has paid an amount in excess of the tax payable, the tax authorities must immediately refund the excess amount to the taxable person. When a taxable person discovers that it has paid in excess of the tax payable within three years from the date the tax payment was made, it may claim from the tax authorities a refund of the excess amount and interest based on bank deposit for the same period. Whereas, if an overpaid tax is discovered by a taxable person beyond three years, it is not clear in the current tax regulation whether the taxable person could claim a refund from the tax authorities. As the local practice, the refund may not be claimed.

Colombia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto sobre las ventas (IVA)
Date introduced	29 December 1983
Trading bloc membership	Pacific Alliance
Administered by	Dirección de Impuestos y Aduanas Nacionales (DIAN) (http://www.dian.gov.co)
VAT rates	
Standard	19%
Reduced	5%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (NIT)
VAT return periods	Bimonthly/quarterly
Thresholds	
Registration	None (corporations)/3,500 UVT (individuals)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- The sale of movable and immovable tangible goods (some exceptions apply: sale of movable goods considered as excluded)
- The sale or transfer of rights over intangibles associated with industrial property
- Services rendered in Colombia or from abroad (i.e., services executed abroad that are used in Colombia if the recipient of the services is located, domiciled or resident in Colombia)
- Importation of movable goods into Colombia
- Services of the operation of games of chance or the sale of tickets for games of chance (excluding lotteries and those games operated exclusively online)

Sales of fixed assets are not subject to VAT.

In general terms, the tax base is equal to the total value of the sale, i.e., the sale price of goods or services, plus any reimbursed expenses as part of service, warranties, commissions, insurance and other complementary items even though those items are billed separately. The tax base in importations includes any expenses incurred plus customs. Law 2277 of 2022 established a special tax base on VAT applicable to gambling machines located outside casinos. The effective discounts included in the invoice that are not subject to any condition and that are commonly used in the market are not part of the VAT tax base. However, for cleaning, surveillance and temporary employment services, construction agreements and public infrastructure construction contracts, the tax base corresponds to the fee paid to the service provider/constructor rather than to the whole value of the contract. In such cases, the creditable input tax is the tax incurred by the constructor/service provider that is directly associated with its invoiced fee. The constructor/service provider is not entitled to credit for VAT paid on expenses that are associated with the part of the income that is not subject to VAT (i.e., the difference between the fee and the whole value of the agreement).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Colombia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Colombia. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets.

Transactions between related parties. In Colombia, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the valuation of the provision of services or sale of goods between related parties will be subject to the arm's-length principle established by the transfer pricing regime and applicable valuation methodologies. In general, any transaction must consider the commercial value of the goods at the time of its sale.

C. Who is liable

Generally, any individual or entity that undertakes an activity subject to VAT must register for VAT purposes, unless provided otherwise. The requirement to register also applies to permanent establishments (PEs) of foreign entities (i.e., branches of foreign entities) if the PE carries out taxable activities or business in Colombia, and to those who provide services in Colombia located abroad.

In Colombia, the applicable regime classifies taxpayers as VAT responsible and VAT non-responsible.

All individuals or legal entities that undertake VAT taxable activities must register for VAT purposes. Retailers, traders and artisans, as well as individuals or legal entities engaged in agriculture and cattle farming activities, and service providers, must not register as VAT responsible if they meet all of the following requirements:

- Their gross income in the current or immediately preceding year derived from their taxable activity (or agreement for selling goods or services or bank deposits of revenues derived from taxable operations) is less than approximately USD35,300 (based on an exchange rate of COP4.200 per USD).
- They have a maximum of one commercial establishment, office, premises or business where they perform activities.

- They do not use a franchise, concession agreement or royalty agreement with respect to the commercial establishment.
- They are not customs users.
- In the prior year, or in the current year, they did or do not enter into sales agreements for goods or services exceeding approximately USD35,300.
- During the prior year, or in the current year, bank deposits and financial investments made did or do not exceed approximately USD35,300.

Additionally, the following taxpayers will be considered as VAT non-responsible:
- Being registered as part of the "simple" tax regime (i.e., a tax regime that applies to certain entities and individuals that replaces income tax, consumption tax and industry and trade tax) and engaging exclusively in one or more activities specified of taxpayers under the "simple" tax regime.
- Individual taxpayers under the "simple" tax regime will be considered as VAT non-responsible when their gross income does not exceed approximately USD35,300.

Exemption from registration. The VAT law in Colombia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. VAT law in Colombia does not contain any provision for voluntary VAT registration. Special rules apply for small businesses *(see above)*.

Group registration. Group VAT registration is not allowed in Colombia.

Fixed establishment. In Colombia there is no legal definition of a fixed establishment for VAT purposes. However, the PE rules also apply for VAT. There are two scenarios under which a PE can be configured in Colombian territory: (i) a fixed place of business or (ii) execution of activities by a dependent agent.

For a PE from a fixed place of business, a PE is understood to be: "a fixed place of business located in the country, through which a foreign company, whether a legal entity or any other foreign entity, or individual without residence in Colombia, as the case may be, carries out all or part of its activity." Therefore, for a PE to be configured in Colombia, from a fixed place of business scenario, the following elements must be fulfilled:
- Place of business: the foreign entity has a physical space available in the country.
- Permanence criteria: there must be an intention of conducting business on a permanent basis and not a temporary basis.
- Execution of the activity: the foreign company or entity must perform all or part of its economic activity through that fixed location.

For a PE from the execution of activities through a dependent agent, a PE can be constituted in Colombia when the foreign entity has: (i) a dependent agent (legally or economically) that acts permanently on behalf of the foreign entity; or (ii) an independent agent that performs all or most of its activities on behalf of such entity, and between said entity and the agent, commercial or financial conditions are established that differ from those that would have been established or agreed upon between independent legal entities. In both cases, the agent is required to have and regularly exercise, within Colombian territory, activities that allow him to execute acts or agreements on behalf of the foreign company.

Non-established businesses. A "non-established business" is a business that satisfies the following two requirements:
- It does not have a permanent activity.
- It does not conduct activities in Colombia through a branch of a foreign company in Colombia (i.e., a PE).

If a Colombian VAT taxable person receives a service from a non-established business, the reverse-charge mechanism applies (i.e., for business-to-business [B2B] supplies). Otherwise, the non-established business must register in Colombia for VAT purposes and account for the VAT due (i.e., for business-to-consumer [B2C] supplies).

Tax representatives. Tax representatives are not required in Colombia.

Reverse charge. Under the reverse-charge mechanism, the Colombian resident must include in the VAT withholding tax return the value of the VAT due in the operation without subtracting such an amount from the payment made to the service provider. VAT self-assessed by the Colombian resident will be treated as creditable VAT if the relevant requirements provided by law are met.

The withholding mechanism designates certain entities as VAT withholding agents, including government departments, large taxable persons, entities paying nonresident entities, individuals and VAT taxable persons belonging to the common regime, entities that are issuers of debit and credit cards, as well as entities and individuals that provide goods or services to international trading companies. For transactions performed with nonresident entities and individuals, or the sale of tobacco and scrap metal, the withholding rate is 100% of the applicable tax rate (19%).

Domestic reverse charge. Reverse charges are only applicable as previously indicated. However, as outlined above, note that the withholding for VAT purposes will be equivalent to 15% of the corresponding tax, except in those cases where the government determines a different percentage, which in any case may not exceed 50% of the tax charged.

Digital economy. VAT is triggered on any sale of goods and services performed through electronic commerce. In this event, VAT is charged by the seller of the goods or services or through the administrator of the platform that provides such solutions. The VAT rate applicable is the general one.

The nonresident provider of digital services is solely responsible for VAT purposes if the recipients of such services are not deemed as taxable persons, i.e., a VAT registered customer (a B2C supply). In case the operation is carried out with a Colombian VAT-registered customer (a B2B supply), the reverse-charge mechanism will apply, and nonresidents will not be liable to register and account for VAT in Colombia.

VAT addresses digital services as a taxable event. Taxation is applied through a withholding mechanism on electronic payments. Foreign service providers that render digital services from abroad must register as VAT responsible with the Colombian Tax Office. For this purpose, they must obtain a Colombian Tax ID, *Número de Identificación Tributaria (NIT)*. These entities must collect the VAT due and file the corresponding VAT return to wire the VAT collected to the tax office. The latter is followed unless VAT due is collected by the beneficiary of the service through the reverse-charge mechanism (i.e., if the beneficiary of the service is VAT responsible). Also, there is an exception to being registered if payments for this type of services are made through certain financial entities, such as those that issue credit or debit cards and the collection from third parties (i.e., VAT withholding agents) for certain services (i.e., services provided through digital platforms). In this case, the issuer entity of the respective credit or debit cards will be the withholding agent.

At the time of preparing this chapter, the latest tax reform (Law 2277 of 2022) establishes a digital services regime on nonresidents with a significant economic presence (SEP) in Colombia and income from digital services. However, this regime only applies to income tax from 2024, so it will not be applicable to VAT.

Taxed services include:
- Digital supply of audiovisual services (including but not limited to music, video, movies, games and transmission of any event)
- Digital distribution platform
- Online publicity services
- Online training or education services
- Rights for use or exploitation of intangibles
- Other digital or electronic services for users located in the Colombian territory

There are no other specific e-commerce rules for imported goods in Colombia.

Online marketplaces and platforms. The seller of services or goods, being VAT registered, must charge and collect VAT on supplies made in an online marketplace and platform. As part of determining the status of an online marketplace and platform, the concept of a significant economic presence (SEP) in Colombia shall also be considered.

Registration procedures. Registration in the *Registro Único Tributario (RUT)* must precede initiation of economic activity or the rendering of services from abroad not subject to the reverse-charge mechanism. An applicant registers in the RUT by filing forms designed for such effects with the tax authorities DIAN accompanied by hard copies, among others, of the following documents:
- Photocopy of the valid document by which the existence and legal representation is accredited
- Photocopy of the ID of the legal representative, with exhibition of the original
- In case of legal entities that are not obliged to register before the chamber of commerce and do not include their main address in their document of existence, they must provide a certification signed by the legal representative stating the main address of the entity, which should contain: (i) address, (ii) city, (iii) state, (iv) country, (v) email, (vi) telephone numbers
- Certificate of bank account; this procedure takes an average of 15 days; the registration in the RUT shall be valid indefinitely; the RUT registration process can be carried out online (through the tax authority's online platform) or in person at the tax authority offices

Deregistration. When a taxable person ceases the economic activity for which it was registered, it should deregister in the RUT within the next month following such termination of taxable activities. A certificate signed by the tax auditor or public accountant demonstrating the absence of activities subject to VAT and the absence of inventory pending sale is required.

Changes to VAT registration details. Taxable persons must report any change regarding their general and formal information, otherwise they may be charged penalties.

On a general basis, RUT updates can be made electronically; nevertheless, a few special or specific updates (i.e., a change in VAT responsibility) must be made at the tax authority offices.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are subject to VAT, including the zero rate.

The VAT rates are:
- Standard rate: 19%
- Reduced rate: 5%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate (e.g., exemption) or exclusion.

The term "exempt supplies" refers to supplies of goods and services that are subject to VAT at the zero rate. Purchasers of exempt supplies may receive an input credit for the VAT they paid on inputs, generating VAT balances in their favor that can be requested as refund.

Examples of goods and services taxable at 0% (e.g., exempt supplies)

- Exports of movable tangible goods if the exporter is registered with the National Tax Registry (i.e., the RUT), has received a taxable person identification number and can, at the request of tax authorities, provide proof of agreements to provide exports, such as contracts, offers or purchase orders. It also includes sales to international trading companies, which are considered as an export activity.
- Services rendered exclusively in Colombia and used exclusively abroad by companies or individuals who are not engaged in business in Colombia. (Companies not engaged in business in Colombia include companies that are direct beneficiaries of the services, the VAT exemption does not extend to related parties such as a subsidiary, branch, affiliate, representative office or home office in Colombia.)

Examples of goods and services taxable at 5%

- Toasted coffee
- Wheat
- Sugar cane
- Cotton seeds
- Soy
- Rice
- Prepaid health services
- Health insurance
- Storage of agricultural products

The term "excluded supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services (e.g., excluded supplies)

- Interest and financial income from credit operations
- Education services provided by preschool, primary, middle and intermediate, higher and special or non-formal education establishments recognized as such by the national government
- Energy and public energy services based on gas or other inputs
- Water for the provision of public water supply and sewerage services, public water supply and sewerage services, public sanitation services and public garbage collection services
- Import of goods subject to postal traffic, express shipments or fast delivery shipments whose value does not exceed USD200
- Sale of tickets related to cultural events, such as cinema and concerts (note, this excludes the sale of tickets related with animal spectacles such as dog races and bullfights, which is taxable at the standard rate, as per the Law 2277 of 2022)

Note that the VAT exclusion for the import of goods subject to postal traffic, express shipments or fast delivery shipments whose value does not exceed USD200 is limited, and therefore will only be applicable if the import of goods is made from countries with which Colombia has executed a free trade agreement in which it is specified that VAT is not levied. Compliance with the requirements and conditions established in each free trade agreement entered with Colombia must be proved to qualify for the benefit.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Colombia.

E. Time of supply

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

For a sale of goods, the tax point is the earlier of the following events:
- The issuance of the invoice or the delivery of the goods
- Withdrawal of movable goods by the taxable person for its own use or to form part of its fixed assets

For a supply of services, the tax point is the earliest of the following events:
- The issuance of the invoice or equivalent document
- Termination of the provision of the service
- Payment or accrual, whichever occurs first

Deposits and prepayments. In Colombia, there is no requirement to account for VAT on deposits. For prepayments, there is no special time of supply rule in Colombia. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Colombia for continuous supplies of services. As such, the general time of supply rules apply (as outlined above). So, if there is a continuous service being provided, the VAT will be due as the service is being rendered.

Goods sent on approval for sale or return. There is no special time of supply rule in Colombia for the supply of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above), where for the sale of goods, VAT is due when the seller issues the invoice or when the property over the asset is transferred, whichever occurs first.

Reverse-charge services. In Colombia, the reverse-charge mechanism only applies when Colombian VAT taxable persons belonging to the common VAT regime acquire services from foreign entities/individuals without domicile in Colombia and those services are subject to VAT in Colombia (i.e., services rendered from abroad for the benefit of a Colombian resident). No reverse charge is applicable when goods are acquired to be imported into Colombian territory.

The reverse charge is self-assessed and carried out by the customer. The VAT collected through the reverse-charge mechanism is included by the customer in its withholding tax return of the period in which the accrual is made. This VAT does not impact the amount payable to the supplier. The VAT included in the withholding tax return as a VAT reverse charge may be recovered by the Colombian taxable person/customer as a creditable input tax, subject to the normal recovery rules.

Leased assets. For ordinary leasing agreements (i.e., a pure rental agreement, such that it is not agreed to transfer the property of the goods at the end of the contract) VAT is due each time the lessor charges the lease fee to the lessee or in the absence of an invoice, at the time in which the payment is demanded according to the respective terms of the agreement. If at the end of the agreement, the asset is sold to the lessor, this transaction is deemed to be a different and separate transaction from the lease operation. In fact, in this case the transaction would correspond to a sale that would not be subject to VAT provided that the asset sold to the lessee is a fixed asset for the lessor; if the asset sold is deemed as an inventory for the lessor, the sale would be subject to VAT.

Financial leasing. Financial leasing is a financed acquisition of an asset and may have one or more of the following characteristics:
- At the end of the agreement, there is a transfer of property of the asset to the lessee.
- The lessee has a purchase option with regard to the asset, at a significantly lower price.
- The lease covers almost all the lifespan of the asset.

- At the beginning of the lease, the minimum payments are at least equivalent to the commercial value of the asset.
- Leased assets are of such a specialized nature that only the lessee can use them without making significant modifications to them.

Where the property over the assets is transferred to the lessee, this does not trigger VAT as it is considered an excluded transaction.

International leasing. International leasing can be used to finance long-term temporary importation of capital goods, which may remain in the national customs territory for more than five years. In addition, the DIAN may allow long-term temporary imports of accessories and spare parts that do not arrive as part of the same shipment if they are imported within the five-year term. Custom duties (tariffs and VAT) are paid biannually. The maximum term for deferment is five years, even though the goods may remain for a longer period in Colombia. When the agreement's duration exceeds five years, with the last payment corresponding to such period, all customs duties that have not been paid must be paid.

This alternative can be complemented with a provision that allows VAT-free treatment of temporary imports of equipment and machinery, considered as heavy machinery for basic industries in Colombia.

Imported goods. For the importation of goods, the tax point is when the goods are "nationalized," that is, when the goods have cleared all customs formalities for importation. VAT is due at the time of the importation. Companies that the DIAN recognizes as "high-volume exporters" (this qualification will be replaced by the Authorized Economic Operators, *Operadores Económicos Autorizados [OEAs]*) are entitled to enjoy tax and administrative benefits such as:

- No VAT imposed for regular imports of industrial machinery that is not produced in the country and is used to transform raw materials.
- Possibility of obtaining authorization from the DIAN to operate an industrial processing warehouse that allows the import of supplies and raw materials with suspension of customs duties and of VAT, as long as the supplies and materials are used in the production of export products.

Colombia has special importation-exportation programs (*Plan Vallejo)*, that allow temporary importation of such supplies as capital goods, raw materials, inputs and parts with significant customs and tax benefits, subject to compliance with the requirement that the imports are used to manufacture and export finished goods or services.

Plan Vallejo is applicable to the imports and exports of companies of which the main activity consists of one of the following:

- Raw materials
- Services export, such as:
  - Services of transmission, distribution and commercialization of electric energy
  - Special design services, value added telecommunications and software exports

Free trade zones. A free trade zone (FTZ) is a territorial area where industrial and commercial activities are developed under a special customs, tax and foreign trade regime. Merchandise that enters a free trade zone is considered to be outside Colombian territory for customs purposes only. The objective of these zones is to promote new jobs, new investment in fixed real assets and the creation of scale economies.

The main benefits of operating under a free trade zone are:

- No customs duties or VAT on the capital goods, equipment and machinery that enters into the FTZ for as long as these goods stay in the FTZ.
- VAT exemption on purchases of movable tangible goods, as long as these are effectively exported or transformed.

- VAT exemption for local sales when the purchaser is an industrial user of a FTZ and the goods (e.g., raw materials, spare parts, semifinished goods) will be used in compliance with FTZ rules and regulations.
- The intermediary production services that these companies may provide are equally exempt from VAT, as long as the final product is effectively exported.
- Exemption from withholding tax in the payment or credit to account for the acquisition of goods, destined to be exported, provided a certificate of purchase is issued to the seller in which a declaration is made regarding the future export of the product.
- If the sale of products is to the rest of the Colombian territory, the taxable basis includes foreign goods and local goods acquired for such finished goods plus all national components (i.e., services and goods).

International trade companies. International trade companies (ITCs) are intended to trade and sell Colombian products abroad. These products are purchased in the domestic market or may be manufactured by partners of an ITC. These companies must be registered before the DIAN.

The most important benefits of these companies are:
- Exemption from VAT on purchases of movable tangible goods, as long as these are effectively exported or transformed.
- The intermediary production services that these companies may provide are equally exempt from VAT, as long as the final product is effectively exported.
- Exemption from withholding tax in the payment or credit to account for the acquisition of goods, destined to be exported, provided a certificate of purchase is issued to the seller in which a declaration is made regarding the future export of the product.

F. Recovery of VAT by taxable persons

A taxable person may treat as creditable (i.e., credit) VAT paid on purchases (i.e., input tax) from VAT charged on sales (i.e., output tax) if the input tax related to certain types of expenditure.

Input tax paid on the acquisition of movable tangible goods and on services supplied to a taxable person, or VAT paid on imports of movable goods, may be claimed as creditable (i.e., credit) up to a limit determined by applying the rate of VAT charged on the supply of the goods or services provided by the taxable person to the input tax incurred.

Any excess input tax paid (i.e., the amount of input tax exceeding the limit determined by applying the VAT rate charged on the supply of goods and services) may be requested as a refund but only after the income tax return for the given period has been filed and if such balance in favor corresponds to the authorized refundable VAT (i.e., exempted activities or VAT derived from withholding applied to the taxable person; as described below).

In addition, for transactions with foreign suppliers, the reverse-charge (i.e., self-assessment) mechanism must be used, and the VAT withheld may be treated as input tax in accordance with the general rules and limitations if the taxable person can prove to the tax authorities that the tax has been withheld. Alternatively, the VAT withheld can be treated as a higher cost or expense if the rules to claim the input tax as a credit are not met.

The time limit for a taxable person to reclaim input tax in Colombia is two years. Requests for balances in favor must be filed no later than two years from the due date to file the corresponding VAT return.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur). If expenditure relates to both business and nonbusiness activities, only the portion related to the business may be recovered. In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Construction services, the accrual of the tax is recognized on the income obtained by the builder. For construction services, a special taxable base is required where VAT is levied only on the income corresponding to the fees obtained by the builder or in the event that no agreement is reached on the utility of the latter. In this sense implicitly, the utility must be reported and/or known by the contracting party. In the same sense, only the VAT paid on expenses directly related to the fees received or the profit obtained is deductible. Consequently, the possibility of recovering the VAT paid by the builder is limited, so most of the VAT paid will constitute a greater value of the work.
- Input tax paid associated with excluded goods or services will be considered as a higher cost of such services/goods and will not be creditable for VAT purposes.
- Input tax associated with the acquisition of fixed assets; however, there are special rules that apply for input tax incurred on capital goods. See the *Capital goods* subsection below.

Examples of items for which input tax is deductible (if related to a taxable business use)

- In general terms, input tax paid associated with exempt and taxable activities will be considered as creditable for VAT purposes as long as the payments constitute a deductible cost or expense for corporate income tax purposes.

Partial exemption. If a taxable person makes both taxable and excluded transactions, it may not deduct the input tax incurred in full. It may deduct only the amount of input tax related to the goods and services used in taxable transactions, and not the input tax that relates to excluded transactions. Where input tax is incurred that relates to both taxable and excluded supplies, the business must carry out a proportionality calculation to determine the amount of input tax recoverable. This is referred to as "partial exemption." The apportionment may be calculated based on the value of taxable transactions carried out compared with the total turnover.

Approval from the tax authorities is not required to use the partial exemption standard method in Colombia. Special methods are not allowed in Colombia.

Capital goods. The general rule is that the VAT paid on the acquisition, construction or import of fixed asset must be carried as a higher value of the asset, i.e., it must be part of the tax cost of the fixed asset. However, the Colombian tax legislation allows another alternative, in which the taxable person may take the VAT paid on the acquisition of real productive fixed assets as an income tax deduction.

Refunds. If the amount of input tax recoverable in a taxable period exceeds the amount of output tax payable, the taxable person earns an input tax credit. The credit may be requested in a refund on a bimonthly basis if either of the following applies:

- The taxable person is an exporter of goods or services and is duly registered as an exporter.
- The taxable person supplies zero-rated (0% rate) goods or has been subject to VAT withholding and the total balance arises from the withholdings.

In addition, a refund of VAT paid on the acquisition of materials used to construct "housing of social interest" may be requested if the construction plans were approved by the Colombian government.

If a VAT balance in favor of the taxable person exists because of VAT rate differences, the balance may be carried forward, offset or refunded under certain conditions (see Section 481 of the Colombian Tax Code). The balance in favor must originate from the previous taxable period and will be determined according to a proportionality mechanism.

Pre-registration costs. VAT invoiced for pre-registration supplies can be deducted when the costs directly relate to subsequent taxable business activities.

Bad debts. If a customer is unable to pay a supplier for supplies on which the supplier has paid VAT, the supplier can claim bad debt relief, but the supplier must have exhausted all customary procedures for collecting the debt.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Colombia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Colombia is not recoverable. However, members of accredited diplomatic missions and members of the United Nations may claim a refund of VAT paid.

H. Invoicing

VAT invoices. A taxable person must provide a VAT invoice for all taxable supplies made, including exports. An electronic invoice or authorized equivalent document is necessary to support a claim for input tax credit.

Credit notes. Credit notes should be issued when returns or cancellations are made, as long as the transaction has not been accepted by the acquirer. The canceled invoice numbers cannot be reused and a record of the canceled invoices must be kept. Credit notes must correspond to a consecutive numbering system and must contain at least the number and date of the invoice to which they refer, name or business name and NIT of the acquirer, the date of the note, number of units, description, VAT (where applicable), unit value and total value. This only affects the generated VAT; scenarios such as discounts do not apply.

Electronic invoicing. Electronic invoicing is mandatory in Colombia, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Colombia.

The electronic invoicing system is mandatory for the purchase and sale of goods and services and other operations such as payroll payments, exports, imports and payments in favor of those who are not responsible for the VAT.

The following taxable persons are not required to issue electronic invoicing in their transactions:
- Banks, financial corporations and financing companies
- Credit unions, higher-level cooperative organizations, cooperative support institutions, multiactive and integral cooperatives, and employee funds, in relation to their financial operations
- Individuals considered as VAT non-responsible, provided they meet all the conditions
- Companies incorporated as legal or individuals that provide urban or metropolitan public passenger transportation, in relation to these activities
- Individuals bound by a labor or legal and regulatory relationship, and pensioners in relation to the income derived from these activities
- Individuals who solely sell excluded goods or provide services not subject to VAT and who received total gross income from these activities in the previous year or the current year amounting to less than approx. USD33,700 (gross income does not include income derived from a labor or legal and regulatory relationship, pensions or occasional gains)
- Service providers from abroad without tax residence in Colombia for the provision of electronic or digital services
- Community Action Boards *(Juntas de Acción Comunal)*, provided they do not require requesting refund and/or offset of favorable balances in VAT

At the time of preparing this chapter, a regulation has been proposed to create an electronic document equivalent to an electronic invoice, which will be applicable to some of the taxable

persons listed above. Currently there are 12 equivalent documents to the electronic invoice. The proposed regulation seeks to regulate the electronic equivalent document for an electronic invoice. No further details have been released.

All electronic invoices for tax recognition purposes must be validated prior to their issuance by the tax authority or an authorized technological supplier. As a consequence, the invoice shall be deemed to have been issued only when it has been validated and delivered to the acquirer. In cases where prior validation of the electronic invoice cannot be carried out, for reasons attributable to the tax authority or to an authorized supplier, the party obliged to invoice is entitled to deliver the electronic invoice to the acquirer without prior validation.

In all cases, the responsibility for the delivery of the electronic invoice, for its validation and the delivery to the purchaser once validated, corresponds to the party obliged to invoice.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Colombia. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Colombia. Special rules apply where the tax authority can require an invoice from a business for the withdrawal of stocks for self-consumption. In addition, with implementation of the electronic invoice, it is required to invoice the payroll department.

Proof of exports. VAT is not chargeable on supplies of exported goods. Exports are exempt from VAT. However, to qualify as VAT free, exports must be supported by customs documents that prove that the goods have actually left Colombia. The exporter must file a return to the tax authorities by filling out a *Declaración de Exportación (DEX)* and be registered as an exporter with the *Registro Único Tributario (RUT)*. In Colombia, sales of goods required for the normal development of the businesses of operators or industrial users located in free-trade zones and sales to International Commercialization Companies are considered to be exports if the goods are effectively supplied to the purchaser. Consequently, these transactions are also exempt from VAT.

Foreign currency invoices. Invoices may be issued in a foreign currency but must be paid in the domestic currency, which is the Colombian peso (COP), unless the customer is a foreign entity. When transactions take place locally, the VAT amount must be converted to COP using the market exchange rate on the date of the transaction. The Colombian Central Bank manages the exchange system. Colombian tax legislation establishes that the electronic sales invoice must expressly indicate the exchange rate on the day of issuance of the invoice to identify the corresponding value in COPs (in accordance with *Annex 1.8 of Electronic Invoicing*, the exchange rate must be included).

Supplies to nontaxable persons. In Colombia there are no special VAT invoicing rules for supplies made by taxable persons to private consumers. Full VAT invoices must always be issued for all taxable supplies.

Records. In Colombia, examples of records that must be held for VAT purposes include accounting books, together with the internal and external receipts that led to the accounting records, in such a way that it is possible to verify the accuracy of the assets, liabilities, equity, revenues, costs, deductions, exempt income, credits, taxes and withholdings recorded therein. This includes specific information and evidence contemplated in the regulations in force, which entitle or allow taxable persons to verify their income, costs, deductions, tax credits, exemptions and other tax benefits, as well as withholdings and other factors necessary to correctly determine applicable taxable base and liquidate the corresponding tax.

In Colombia, VAT books and records can be held outside the country. However, if such records are requested by the tax administration, they must be readily available within the timeframe provided by the tax authorities and in Spanish from the main domicile of the taxable person.

Record retention period. According to the current legislation there is an obligation to preserve information and evidence, for purposes of auditing of the taxes administered by the DIAN, individuals or entities, taxable persons or nontaxable persons, must keep for a minimum period of five years, counted from 1 January of the year following its preparation, issuance or receipt, information and evidence, of the tax returns filed and the receipts corresponding to payments, which must be made available to the tax administration, when required. Finally, it is important to consider that the VAT returns statute of limitations period is three years from the filing of the income tax return for the year in which the VAT is filed.

Electronic archiving. Electronic archiving is allowed in Colombia. Same retention period mentioned above would apply for electronic invoices.

I. Returns and payment

Periodic returns. VAT returns are filed bimonthly during March, May, July, September, November and January by large taxable persons, which are those whose gross revenues are equal to or higher than (92,000) UVT (tax value unit or *unidad de valor tributario*), or approx. USD886,800. Taxable persons with gross revenues lower than (92,000) UVT file VAT returns every four months during May, September and January. For those that are considered as exporters of goods the periodicity to file returns is bimonthly.

Periodic payments. Payments must be made directly using the portal of the tax authority to submit the returns and using the financial system considering the due date set by the government each year. *At the time of preparing this chapter, the 2024 calendar for filing deadlines in Colombia had not been released by the tax authorities.*

Liabilities must be paid in COPs using the receipts established on the website of the tax authority.

Electronic filing. Electronic filing is mandatory in Colombia for all taxable persons. All returns must be filed electronically. Provided the taxable person has a digital signature; VAT returns must be filed electronically at www.dian.gov.co. When the taxable person is obliged to have a statutory auditor, the return must be signed also by this auditor.

Payments on account. Payments on account are not required in Colombia.

Special schemes. No special schemes are available in Colombia.

Annual returns. Annual returns are not required in Colombia.

Supplementary filings. *Consumption tax return.* A consumption tax applies to certain goods and services, including but not limited to restaurant services (including catering services), mobile phone services, the sale or import of certain vehicles, the sale of jewelry, the sale of plastic bags and the sale of medicinal cannabis.

The consumption tax rates are as follows:
- Certain vehicles based on their free on board (FOB) value: 8%
- Restaurant services: 8%
- Mobile phone services: 4%
- Medicinal cannabis: 16%
- Plastic bag consumption: COP60 per bag in 2023
- Luxury vehicles, chassis, hot air balloons and airships: 16%

The tax is levied at the date and time the invoice is issued to the final consumer or upon delivery of the goods or services to the final consumer.

Returns for the consumption tax are filed quarterly, starting on the date when taxable activities commenced and ending at the end of the calendar quarter.

Consumption tax paid does not generate input tax (i.e., VAT credit) but may be treated as a deduction for income tax purposes, except in the case of plastic bags.

Correcting errors in previous returns. When a taxable person has filed tax returns with inaccurate information or delay, it has the obligation to amend them and pay an amendment penalty. The opportunity for the taxable person to amend its own tax return is either by initiative or requirement from the tax administration. If the taxable person decides not to amend its tax returns, the tax authority can proceed to establish a penalty for inaccuracy. Colombian legislation establishes that in the specific scenario in which the taxable person decides to amend its return, the penalty would be paid regarding the higher payable tax or the lower balance in favor in the amendment made.

Digital tax administration. *Magnetic media*. Known in Colombia as "magnetic media," it is an obligation for individuals and legal entities to file a report before the tax authority regarding all fiscal and commercial relations with third parties. For VAT purposes, any individuals, legal entities, public and private entities and others obliged to carry out a withholding tax must comply with this obligation. In accordance with the Colombian Tax Code, the DIAN has the authority to request tax information. The Tax Code empowers the DIAN to request from individuals or entities, taxable persons and nontaxable persons, information to carry out studies and cross-checks necessary for the proper auditing and control of taxes, as well as to comply with other functions within its competence, including those related to compliance with obligations and commitments enshrined in the tax conventions and treaties signed by Colombia.

J. Penalties

Penalties for late registration. A penalty corresponding to one (1) tax unit (i.e., UVT), which in 2023 is COP42,412 is levied for each day of late registration.

Penalties for late payment and filings. The penalty for late filing and payment applies for each calendar month (or fraction of a month) of delay. It equals 5% of the total tax due or withheld in the taxable period, up to a maximum of 100% of the tax.

If the taxable person is not required to pay VAT, the penalty for each month of delay (or fraction of a month) equals 0.5% of the gross income received by the taxable person, up to a maximum of 5% of such income, or twice the balance in favor of the taxable person in the return period (if applicable) or 2,500 UVT if there is no balance in favor. If the taxable person does not perceive any income during the taxable period, the penalty per month (or fraction of a month) equals 1% of net equity for the preceding year, without exceeding 10% of the taxable person's net equity for the preceding year, or twice the balance in favor (if any) or 2,500 UVT if there is no balance in favor.

The taxable person must include the appropriate amount of penalty in a tax return that is filed late.

The interest rate charged on late payments of VAT is determined every month by a national decree. The current rate established by the government for October 2023 is 37.80% annually. At any time, it is necessary to review and confirm the interest rate published.

Penalties for failure to file consumption tax returns are calculated in the same manner as for VAT.

Penalties for errors. There are two specific rates to calculate the penalty for taxable persons that fail to amend errors in their previously filed returns Each one is linked to a specific scenario. The first one is a 10% rate applicable only when the taxable person amends its errors prior to an

official act from the tax authority or before it orders a tax inspection. The second scenario is a 20% rate if the amendment is made after the official act has been notified or a tax inspection has been made. If the tax authority must take further action, the taxable person would have to pay a penalty for inaccuracy, which could amount to a 200% rate.

In accordance with Colombian legislation, any mistake on the filing of magnetic media has sanctions that vary from 0.5% to 1% (as long as the penalty doesn't exceed 7,500 UVT) of the values that were incorrectly reported to the tax authorities. On the one hand, the foregoing fine shall be reduced to 10%, 50% or 70% of the amount of the penalty if the omission is corrected before a statutory notice is issued by the tax authority, before the notification of the penalty or if the omission is corrected within the two months following the date of notification of the penalty, respectively.

The late notification or failure to notify the tax authority of changes to a taxable person's VAT registration details may result in penalties. Also, if the taxable person incurs on a late registry scenario or a does not update the RUT within the terms established by tax authorities, a penalty corresponding to one (1) tax unit (i.e., UVT) (which in 2023 is COP42,412) is applied for each day in which the obligation has not been carried out. For further details, see the subsection *Changes to VAT registration details* above.

In certain scenarios, a penalty may be gradually reduced by the tax authorities if the taxable person can conclude and demonstrate that the same misconduct has not been repeated, either in the last one or two years.

Penalties for fraud. The Criminal Code includes penalties for two specific conducts:

- Assets omission or inclusion of nonexistent liabilities: The omission of assets, the filing of a lower value or the filing of nonexistent liabilities in tax returns for an amount equal to or greater than 1,000 monthly minimum wages will be punished with 48 to 108 months of imprisonment. Assets of lower value will be submitted for analysis under the rule of equity appraisal.
- Tax evasion or avoidance: Those who do not file, exclude income, include nonexistent expenses, claim invalid tax credits, withholdings or improper advance payments resulting in a lower amount to be paid or a higher tax credit balance in tax returns equal to or higher than 100 monthly minimum wages and lower than 2,500 will be punished from 36 to 60 months of imprisonment.

Personal liability for company officers. When there are debts of a tax nature, the responsibility of the shareholders will be applicable with regard to taxes, updates and interest, limited exclusively to their participation in the share capital and depending on the time during which they have held their participation.

As a general rule, in companies by shares, there is no unlimited responsibility of the shareholders. Finally, when there are debts of a tax nature, the responsibility of the shareholders will be applicable with regard to taxes, updates and interest, limited exclusively to their participation in the share capital and depending on the time during which they have held their participation.

The penalties that can be imposed are the ones outlined above.

The Colombian Commercial Code establishes a subjective liability for legal representatives or company directors through which they are jointly and severally liable for damages caused to the company, partners or third (i.e., the tax authority) parties with intent or negligence.

Statute of limitations. The statute of limitations in Colombia is three or five years. This depends on the conditions under which the income tax return is filed for the taxable year to which the

VAT return corresponds. However, as a general rule, income and VAT, tax returns and their amendments have a statute of limitation of three years, which is counted from the filing due date of the corresponding taxable period, if the tax authority has not issued any request for information over the returns that are subject to questioning. In addition, when returns have been filed in an untimely manner, the three years shall be counted from the date in which the tax return was filed.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la Valeur Ajoutée (TVA)
Date introduced	12 May 1997
Trading bloc membership	Economic Community of Central African States (ECCAS) Central African Economic and Monetary Community (CEMAC)
Administered by (https://dgid.tax)	Direction Générale des Impôts et des Domaines (DGID)
VAT rates	
Standard	18% (effective rate 18.9% as surtax at 5% applies at the same time as VAT and is not deductible)
Reduced	5%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID consisting of 17 characters (unique identification number based on type of taxable person, year, location of issuance, sequential order, key to access government network)
VAT return periods	Monthly
Thresholds	
Registration	None

Deregistration	Mandatory for any business ceasing to trade in the Republic of the Congo
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies in the Republic of the Congo (RoC or Congo) to transactions carried out for consideration by natural or legal persons in the framework of an economic activity. Such transactions are as follows:

- Supply of goods and tangible assets to third parties
- Services provided to third parties
- Self-supply of goods
- Self-provision of services
- Supply of secondhand goods by professionals
- Transfer of taxable assets (i.e., those not included in the list of exempt goods referred to in Article 241 of the Customs Code, as amended by Acts n°2/92-UDEAC-556-CD-SE1 of 30 April 1992 and 2/98-UDEAC-1508-CD-61 of 21 July 1998)
- Imports of goods and services
- Export of goods and services
- Rental income of undeveloped land and bare premises by real estate professionals
- Subsidies of a commercial nature of any kind received by taxable persons in respect of its taxable activity
- Loan remissions and debt waivers
- The refining, distribution and release for consumption of petroleum products
- Reimbursements of expenses incurred on behalf of others other than those re-invoiced on a free-of-charge basis

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In the Congo, services provided by non-established businesses are subject to the "use and enjoyment" provisions. The related services may be tangible or intangible and executed inside the jurisdiction from abroad and being subject to VAT, provided that the customer is based in Congo.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In the Congo, a TOGC is treated as outside the scope of VAT as far as it is subject to a special taxation. In the Congo, the TOGC is specifically subject to registration duties, hence the non-application of VAT.

Transactions between related parties. In the Congo, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

Natural or legal persons, including public authorities and bodies governed by public law, are treated as VAT taxable persons in the Congo.

Exemption from registration. The VAT law in the Congo does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in the Congo does not contain any provision for voluntary registration, nor special VAT registration rules for small businesses.

Group registration. Group VAT registration is not allowed in the Congo.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in the Congo where it has a fixed place of business through which the company carries out all or part of its activity. The permanent establishment rules applicable in terms of direct taxation do not apply for VAT.

Non-established businesses. A "non-established business" is a business that has no permanent establishment in the territory of the Congo. Non-established businesses must designate a solvent accredited resident representative. The representative must be a taxable person in the Congo. The resident representative is liable to declare and pay the VAT on behalf of the non-established business (it is jointly and severable with the non-established business). If no tax representative is nominated, the VAT due should be assessed and paid by the purchaser (if the purchaser is a taxable person for VAT purposes).

Tax representatives. Non-established businesses are required to appoint a representative resident in the Congo. The non-established business may appoint only one representative for all its operations in the Congo. In the absence of a representative, the tax and the penalties relating to it are payable by the resident beneficiary of services on behalf of the non-established business.

Reverse charge. The reverse-charge mechanism is applicable whenever a non-established business fails to nominate a VAT representative. In such a case, the local taxable person (i.e., the customer) will be liable for VAT on the supply made by the non-established business. As part of the VAT reverse-charge mechanism, the VAT must be declared as output and input tax in the same tax return. Therefore, there will be no cash impact for the customer, to the extent there is a full right of deduction.

Any VAT paid for and on behalf of the non-established business by the Congolese taxable person is simultaneously deductible by the latter (i.e., the customer).

Domestic reverse charge. There are no domestic reverse charges in the Congo.

Digital economy. No special rules exist for digital economy supplies. Nonresidents that provide electronically supplied services to Congolese residents do not need to register for VAT in the Congo. Also, there are no special VAT rules for e-commerce for imported goods.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in the Congo.

Registration procedures. There is no VAT registration threshold in the Congo. The VAT number is the same as the Tax ID number. In other words, VAT registration is mandatory for any legal or natural person irrespective of the type of activity carried out or the amount of turnover generated by such activities. VAT registration is also mandatory for those who are not allowed to invoice with VAT.

Taxable persons must apply for VAT registration within the 15 days following the issuance of their trade register (i.e., those entities incorporated in the Congo). The VAT registration application must be submitted to the Center for Companies Formalities. For businesses, the application must include a statement of existence, a trade register and articles of incorporation. For individuals, they may send their application to any homeland tax unit, with their ID card and two small ID pictures.

The registration procedure can only be done on paper. There is no fee payable to apply for VAT. The application process generally takes three to six months. Upon approval, the VAT number

issued is equivalent to the tax ID number. This is also referred to as the unique identification number, *numéro d'identification unique (NIU)*. The VAT number is 17 characters as follows:
- One letter attributed as per the nature of the beneficiary (M for legal persons, P for individuals, E for self-businesses)
- Four figures representing the year of issuance
- Two figures accounting for the location of issuance
- Seven figures following the sequential order or chronology
- Two figures constituting the key to access the personal information recorded into the government network

Deregistration. Deregistration from VAT in the Congo is mandatory for any taxable person ceasing to trade in the Congo. For that purpose, the said taxable person should notify the tax authority (*Direction Générale des Impôts et des Domaines [DGID]*) and obtain a tax clearance and a fiscal good conduct certificate. However, before issuing the tax clearance, the DGID needs to ensure that the taxable person is debt free from the DGID. Thus, the taxable person's tax current account balance should be zero, i.e., nothing to pay to the DGID. In most of the cases, the request for VAT deregistration (or acknowledgement of the winding-up of the company) triggers a full tax audit.

Changes to VAT registration details. Taxable persons must notify the DGID concerning any change to its VAT registration details, such as address, name and business activities. This is to ensure that the DGID has updated files for each taxable person registered. This obligation must be fulfilled within the 15 days following the said change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18% (effective rate 18.9% as surtax at 5% applies at the same time as VAT and is not deductible)
- Reduced rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%
- Exportation of goods and services
- Supply of local timber
- International transportations (e.g., international shipping and airline transport, including sea and airline freight, but also passenger transportation)

Examples of goods and services taxable at 5%
- Diesel and lubricants imported from Cameroon by forestry companies
- Supply of local cement
- Everyday consumer goods (sugar, tomatoes, soap, oil, etc.)
- Butane gas conditioned in Congo

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services
- Supply of products arising from extractive activities
- Banking and insurance operations

- Certain necessity goods (pharmaceutical products, rice, salt, bread, meat and poultry, corrective glasses, schoolbooks, fertilizers, etc.)
- Transfer/sale of a business

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the Congo.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply is when the goods are delivered or when the services are performed. The invoice for the transaction must be issued at the time of supply.

Deposits and prepayments. For deposits and prepayments, the VAT becomes due at the time payment is received. Deposits or prepayments that are refundable are outside the scope of VAT.

If the supply does not take place because of the cancellation or waiver of the operation, VAT may be recovered via a new invoice canceling and replacing the initial invoice (i.e., the supplier must issue a credit note to the customer).

Continuous supplies of services. For continuous supplies of services, the VAT becomes due at the time payment is received. For continuous supplies of goods, the time of supply is when the goods are delivered**.**

Goods sent on approval for sale or return. For the supply of goods sent on approval for sale or return, the VAT is due when the goods are delivered. If the goods are returned to the seller, VAT may be recovered through a compensation made on further supplies, provided that a new invoice canceling and replacing the initial invoice is sent to the customer.

Reverse-charge services. The time of supply for reverse-charge services received by a Congolese taxable person is the date of receipt of the invoice sent by the non-established business.

Leased assets. The time of supply for leased assets is the time of possession by the lessee.

Imported goods. The time of supply for imported goods is the time they are released for consumption.

F. Recovery of VAT by taxable persons

Input tax is deductible for taxable persons duly registered as liable to VAT, provided that the transaction is made for the purposes of its business activities. Input tax recovery is only allowed on services and goods that are necessary and allocated to operations carried out in the framework of the business.

To be deductible, VAT must appear on the invoice issued by the registered supplier and report its NIU and the VAT amount.

The time limit for recovering input tax is until the end of the following year from the time the transaction takes place. For example, if input tax is incurred 31 October 2023, the taxable person would have until 31 December 2024 to recover it.

Nondeductible input tax. As a rule, input tax is not deductible if the expenses made by the taxable person are not related to its economic activity, and in particular if costs are incurred for personal/domestic needs of the managers and employees. Above all, if both the NIU of the supplier and VAT amount is not included in the invoice, VAT thereof cannot be deductible in any cases.

Examples of items for which input tax is nondeductible

- Gifts or and goods sold at under market-value (low) prices
- Accommodation and related restoration expenses
- VAT paid with cash above XAF500,000 (the domestic currency in the Congo is the Central African CFA Franc [XAF])

Examples of items for which input tax is deductible (if related to taxable business use)

- Purchase of goods
- Services payments
- VAT paid for non-established business subjected to withholding tax

Partial exemption. Where a taxable person makes both taxable and exempt supplies, the input tax incurred is recoverable under a pro rata, which means that it cannot recover the input tax in full. This pro rata is calculated as per a formula in which taxable operations are added to exports plus special exempted operations and divided by the total turnover.

During the year, the taxable person may set up a temporary pro rata for the purposes of the monthly tax filings. However, it is required to make the calculation of the final pro rata by April of the following year at the latest to regularize the input tax deductible.

Approval from the tax authorities is not required to use the partial exemption standard method in the Congo. Special methods are not allowed in the Congo.

Capital goods. The VAT on acquisition of capital goods for the business purpose is deductible. There are no special time limits or rules for the recovery of input tax incurred on capital goods.

Refunds. In the Congo, the concept of the deduction is different from the refund. VAT is deductible for all taxable persons as outlined earlier, but the actual reimbursement of VAT (i.e., in cash or by compensation) is restricted to certain taxable persons. It is intended that when some specific activities cannot generate sufficient output tax to enable the ordinary mechanism of deduction to be fully operational, only the reimbursement of VAT can ensure the neutral effect of this tax for the concerned taxable persons; hence the typology foreseen by the law.

Only four categories of taxable persons are eligible for VAT refunds:

- Exporters
- Industrialists who have made investments following an establishment agreement
- Taxable persons engaged in the winding up process
- Diplomatic agents, subject to reciprocity and as per the ratio defined jointly by the Minister of Finances and of Foreign Affairs

The request for refund gives rise to an audit conducted by the DGID. If the VAT credit is recognized partially or totally, the taxable person receives either an authorization to offset the amount with its future tax liabilities or a reimbursement by cheque or transfers. In all cases, before the reimbursement of the VAT credit, the Public Treasury reviews the taxable person's VAT position, and if there is any outstanding debt with the State, the taxable person will only receive a net amount (i.e., the VAT credit amount minus the debts outstanding).

Pre-registration costs. Input tax incurred on pre-registration costs in the Congo is not recoverable.

Bad debts. For the write off of bad debts or of accounts receivable (AR) which are unpaid, to recover the output tax accounted for on such supplies, the initial invoice must be replaced by a duplicate indicating the outstanding gross amount as well as the VAT amount. The "duplicate" is the same invoice, but the taxable person must insert some specific information thereon, notably: *Invoice remained unpaid for the gross amount of ... XAF and for the amount of ... XAF corresponding to the VAT, which is no longer deductible.*

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in the Congo.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Congo is not recoverable.

H. Invoicing

VAT invoices. A VAT invoice must be issued for each transaction made and include all the mandatory information, including the amount excluding VAT, the amount of VAT and the total including VAT. The VAT invoice must be issued at the time of supply.

Credit notes. For canceled transactions, the related invoice and VAT should be canceled. Therefore, a credit note should be raised to cancel the original invoice. The recovery of the VAT to be paid to the supplier is subordinated by the DGID and the sending to the customer of a new invoice or credit note canceling or replacing the original invoice. Thus, the original invoice must be crossed out and kept in the chronological order.

Electronic invoicing. Electronic invoicing is not allowed in the Congo.

Scope of electronic invoicing. For business-to-business (B2B), business-to-consumer (B2C) and business-to-government (B2G) supplies, electronic invoicing is not allowed in the Congo.

At the time of preparing this chapter, there is currently a government project on electronic invoicing. It is intended that taxable persons will be supplied with equipment to issue electronic invoices by the governmental body in charge of the regulation and monitoring of electronic communications within the Congo. This platform will be opened and accessible to the DGID so they will be able to directly check the invoicing flows generated by the taxable persons to claim for taxes. It is expected that an electronic invoicing system will be effective in a few months. No further developments have been announced.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in the Congo. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in the Congo. It is only allowed for the self-supply of goods or self-provision of services. In these cases, the VAT is due: at first use, for the self-supply of goods and at the date of the execution of services for the self-provision of services.

Proof of exports. VAT for exported goods is zero-rated. To obtain the zero rating, copies of the export declarations certified by the customs authorities (i.e., customs declaration) must be provided.

Foreign currency invoices. Invoices cannot be issued in a foreign currency in the Congo. All invoices must be issued in the domestic currency, which is the Central African CFA Franc (XAF).

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in the Congo. As such, full VAT invoices are required.

Records. In the Congo, examples of what records must be held for VAT purposes include tax invoices, nominal/general ledger, trial balance, etc. In the Congo, VAT books and records must be held within the country.

Record retention period. All invoices or equivalent documents must be kept, according to the legislation in place, for 10 years.

Electronic archiving. Electronic archiving is allowed in the Congo. Records can be kept manually or electronically.

I. Returns and payment

Periodic returns. The VAT return must be filed with the DGID on a monthly basis, by the 20th of the following month. The VAT return must be submitted with the proof of payment of the VAT. Without proof of payment, the DGID will not receive the VAT return (unless it is a nil VAT return). In the case of a VAT refund, the refund will be reported as a VAT credit in the return for the next month.

Periodic payments. The VAT is paid no later than the 20th of the month following the delivery of the goods (invoice) for the goods and payment received for the services. Any VAT due can be paid to the DGID by bank transfer or cheque.

Electronic filing. Electronic filing is allowed in the Congo, but not mandatory. VAT returns can be filed electronically to the DGID through the official national tax portal, the E-Tax system, (https://impots.gouv.cg/portail-client-web/), by using a special form prepared by the DGID. Taxable persons can register with the E-Tax system once they receive a digital code from the DGID to file their declarations through this network. The document to be filled out is called the general form for remittance and is comprised of various items per taxes. However, the payment of any VAT due is not made electronically but manually at the public treasury desks based on the computational statement issued by the E-Tax system.

Payments on account. Payments on account are not required in the Congo.

Special schemes. No special schemes are available in the Congo.

Annual returns. Annual returns are not required in the Congo.

Supplementary filings. In the Congo alongside the monthly VAT return, a detailed statement of deductions and an extract from the balance of each VAT account are required to also be filed.

Correcting errors in previous returns. To correct any errors or omissions from prior periodic filings, the taxable person can correct these in a new return, to be filed with the DGID. The revised returns must be filed during the next tax due date, thereby correcting the errors in the previous returns. Also, an explanatory letter outlining the errors or omissions must be sent to DGID to explain the revised returns.

Digital tax administration. There are no transactional reporting requirements in the Congo.

J. Penalties

Penalties for late registration. Where a taxable person fails to register for VAT on time, input tax cannot be recovered for any tax incurred until it registers. It will also be fined a penalty of XAF200,000.

Penalties for late payment and filings. The absence or late filing of VAT returns is subject to the following:
- Late payment interest of 5% per month based on the amount due but capped at 50%
- Penalty of 100% when it is done willingly

Penalties for errors. Any error found in a taxable person's tax documentation can lead to a penalty of 50% based on the tax due and 100% when it is done willingly.

There are no specific penalties associated with the late notification or failure to notify the tax authority of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details above.*

Penalties for fraud. Any fraudulent activity by a taxable person in relation to VAT, such as knowingly making a false statement or omission in a return or other document, is sanctioned with the penalty of 100% based on the tax due and 200% in case the bad faith is evidenced.

Personal liability for company officers. Company directors can be held personally liable for errors and omissions in VAT declarations and reporting. The penalties range from XAF250,000 to XAF5 million and an imprisonment from two to five years may also be applied.

Statute of limitations. The statute of limitations in the Congo is four years. The time limit that the DGID can go back to review returns and identify errors and impose penalties is four years. In case of declarations involving fraud, willful default or negligence, the statute of limitations is extended to six years from the date on which the VAT was due and payable.

Otherwise, the taxable persons can voluntarily correct errors in previous VAT returns during the filings of the next VAT return.

Costa Rica

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	4 December 2018
Trading bloc membership	Central American Integration System
Administered by	Ministry of Finance (http://www.hacienda.go.cr/)
VAT rates	
Standard	13%
Reduced	1%, 2%, 4%
Other	Zero-rated (0%) and exempt
VAT number format	Corporate (start with 3-101 or 3-102 followed by six more numbers) or individual identification number (nine numbers)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- All types of transfers of goods and the rendering of services in Costa Rica by taxable persons, unless a specific exemption is provided
- Self-consumption
- The importation of goods and services into Costa Rica, regardless of the status of the importer
- Lease of goods with purchase option

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Costa Rica, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Costa Rica, a TOGC is treated as outside the scope of VAT where the transfer is of the entire business or of one or several lines of business of the taxable person, in the cases of business reorganization by different means, such as the acquisition of shares, quotas or parts of interest, noncash contributions or in assets, mergers, acquisition of the mercantile establishment, total or partial purchase of assets and/or liabilities and others, when the acquirer continues in the exercise of the same activities of the transferor.

Transactions between related parties. In Costa Rica, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the terms and conditions of intercompany transactions should be set in accordance with the terms and conditions that would have been agreed to by independent parties, considering the relative functions, assets and risks of the parties. The relevant aspects of the transfer pricing regulation that applies for VAT are as follows:

- The regulation applies to any transaction carried out between related persons or companies in relation to goods, services or intangible assets.
- The regulation applies to transactions carried out by taxable persons with related entities domiciled abroad and in Costa Rica.
- This regulation mainly defines the arm's-length principle. It includes a definition of related parties, regulates the criteria to be met by taxable persons for the comparability analysis and establishes the applicable pricing methods, based on the arm's-length principle.
- The transfer pricing information return is an annual obligation for taxable persons that: i) carry out cross-border and local related party transactions and ii) are classified as "Large Taxpayers" or persons or entities in free zone regime. *However, at the time of preparing this chapter, a formal date or template for filing this return has not been established.*

Additionally, there´s no differentiation between supplies of goods and services.

C. Who is liable

A VAT taxable person is any business entity or individual that sells taxable goods (including imports and exports of goods) or that provides taxable services on a regular basis. A permanent establishment of a foreign business in Costa Rica may be a VAT taxable person.

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

Exemption from registration. The VAT law in Costa Rica does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Costa Rica does not contain any provision for voluntary VAT registration as there is no registration threshold (i.e., all entities or individuals that make taxable supplies are obliged to register for VAT).

A simplified VAT regime applies to small taxable persons. The simplified regime applies to individuals who carry out a limited range of activities, such as small retail activities, including operating a grocery store or minimarket. To qualify as a small taxable person, the entrepreneur's annual purchases may not exceed CRC64.650 million (approx. USD103,628), and the entrepreneur may not have more than five employees. Under the simplified regime, presumed taxable turnover is calculated by applying an estimated profitability factor that is determined based on the taxable person's business sector. The VAT rate is applied to the presumed taxable turnover and the small taxable person pays VAT on that base.

Group registration. Group VAT registration is not allowed in Costa Rica.

Fixed establishment. In Costa Rica, there is no legal definition of a fixed establishment for VAT purposes. However, the income tax law established the definition of "fixed establishment" (which also applies for VAT) as any office, plant, building or other real property asset; plantation, mining, timber and agricultural ventures or of any other type; warehouse or any other permanent business premises, including the temporary use of storage facilities; as well as those places used for the sale and purchase of goods and products within the country; and any other ventures of nonresident persons carrying out for-profit activities in Costa Rica.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Costa Rica. In principle, a non-established business must register for VAT if it supplies goods or services in Costa Rica.

Tax representatives. When registering an entity as VAT taxable person, a tax representative must be appointed. The tax representative must be the legal representative of the entity.

Reverse charge. If a non-domiciled entity renders a service consumed and utilized within the Costa Rican territory, the local recipient should apply the reverse-charge mechanism to declare and pay the VAT within 15 days of the following month in which the service was rendered or the invoice was issued, whichever occurs first.

Domestic reverse charge. There are no domestic reverse charges in Costa Rica.

Digital economy. For business-to-consumer (B2C) supplies, the VAT law establishes that financial institutions responsible for processing credit or debit card payments should withhold VAT (at the standard rate of 13%) in payments made for services rendered to local customers through internet or digital platforms. As such, it should not be necessary for nonresidents providing electronically supplied services in Costa Rica to register and account for VAT. To this end, the tax authorities have updated the list of cross-border digital services whereby financial entities that process credit or debit cards are required to withhold VAT at the standard rate (13%). This list of services is available on the website of the Minister of Finance and became effective on 1 June 2023.

However, foreign entities and individuals may voluntarily register as foreign suppliers or intermediaries and register for VAT for local purposes to charge, collect and pay VAT to the tax authorities personally and not through third parties (i.e., financial entities).

Where a nonresident service provider or intermediary decides not to register and account for VAT, the financial entities are instead required to collect and account for the VAT due.

For business-to-business (B2B) supplies, the nonresident provider is not required to register and account for VAT in Costa Rica. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in Costa Rica.

Online marketplaces and platforms. The tax authorities are authorized to charge VAT to providers and intermediaries that sell services consumed within the Costa Rican territory through a digital platform. Moreover, financial institutions that process credit/debit cards should act as withholding agents for VAT derived from the purchase of services through the internet and any other digital platform if they are consumed within the Costa Rican territory.

Registration procedures. Taxable persons must register at the time they start selling goods or providing services subject to VAT. Registration is in person at the tax administration offices by completing the VAT registration form (D-140) or online if the tax representative is a Costa Rican individual or has a tax identification number.

Deregistration. To deregister, the taxable person must file form D-140 in person at the offices of the tax administration or online, and the last VAT return must be filed within 10 days after deregistering. Note that the form D-140 is used for both registration and deregistration for VAT for taxable persons in Costa Rica (as well as changes to VAT registration details, see the *Changes to VAT registration* details subsection below.

Changes to VAT registration details. The taxable person has the obligation to inform the tax administration of any modification or change in its personal or legal data registered at the time of VAT registration. In this case, the taxable person must file the data modification return (D-140) within 10 working days from the date the change occurred. The notification process can be carried out online or personally at the offices of the tax administration.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 13%
- Reduced rates: 1%, 2%, 4%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Goods and services destined for exports, goods and services sold to a beneficiary of Free Trade Zone Regime (FTZR)
- Books
- Services rendered for cultural radio stations
- Private education services when they are rendered by preschool, middle school, high school, college and any other education institution supervised by the Superior Education Counsel (in Spanish: "CONESUP")

Examples of goods and services taxable at 1%

- Goods that form part of the "basic consumption basket" (a list of items essential for the traditional household)
- Veterinary products and agricultural and fishing supplies for consumption, defined between the Agriculture and Livestock Department (in Spanish "MAG") and the Department of Finance

Examples of goods and services taxable at 2%

- Medicines
- Private education services

- Personal insurance premiums

Examples of goods and services taxable at 4%

- Private health services
- Local flight tickets

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Domestic monthly consumption of electricity not exceeding 280 kilowatts per hour
- Books
- Exported goods
- Re-importation of national goods within three years of their export
- Private education services, preschool, elementary, middle school, high school, university and technical education
- Sale or importation of wheelchairs, orthopedic equipment, prostheses in general, equipment used by persons with hearing problems, equipment used in rehabilitation and special education programs

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Costa Rica.

E. Time of supply

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

For the sale of goods, the tax point is the earlier of the delivery of the goods or the issuance of an invoice. For services, the tax point is the earlier of when the services are performed, or an invoice is issued.

Deposits and prepayments. There are no special time of supply rules in Costa Rica for deposits and prepayments. As such, the general time of supply rules apply, and the tax point is the earlier of the invoicing or delivery/performance.

Continuous supplies of services. There are no special time of supply rules in Costa Rica for continuous supplies. As such, the general time of supply rules apply, and the tax point is the earlier of invoicing or delivery/performance.

Goods sent on approval for sale or return. If goods are sent on "approval" or for "sale or return" conditions, the tax is due when the goods are delivered. If the goods are ultimately returned, a credit note should be issued and VAT reversed.

Reverse-charge services. There are no special time of supply rules in Costa Rica for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The lease of goods with or without an option to purchase are subject to VAT. The tax point is the earlier of the delivery of the goods or the issuance of an invoice.

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

F. Recovery of VAT by taxable persons

A taxable person may offset input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services subject to tax. Input tax is generally credited against output tax, which is VAT charged or collected on the sale of goods or the rendering of services. An input tax credit may be taken in the month of the import or the acquisition of goods and

services. Taxable persons can receive a tax credit or deduction for tax paid with respect to the following:

- The purchase or importation of goods and services used in the production, trade and distribution of taxable merchandise or services, as long as such services are directly and exclusively linked to the taxable person activity
- The payment of insurance premiums for the protection of merchandise used or incorporated physically in the production of taxable merchandise or services, as long as such premiums are directly and exclusively linked to the taxable person activity
- The purchase of merchandise used during the production, trade and distribution of exempt merchandise or of goods for exportation (while these are exempt goods, when they are exported, recovery is allowed)

The time limit for a taxable person to reclaim input tax in Costa Rica is four years.

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

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used in the production, trade and distribution of the final goods and services supplied by the taxable person.

Examples of items for which input tax is nondeductible

- Overhead expenses of a business, generally

Examples of items for which input tax is deductible (if related to a taxable business use)

- Insurance premiums
- Wrapping, packaging, etc.

Partial exemption. Exempt activities do not give rise to a right of input tax recovery. The purchase of goods and services that are used for both exempt activities and taxable activities may give rise to the right of input tax proportionally based on the percentage of taxable activities in relation to the taxable person's total activities.

Approval from the tax authorities is not required to use the partial exemption standard method in Costa Rica. Special methods are not allowed in Costa Rica.

Capital goods. Capital goods are defined as the goods used in the production and manufacture of other products and their purchase should exceed 15 base salaries (approx. USD11,500). When a taxable person purchases a capital good that is used exclusively on taxable activities, the tax paid should give rise to the right of tax credit in the same month of acquisition.

When a taxable person purchases a capital good used for exempt and taxable activities, it should give rise to the right of input tax proportionally on the percentage of taxable activities in relation to the total activities of the taxable person. However, for the following four years from the first December the capital goods were acquired, the proportionality should be adjusted considering the real figures that represented in each year the percentage of the exempted activities and taxable activities of the taxable person.

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

Pre-registration costs. Taxable persons are not permitted to recover input tax paid on purchases made prior to VAT registration. Nevertheless, the VAT law provides that taxable persons may

accrue tax credits generated after VAT registration for a maximum period of four years until the beginning of their economic activity, as long as they are directly and exclusively linked to the taxable person activity and are duly registered for VAT purposes.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Costa Rica.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Costa Rica.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are registered for VAT in Costa Rica is not recoverable.

H. Invoicing

VAT invoices. The tax authorities have set forth electronic invoicing ("e-invoicing") regulations and a resolution to ensure that all invoices must be issued electronically following specific technological requirements. Therefore, taxable persons must generally provide an electronic VAT invoice for all taxable supplies made at the time when the service is rendered or the good is purchased.

Credit notes. An electronic VAT credit note may be used to reduce the VAT charged and reclaimed on the supply of goods and services.

Electronic invoicing. Electronic invoicing is mandatory in Costa Rica for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory in Costa Rica for certain taxable persons. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Costa Rica.

Electronic invoicing is generally mandatory for all supplies (B2B, B2C and B2G), and all transactions are required to be properly documented through electronic invoices. The only taxable persons for whom electronic invoicing is not mandatory are those registered for the simplified tax regime. Such taxable persons are authorized to void the issuance of electronic invoicing; in such cases their suppliers may issue an "electronic invoice for purchase purposes." For further details, see the subsections *Self-billing* and *Simplified tax regime (*under *Special schemes)* below.

Invoices must be authorized by the tax authorities. The tax authorities may authorize the use of computerized systems to issue electronic invoices that are compliant with the requirements set forth by the e-invoicing regulations. Electronic invoices must include an official invoice number and the taxable person's identification number, and they must also show the VAT amount separately, among other requirements.

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

At the time of preparing this chapter, the version of "Annexes and Structures" for electronic invoicing (of which version 4.3 is currently in force) is expected to be updated to version 4.4 and include relevant modifications to the rules on electronic invoicing. However, at the time of preparing this chapter, no estimated date has been announced for the issuance of the updated "Annexes and Structures."

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Costa Rica. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Costa Rica. Purchase electronic invoices can be issued by the customer, in the event where a supplier is not required to issue such invoices, (i.e., where the

supplier is registered for the simplified tax regime). In this case, the customer may issue a purchase electronic invoice on behalf of the supplier as documentation to support tax credits and deductible expenses. For further details, see the subsection *Simplified tax regime (under Special schemes)* below.

Proof of exports. Costa Rican VAT is not imposed on the supply of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that prove the goods have left Costa Rica. Suitable evidence includes export invoices and bills of lading. Exportation of services should not be levied with VAT.

Foreign currency invoices. In general, VAT invoices must be issued in the domestic currency, which is the Costa Rican colón (CRC). However, invoices may also be issued in US dollars (USD) if the amount in colóns is also stated. The applicable exchange rate is the exchange rate on the date of issuance of the invoice, as established by the Costa Rican Central Bank.

Supplies to nontaxable persons. Small taxable persons are not required to issue VAT invoices for sales under 5% of a base salary (approx. USD34) unless requested by the purchaser.

Unless requested by the purchaser, small taxable persons are not required to issue full VAT invoices. In practice, such taxable persons do not have the electronic platform to issue full VAT invoices, therefore the purchase electronic invoice is an alternative for the purchaser to have an invoice to support its input tax and deductible expenses.

Records. In Costa Rica, examples of what records must be held for VAT purposes include contracts, invoices, as well as other accounting information.

In Costa Rica, VAT books and records can be kept outside the country. However, if records are held outside Costa Rica, they must be made readily available if requested by the tax authorities.

Record retention period. Records, invoices and other accounting information must be kept for five years.

Electronic archiving. Electronic archiving is allowed in Costa Rica. Records can be kept electronically or physically in Costa Rica. There are no specific requirements to be met regarding the records. They may be kept and archived electronically or physically.

I. Returns and payment

Periodic returns. VAT returns (D-104 return) are submitted monthly. Returns must be submitted by the 15th day of the month following the end of the return period. A return must be filed even if no VAT is due for the period.

Periodic payments. Payment in full is due by the same date as the return submission, i.e., the 15th day of the month following the end of the return period. Tax due must be paid in Costa Rican colóns (CRC).

Electronic filing. Electronic filing is mandatory in Costa Rica for all taxable persons. VAT returns must be filed online (www.hacienda.go.cr/ATV/Login.aspx). Filing requires a Tax ID (Nite or Dimex) issued by the tax authorities.

Payments on account. Payments on account are not required in Costa Rica.

Special schemes. *Secondhand goods scheme.* To use the special tax regime for secondhand or used goods, a taxable person must register specifically for this scheme with the tax authorities. Secondhand or used goods are defined as tangible goods susceptible of lasting use that, having been used by a third party, are susceptible of new use for their specific purposes, and those that have been transformed are not considered used goods.

Simplified tax regime. VAT returns for small taxable persons must be submitted quarterly by the 15th day of the month following the end of the return period. The relevant months are October, January, April and July. Payment in full is due on the same date, and a return must be filed even if no VAT is due for the period.

The special tax regime is a voluntary regime set for small taxable persons to facilitate the control and compliance of these taxable persons. The tax authorities fix the parameters for which taxable persons can opt for this regime, based on the type of activity, annual sales, annual profits and number of employees, among others.

Taxable persons that voluntarily access this special tax regime are not required to issue electronic invoices and due to the nature of this regime should not be entitled for tax credits.

VAT is calculated based on a variable that would be assigned according to the taxable person's activity.

Annual returns. Annual returns are not required in Costa Rica. However, tax credits generated from the acquisition of goods and services used indistinctly for operations subject to tax credits and operations not subject to tax credits, must be offset proportionally. In this sense, in every December return, taxable persons should calculate the proportion of their annual operations subject to tax credits to determine the percentage of their tax credits to be offset.

Supplementary filings. No supplementary filings are required in Costa Rica.

Correcting errors in previous returns. A taxable person should correct any errors or omissions from prior periodic filings by filing a rectification of the tax return that should be corrected. This filing can be submitted online or personally at the offices of the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Costa Rica.

J. Penalties

Penalties for late registration. A taxable person that fails to register for VAT on a timely basis cannot offset VAT credits generated from purchases that at the time of registration are included in inventory. Penalties and interest are also assessed for late registration for VAT.

Penalties for late payment and filings. Penalties apply to a range of VAT offenses in the following amounts:

- Late filing of a VAT return: a penalty of 50% of the average monthly Costa Rican wage ("base salary" as established by law is CRC431,000, approx. USD693). The amount of the penalty may be reduced up to 80%, depending on the time of payment.
- Late payment of VAT: a penalty of 1% of the unpaid amount for every month or fraction of a month. The maximum penalty is 20% of the unpaid amount.

Penalties for errors. A penalty of 50% of the unpaid amount (as determined by the tax authorities) is due for inaccuracies in the return. Such penalties may be increased to 100% or 150% if the inaccuracies qualify as severe or very severe. For this purpose, the unpaid amount must be higher than 500 times the value of the base salary and meet certain other requirements, such as deriving from the concealment of information or use of fraudulent means. These penalties may be reduced up to 80% depending on the time of payment.

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

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may be subject to penalties. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax fraud occurs when the taxable person by any action or omission commits fraud against the tax authorities by incorrectly computing the amount of tax due. VAT fraud that results in an underpayment of VAT greater than 500 times the base salary is punishable by a term of imprisonment of 5 to 10 years.

A failure to file and satisfy reporting obligations in Costa Rica is subject to penalties ranging from half a base salary to two base salaries as follows:
- Not registering with the relevant tax authorities – penalty of half a base salary
- Failure to maintain accounting books or records required by law – penalty of one base salary
- Failure to maintain shareholder registry book – penalty of one base salary
- Failure to issue invoices as required by law – two base salaries

Personal liability for company officers. The directors of a company shall have no liability for any errors or omissions in the submitted VAT returns. They can only be liable where the local institutions consider that there was tax fraud carried out by the company.

Statute of limitations. The statute of limitations in Costa Rica is four years. The tax authorities have a four-year term to review the returns and identify errors to impose penalties for those who are duly registered with the tax administration, which corresponds to the statute of limitations.

The statute of limitations may be extended to 10 years in the event that a taxable entity or individual is not duly registered before the tax authorities or in the case they are registered, they file tax returns that should be qualified as fraudulent, or they had the omission of filing the tax return.

Finally, the taxable person has a four-year period to voluntarily correct errors in previous VAT returns by means of a rectification.

Côte D'Ivoire (Ivory Coast)

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	1960
Trading bloc membership	West African Economic and Monetary Union (WAEMU) Economic Community of West African States (ECOWAS)
Administered by	Ivory Coast Tax Administration/Direction Générale des impôts (DGI) (www.dgi.gouv.ci)
VAT rates	
Standard	18%
Reduced	9%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID number: 7 digits, 1 letter
VAT return periods	Monthly (normal tax regime); Quarterly (simplified tax regime)
Thresholds	
Registration	XOF200 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
• The supply of goods or services made in Ivory Coast (IC) by a taxable person
• The importation of goods.

For VAT purposes, the territory of IC includes land territory, continental shelf, territorial waters and the exclusive economic zone.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction

where it has customers that are not taxable persons. In IC, no services are subject to the "use and enjoyment" provisions.

In IC, only services used in IC are taxable in IC. A service is used in IC when a person for whose benefit the service is rendered, the activity or the good to which the service relates are located in IC.

Where a person who does not have a permanent establishment in IC and does not reside there carries out or makes taxable operations in IC, these are taxable in IC. The tax is paid by the person intervening in any capacity for the nonresident or, failing that, by the buyer or the recipient of the service.

According to Section 347 of the General Tax Code (GTC), operators of online sales platforms or digital services not established in IC are required to declare remotely the VAT payable on their transaction, according to a simplified procedure set up by the tax administration. This simplified procedure implies that the digital platform operator is registered in Côte d'Ivoire, unlike other foreign service providers.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from VAT in IC. A TOGC is the sale of a business or part of a business capable of separate operation including assets. In IC the sale of business or customer assets are exempt from VAT. However, separate sales of assets may be subject to VAT depending on the regime applicable to the asset sold.

Transactions between related parties. The price of transactions between related entities is at arm's-length prices. The price of services between related entities is capped at 5% of turnover and 20% of overheads.

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services or importation of goods in the course of a business in IC.

Individuals or entities are only allowed to register for VAT (and subsequently charge VAT on their supplies) when their annual turnover of any tax included is more than XOF200 million. In principle, public transport companies for persons or goods are not liable to VAT. However, the draft of the annual financial statement for 2024 plans to include transport companies within the normal tax regime, subject to VAT. *At the time of preparing this chapter, the draft of the annual financial statement for 2024 has not been finalized and enforced.*

Exemption from registration. The VAT law in IC does not contain any provision for exemption from registration.

Voluntary registration. According to Section 348 of the GTC, it is possible for a nontaxable business to register for VAT on a voluntary basis.

Voluntary registration only applies to the following types of taxable persons:
- Producers of coconut, plants and flowers, bananas and pineapples, when their annual all tax turnover exceeds XOF100 million
- Owners of bare buildings for commercial or industrial use

Voluntary registration is irrevocable and takes effect from the first day of the month following the day in which it is performed.

Group registration. Group VAT registration is not allowed in IC.

Fixed establishment. There are three distinct noncumulative criteria in IC to evidence the existence of a permanent establishment, as follows:

- Fixed place of business
- The dependent agent
- The full business cycle

Non-established businesses. A "non-established business" is a business that has no permanent establishment in the territory of IC. When a non-established business conducts taxable operations in IC, these operations are treated as taxable thereon. The tax is paid by the representative, who acting on behalf of the nonresident entity or by the purchaser or beneficiary of the service, is solidly responsible for the payment.

Tax representatives. As mentioned above, non-established businesses should nominate a tax representative for VAT purposes in IC. In case of default (nonpayment of VAT due within the legal deadline), the beneficiary of the services and the non-established business are jointly liable for the payment of the VAT due.

Reverse charge. The reverse-charge mechanism is applicable to the following:
- Whenever a non-established entity fails to nominate a VAT representative
- When a taxable person acquires any provision of services from non-established entities

Domestic reverse charge. There are no domestic reverse charges in IC.

Digital economy. Any taxable person who supplies goods or services digitally (i.e., via the internet) to another taxable person business-to-business [B2B]) or ordinary consumer (business-to-consumer [B2C]) is required to issue an electronic invoice. Such electronic invoices must include an electronic tax stamp. *However, at the time of preparing this chapter, the rules on electronic invoices requiring an electronic tax stamp are not final, as the decree that explains the process and the conditions has not been published*.

Nonresidents that provide electronically supplied services don't need to register for VAT in IC. In IC, the VAT relating to services provided by a nonresident is paid by the beneficiary of the services (see the *Non-established businesses* subsection above).

There are no other specific e-commerce rules for imported goods in IC.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in IC.

Registration procedures. All IC businesses or foreign entities that have a head office or other establishment in IC must be registered before starting their activities. The submission should be made to the head of the tax authorities.

Deregistration. There is no procedure for VAT deregistration.

Changes to VAT registration details. When there is a change in a taxable person's VAT registration details, the taxable person must inform tax administration within 10 days following the change, by submitting a new certificate of VAT registration to the tax authorities, with the updated details.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18%
- Reduced rate: 9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and services, such as:
  - Services provided for the direct needs of maritime commercial vessels, vessels used for industrial activity on the high seas, and rescue and assistance vessels at sea
  - Sales operations of gear and fishing net, as well as the search of all items and products intended for boats engaged in professional maritime fishing

Examples of goods and services taxable at 9%

- Milk (excluding yogurts and any other dairy products)
- Infant milk and composite food preparations intended for infants
- 100% durum semolina-based pasta
- Solar energy production equipment
- Petroleum products

Examples of exempt supplies of goods and services

- Book sales and book-making work
- Sales of newspapers and periodicals
- Sales of medicines and pharmaceuticals, as well as materials and petrochemicals
- Sales of natural food products for consumption in IC, with the exception of luxury rice and meat imported outside ECOWAS. *At the time of preparing this chapter, the draft annual financial statement for 2024 plans to limit this exemption to the essential products listed below. This statement has not been finalized and enacted.*
  - Corn, millet, sorghum, fonio, wheat and rice, with the exception of luxury rice and other cereals
  - Cassava, sweet potato, yam, potato, tarot and other tubers and roots
  - Beans, soya, sesame, peanuts, peas and other legumes
  - Onion, tomato, eggplant, okra, pepper and other vegetables and market garden products
  - Shell eggs
  - Fresh meat and offal, with exception of luxury meat
  - Unprocessed fish (fresh, smoked, salted or frozen), excluding luxury fish
  - Unprocessed milk
- Teaching activity excluding incidental operations such as sales of goods, housing supplies and food in boarding schools
- Sales of bread, cereal flours and cereals for the manufacture of these flours
- Fish freezing operations

Option to tax for exempt supplies. The option to tax exempt supplies is not available in IC.

E. Time of supply

The time when VAT becomes due is called the "time of supply." According to the Ivorian Tax Code, the tax requirement varies depending on whether it is a supply of goods or services. The basic time of supply for goods is when goods are delivered or when the invoice has been issued, even if the goods have not yet been delivered according to the tax doctrine. The basic time of supply for services is when the price of services was fully or partially settled.

However, for intragroup services, the tax is due after two years even if the invoice has not been paid. The two-year period begins to run from the time the transaction is recorded in an expense account or the credit of a third-party account.

Deposits and prepayments. The time of supply rule for deposits and prepayments varies for supplies of goods and services. For supplies of goods, the time of supply for deposits and advanced

payments is when the goods are delivered. For services, the time of supply is the date on which the price or a part of the price is paid to the service provider.

Continuous supplies of services. The time of supply for continuous supplies of services based on agreements foreseeing successive payments is when the price or a part of the price is paid to the service provider.

Goods sent on approval for sale or return. The time of supply for supplies of goods sent on approval for sale or return is when the goods are delivered. If the goods are returned to the seller or not sold, the seller can record a provision or debit as an expense.

Reverse-charge services. The time of supply for supplies of reverse-charge services is when the price or part of price are paid. However, for intragroup services, the tax is due after two years even if the invoice has not been paid. The two-year period begins to run from the time the transaction is recorded in an expense account or the credit of a third-party account.

Leased assets. Since leasing agreements are also considered a continuous supply of services, the time of supply occurs at the time of each payment.

Imported goods. The time of supply for the importation of goods is the moment at which the goods enter customs.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred with the acquisition of goods and services deemed indispensable for the maintenance of the business. A taxable person generally recovers input tax by deducting it from output tax charged on the supplies of goods or services carried out, as well as tax paid on the import of goods.

Input tax includes tax charged on goods and services supplied, tax paid on import of goods and tax self-assessed on reverse-charge services.

To deduct input tax, goods and services must meet the following conditions:
- Be acquired for the needs of the company
- Is subject to VAT on all or only part of their transactions
- Borne VAT from the supplier or import
- Not be excluded from the right to deduction
- The VAT deductible must be on a supporting document (it can be an invoice, if it is a purchase or service; a customs document, if it is an import)
- VAT must be deducted within 12 months; this period begins to run from the billing date for supplies of goods and from the due date for payment the supply of services
- VAT deductible must be mentioned on the statements of deductible taxes
- The time limit for a taxable person to reclaim input tax in IC is three years. The reclaiming of input tax from a previous period can be requested over the last three years, plus the year of submission of the request.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (for example, goods acquired for private use or services used for making exempt supplies).

Examples of items for which input tax is nondeductible

- Buildings other than:
  - Buildings and premises for industrial and similar use
  - Administrative and commercial buildings
- Vehicles other than:
  - Internal means of handling, special vehicles

  - Touring vehicles with a horsepower of not more than 12 horsepower and two-wheeled vehicles whose purchase price does not exceed XOF3 million excluding taxes
  - Commercial vehicles, regardless of their payload
  - Vehicles acquired by transport companies that have exercised the option provided for in Article 348 of the General Tax Code and that are used for the public transport of persons and goods
- Furniture objects
- Banking operations carried out in a personal capacity on behalf of the directors of the company
- Services relating to excluded goods: rental, maintenance and repair of equipment, premises, objects or vehicles that are not deductible
- Hotel and restaurant expenses, excluding the supply of meals on oil platforms
- Representation expenses
- Fuel costs for vehicles, other than those used for the public transport of persons and goods by the transport companies that have made the option provided for by Article 148 of the GTC
- Repair and maintenance services of executive vehicles of oil companies, the guarding of their homes, as well as the various services provided to consultants used by oil companies
- Tax on purchases, works or services greater than XOF250,000 and paid in cash

Examples of items for which input tax is deductible (if related to a taxable business use)

If a taxable person meets the definition of a taxable supply, then that supply can have input tax claimed, unless it is specifically stated as a supply that an input cannot be claimed, see above.

Partial exemption. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." The GTC provides one method to recover VAT when a taxable person makes both exempt and taxable supplies. According to this method, VAT is only deductible under a percentage.

Approval from the tax authorities is not required to use the partial exemption standard method in IC. Special methods are not allowed in IC.

Capital goods. No special input tax recovery rules apply to input tax incurred on capital goods. Normal input tax recovery rules apply (as outlined above).

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit that will be carried forward to the next taxable periods.

A refund may also be requested in these limited cases:
- Export and related operations
- Discontinuance of business
- Investments by industrials companies subject to VAT
- Lease operations
- Investments by commercial enterprises under the investment approval program
- Acquisitions of investment property or the right to deduction for a value of more than XOF40 million, including all taxes
- Transactions subject to the reduced-rate tax
- Operations granted a conventional exemption, as well as those carried out with members of diplomatic and related missions, in accordance with the rules of reciprocity

Pre-registration costs. Input tax incurred on pre-registration costs in IC is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in IC. Taxable persons cannot deduct the amount of VAT related to bad debts disclosed in its accounting records, as well as unrecoverable debts resulting from the

enforcement and insolvency process. The tax is neither refundable (if the taxable person has already declared the tax in advance), nor deductible.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in IC.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in IC, is not recoverable.

H. Invoicing

VAT invoices. Taxable persons must generally provide a standardized invoice for all taxable supplies made.

Credit notes. A VAT credit note may not be issued to reduce the VAT charged and claimed on a supply (e.g., return of the goods or a discount). A credit note is usually issued in case of rebates given after the time of supply.

Electronic invoicing. Electronic invoicing is mandatory in IC for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in IC. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in IC. The requirements related to electronic invoicing are the same as those for paper invoicing.

For B2B and B2C supplies, electronic invoicing is mandatory for any taxable person who supplies goods or services digitally (i.e., via the internet). Such electronic invoices must include an electronic tax stamp. *However, at the time of preparing this chapter, the rules on electronic invoices requiring an electronic tax stamp in IC are not final, as the decree that explains the process and the conditions has not been published.*

Non-established operators of online service platforms who provide services in IC are allowed to issue electronic invoices without an electronic tax stamp. There are some requirements for B2B invoicing, such as retaining their current methods for nonresident businesses and providing the following details to enable input tax recovery:
- The customer's name
- Taxpayer identification number
- The nature of the service
- The date of the service and the amount involved

Simplified VAT invoices. Certain taxable persons may issue nonstandard invoices. These include the following sectors:
- Water, electricity and telephone utility dealers for concession-covered activities, excluding services in areas open to competition
- Multiray sales companies whose retail operations result in the issuance of tickets or cash receipts
- Pharmacies
- Utility dealers responsible for identification
- Airline companies
- Oil companies benefiting from the production-sharing contract provisions
- Service stations only for their fuel sales operations
- Post offices
- Banks
- Insurance companies
- Transportation service dealers for their operations covered by the concession

- Non-utility transport companies that have not opted for their VAT liability
- Taxable persons that do not have professional IC facilities
- Gambling utilities for sales-to-end customers, excluding those made to resellers
- Licensed telephone companies
- Operators of digital platforms

Self-billing. Self-billing is allowed in IC. Taxable persons with turnover greater than XOF3 billion can request the tax authorities to print its own invoices but these invoices must contain all the requirements for a full VAT invoice.

Proof of exports. Proofs of exports will be necessary to identify chain transactions, incoterms used and zero-rating for export. The origin and destination of products if sold or purchased are key drivers for taxability and hence should be passed as data elements. Examples of documentation accepted include airway bills, bills of lading and international transport documentation, custom returns.

Foreign currency invoices. In case the invoice is issued in a foreign currency, the total VAT amount should be in the domestic currency, which is the West African *Communauté Financière Africaine (CFA)* franc (XOF). It is also recommended to mention the currency exchange in the invoice. However, operators of digital platforms are able to declare and pay in foreign currencies such as euros and US dollars.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in IC. As such, full VAT invoices are required.

Records. In IC, examples of what records that must be held for VAT purposes include invoices, accounting documents, legal documents, etc.

In IC, VAT books and records must be held within the country. While there is no provision in IC VAT law outlining where records must be held, in practice, VAT books and records must be held within the country and made available upon request of the tax authorities.

Record retention period. All invoices or equivalent documents must be kept by the taxable person for six years.

Electronic archiving. Electronic archiving is allowed in IC. Backup copies of the invoices or equivalent documents can be archived on all support media (i.e., paper and electronically). However, records must be available to the tax authorities upon request, in paper format only. These obligations are not applicable to operators of digital platforms.

I. Returns and payment

Periodic returns. VAT returns must be submitted monthly for taxable persons under the normal regime. The normal regime applies to taxable persons whose annual turnover, including all taxes, exceeds XOF500 million.

VAT returns must be submitted quarterly for operators of digital platforms.

VAT returns must be filed together with full payment of VAT. The VAT return and payment of VAT is due by the following dates:
- By the 10th of the following month for industrial, oil and mining companies
- By 15th of the following month for commercial companies
- By 20th of the following month for providers

Periodic payments. Payment of VAT is due by the same deadline for filing (as outlined above).

Taxable persons whose annual turnover is greater than XOF200 million are required to pay the VAT due by bank transfer or automatic debit.

Electronic filing. Electronic filing is allowed in IC, but not mandatory. However, taxable persons with a turnover of greater than XOF150 million are required to file their VAT returns electronically. Taxable persons with a turnover of less than XOF150 million have the option to file their VAT returns by paper or electronically.

Payments on account. Payments on account are not required in IC.

Special schemes. No special schemes are available in IC.

Annual returns. Annual returns are not required in IC.

Supplementary filings. *Deductions statement.* All taxable persons must include on their VAT return a statement detailing the deductions made. This statement must highlight the delivery of goods and the services provided, as follows:
- Name and the supplier's taxable persons account number
- Amount of the deductible tax paid by the customer
- With regard to imports, the state must highlight:
  – Consumption declaration number
  – References to the release issued by Customs
  – Amount of VAT mentioned on the release

Correcting errors in previous returns. Taxable persons can correct errors in previous returns under the following conditions:
- Any error of this kind that has not been found by the tax authorities during the last three years.
- The taxable person is not subject to a tax assessment related to such errors.
- The taxable person has not received a notice of tax assessment from the tax authorities.

Subject to the above conditions, a taxable person can correct errors in previous returns by writing to the tax authorities, providing detail of the errors and previously filed returns. Then the tax authorities will review the corrections, and where it agrees with the corrections, the taxable person must then immediately pay any VAT due from the corrections and a late interest charge (10% of the tax due). However, the taxable person is not charged any additional penalties.

Digital tax administration. There are no transactional reporting requirements in IC.

J. Penalties

Penalties for late registration. A delay in VAT registration is punishable by a fine of XOF1 million.

Penalties for late payment and filings. Whenever a taxable person fails to submit a VAT return after the legal deadline, the late interest is 10% of the tax due. In addition to the penalty, interest accrues at a rate of 1% of the amount due for each additional month or fraction of a month of delay.

Penalties for errors. Whenever the tax administration finds errors in filed VAT returns, the taxable person must pay, in addition to the late interest charge outlined above, increases of the following:
- 30% if the amount of duties corresponding to inadequacies, inaccuracies or omissions does not exceed one quarter of the duties actually owed
- 60% if this amount is more than a quarter of the fees real due

Increases are only applicable in the case of a tax audit, and late interest is applicable in the case of spontaneous returns.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details to may result in a penalty of XOF100,000. For further details, see the subsection above *Changes to VAT registration details*.

Penalties for fraud. Any inaccuracies or omissions in a declaration or deed containing information to be withheld for the assessment or settlement of the tax, shall give rise to the application of a surcharge of 150% in the event of fraudulent practices.

Personal liability for company officers. Company directors can be held personally liable for errors and omissions in VAT declarations. In this case, the penalties are a fine between XOF500,000 and XOF30 million and/or imprisonment between one month to two years.

Statute of limitations. The statute of limitations in IC is three or six years. The time limit that the tax authorities can go back to review returns and identify errors and impose penalties is three years for input tax and six years for output tax. There is no time limit for taxable persons to voluntarily correct errors in previous VAT returns. But the corrections should not be made during a tax audit. Note that corrections to input tax must be made within 12 months of invoicing.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Porez na dodanu vrijednost (PDV)
Date introduced	1 January 1998
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.porezna-uprava.hr)
VAT rates	
Standard	25%
Reduced	5%, 13%
Other	Zero-rated (0%) and exempt
VAT number format	Prefix HR followed by the 11-digit personal identification number (OIB), e.g., HR12345678910
VAT return periods	Monthly or quarterly
Thresholds	
Registration	
Established	EUR40,000
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services in Croatia for consideration by a taxable person, performed in the course of the person's business activity, and supplies made in accordance with the provisions of the law or decisions of state bodies

- Reverse-charge services received by a Croatian taxable person
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- The importation of goods into Croatia, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

As of 1 January 2020, the Quick Fixes have been adopted in Croatia. The Quick Fixes consist of the following four measures:

- VAT identification number of the customer constitutes an additional substantive condition for the application of the exemption in respect of an intra-Community supply of goods. Respective exemption is applicable only if the customer has provided its VAT number from another EU Member State and the supplier has reported it in its EC Sales list.
- Defined list of documents for proof of transport required to claim an exemption for intra-Community supplies. There is a rebuttable presumption in favor of the taxable person based on two independent pieces of evidence (noncontradictory proof by two different parties independent of each other, from the supplier and from the customer).
- Call-off stock simplification, according to which the transfer of goods to a stock located in another Member State with a view to supplying them at a later stage to a customer will no longer qualify for the supplier as a deemed intra-Community supply and a deemed intra-Community acquisition of goods. When the customer takes the goods out of the stock, the supplier is deemed to perform a direct intra-Community supply of goods to the customer.
- New rules in respect to allocation of the transport in chain transactions. According to these rules, the intra-Community transport is to be allocated to the supply made to the intermediary, who arranges the transport. There is an exception to this general rule in case the intermediary communicates to its supplier its VAT identification number granted by the EU Member State from which the goods are dispatched or transported. In that situation, the transport of the goods would be allocated to the supply made by the intermediary to its customer.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Croatia, the following services are subject to the use and enjoyment provisions:

- Effective use and enjoyment rule shifting the place of supply of services from a place outside the EU to the territory of Croatia if the effective use and enjoyment of the services take place within Croatia
- Effective use and enjoyment rule shifting the place of supply of services to a place outside the EU if the effective use and enjoyment of the services take place outside the EU

Both rules apply only to business-to-consumer (B2C) supplies of rental of movable property and rental of boats.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where

the sale meets the conditions, the supply is treated as outside the scope of VAT. In Croatia, a TOGC is treated as outside the scope of VAT where the following conditions are met:
- There has been a transfer of a totality of assets or part thereof that constitute a business unit (i.e., going concern)
- Both the transferor and the transferee are taxable persons, registered for VAT purposes in Croatia at the moment of the transaction
- Transferee will use the assets for an activity in respect of which VAT is deductible

Transactions between related parties. In case of certain supplies of goods or services between persons with family or other close personal ties or management, ownership, membership, financial or other legal ties, the taxable amount shall be the open market value. This applies to transactions where the consideration is:
- Lower than the open market value and the customer does not have a full right of deduction of the input tax
- Lower than the open market value and the supplier does not have a full right of deduction and the supply is exempt
- Higher than the open market value and the supplier does not have a full right of deduction

C. Who is liable

A taxable person is any person who independently carries out any economic activity, regardless of the purpose or results of that activity.

VAT registration is required prior to commencing taxable activities in Croatia.

Exemption from registration. The VAT Act in Croatia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A taxable person subject to the special scheme for small businesses may voluntarily register for VAT when beginning business activities or may register during the year. In the case of voluntary registration, the entrepreneur must remain a taxpayer for a period of three years.

A taxable person whose taxable supplies exceeded the prescribed threshold is considered to be a taxable person and must inform the tax authorities by submitting an application for VAT registration. Retrospective VAT registration is not possible.

Taxable persons established in Croatia can apply a special scheme for small entrepreneurs if their taxable supplies in the preceding or current calendar year do not exceed the EUR40,000 threshold. Taxable persons applying this scheme do not charge Croatian VAT as their transactions are exempt from VAT, but they also cannot deduct input tax.

Group registration. Group VAT registration is not allowed in Croatia.

Holding companies. Group VAT registration is not available in Croatia, and as such a pure holding company cannot be a member of a VAT group.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with Article 132(1)(f) of VAT Directive 2006/112/EC) has been implemented in Croatia. This provides an option to exempt support services that the cost-sharing group supplies to its members, provided certain conditions are met (in accordance with specific requirements laid out in Croatian VAT Act). According to Article 39(1)(f) of the Croatian VAT Act, the supply of services by independent groups of persons, who are carrying on an activity that is exempt from VAT or in relation to which they are not taxable persons, for the purpose of rendering their members the services directly necessary for the exercise of that activity, where those groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to cause distortion of competition.

Fixed establishment. The definition of a fixed establishment provided for in Article 11 of Regulation 282/2011 is directly applicable in Croatia. Fixed establishment is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to enable it to receive and use the services supplied to it for its own needs or to provide the services it renders.

Non-established businesses. A "non-established business" is a business that does not have an establishment in Croatia (including a fixed establishment). A non-established business that makes supplies of goods or services in Croatia is liable to account for VAT on these supplies.

However, if supplies are made by a non-established business that is not registered for VAT purposes in Croatia (requirement for non-registration entered into force on 1 January 2019) to a recipient who is either a taxable person or a legal person that is not a taxable person but registered for VAT in Croatia, Croatian VAT should be accounted for by the recipient of the supply.

Consequently, non-established businesses must register for VAT if they make any of the following supplies:
- Intra-Community supplies
- Intra-Community acquisitions
- Distance sales in excess of the threshold
- Supplies of goods and services that are not subject to the reverse charge (for example, goods or services supplied to private persons)
- Export supplies

Tax representatives. A foreign entity (taxable person) that has to register for VAT in Croatia may appoint a tax representative. Taxable persons in Croatia can be appointed as tax representatives if they are established or have their permanent address in Croatia and are not a branch or fixed establishment of a foreign company.

A foreign entity (taxable person) that has its seat of business outside the EU must appoint a tax representative. This requirement does not apply in case there are legal instruments with the third country in which that taxable person is established. Currently, these are the United Kingdom and Norway.

Reverse charge. The reverse charge applies to the supply of most goods and services performed by non-established businesses to taxable persons or nontaxable legal persons registered for VAT in Croatia (i.e., business-to-business (B2B) supplies).

Domestic reverse charge. As of 1 January 2019, a domestic reverse charge only applies if a non-established business is not registered for VAT in Croatia. The recipient of the supply accounts for VAT using the appropriate Croatian VAT rate.

Croatia applies a domestic reverse-charge mechanism for certain supplies (for B2B supplies). The following activities fall within the scope of the domestic reverse charge irrespective of whether the supplier is VAT registered or not:
- Construction work (repair, maintenance, alteration and demolition services in relation to immovable property) and supply of staff engaged in construction work
- Supplies of used-material waste, industrial and nonindustrial waste, recycling waste and partially processed waste
- Supplies of immovable property if the option to tax is exercised
- Supplies of immovable property in a compulsory sale procedure and similar
- Transfer of greenhouse gas emission units
- Supplies of concrete steel and iron, as well as products made of concrete steel and iron (armature)

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B*, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B) where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Croatia, the normal VAT registration rules apply (see the *Registration procedures* subsection below).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

For more details about the operation of the OSS, see the chapter on the EU.

Taxable persons established in Croatia that choose to apply the special scheme (or the taxable person that chooses Croatia as a Member State of identification for the special scheme) is obligated to notify the Croatian tax authorities electronically when it commences and ceases its

taxable activities covered by the special scheme, or when it changes those activities in such a way that it no longer meets the conditions necessary for use of the special scheme.

Registration for the OSS purposes and possible changes of activities should be done through the HR OSS internet portal (https://eusustavi.porezna-uprava.hr/wps/portal/Home/MOSS/Registration/union/).

The taxable person making use of this special scheme is obligated to submit a VAT return by electronic means for each calendar quarter, whether or not the goods and services covered by the special scheme have been supplied, by the end of the month following the end of the tax period covered by the return.

Among other, the VAT return must show for each Member State of consumption in which VAT is due the total value of supplies of goods and services covered by the special scheme carried out during the tax period and total amount per rate of the corresponding VAT.

VAT amount is to be paid in EUR at the latest by the deadline for the submission of the respective VAT return.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

A taxable person established in Croatia that chooses to apply the special scheme for importation (or the taxable person that chooses Croatia as a Member State of identification for the importation special scheme) is obligated to notify the Croatian tax authorities electronically when it commences and ceases its taxable activities covered by the special scheme, or when it changes those activities in such a way that it no longer meets the conditions necessary for use of the special scheme.

Registration for the IOSS purposes and possible changes of activities should be done through the HR OSS internet portal (https://eusustavi.porezna-uprava.hr/wps/portal/Home/MOSS/Registration/union/).

Croatian tax authorities will allocate an individual VAT identification number (IOSS identification number) to the taxable person and to an intermediary making use of this special scheme, upon which they will notify them by electronic means.

The taxable person making use of this special scheme, or its intermediary is obligated to submit a VAT return by electronic means for each calendar month, by the end of the following month.

Among other, the VAT return must show for each Member State of consumption in which VAT is due the total value of supplies covered by the special scheme carried out during the tax period and total amount per rate of the corresponding VAT.

VAT amount is to be paid in EUR at the latest by the deadline for the submission of the respective VAT return.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Croatia, when Croatia is a Member State of importation, the person presenting the goods to customs authorities on behalf of the person for whom the goods are destined within the territory of the Community (Croatian posts office, courier services) can apply special arrangements for declaration and payment of import VAT.

The person presenting the goods to customs authorities collects the VAT from the person for whom the goods are destined and effects the payment of such VAT.

According to the Croatian VAT Act, the standard rate of 25% is applicable when using this special arrangement. However, the person for whom the goods are destined can refuse the automatic application of the standard rate of 25% when according to the Croatian VAT Act the reduced rate is applicable to the importation of goods. In that case, the person presenting the goods to customs authorities can no longer apply the special arrangement and the regular procedure for the importation of goods will apply.

VAT collected under this special arrangement is to be reported electronically in a monthly declaration. The declaration must show the total VAT collected during the relevant calendar month.

VAT is payable in EUR by the end of the month following the importation.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Croatia, rules deeming online marketplaces and platforms as suppliers (in accordance with Article 14(a)(1)(2) of Directive 2006/112/EC) have been implemented.

According to the Croatian VAT Act, a taxable person who facilitates through an electronic interface, such as a marketplace, platform, portal or similar means, distance sales of goods imported

from third territories or third countries in consignments of intrinsic value not exceeding EUR150 is deemed to have received and supplied those goods itself. Such taxable person can apply the IOSS special scheme.

Additionally, a taxable person who facilitates through an electronic interface, such as a marketplace, platform, portal or similar means, the supply of goods within the Community by a taxable person not established within the Community to a nontaxable person is deemed to have received and supplied those goods itself. Such taxable person can apply OSS special scheme.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. "Voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

"Single-purpose voucher" (SPV) means a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue of the voucher.

"Multi-purpose voucher" (MPV) means a voucher, other than a SPV.

Each transfer of an SPV by a taxable person is regarded as a supply of goods or services to which the voucher relates. The transfer of an MPV is not treated as a supply for VAT purposes. The supply takes place when the actual handing over of the goods or the actual provision of the services in return for a MPV occurs.

Registration procedures. If a Croatian taxable person's annual taxable supplies exceed the prescribed threshold, the taxable person becomes liable to register as a taxable person in the current year (at the time when the prescribed threshold is reached).

Entrepreneurs whose taxable supplies do not exceed the threshold may also apply for VAT registration. After registering, such entrepreneur is obliged to remain in the VAT system for the next three years.

In case a Croatian taxable person intends to perform supplies within the EU, it should request a Croatian VAT ID number 15 days before the first supply is made.

Taxable persons in all cases mentioned above should file the request for VAT registration with the Croatian tax authority by submitting an application in person. The registration procedure may be initiated in person by a third party legally authorized by the company applying.

Application should be accompanied with excerpt from the court register and confirmation from the tax authorities in the country of establishment that the entity is a registered taxable person. In the case where a third party is authorized, a power of attorney (POA) is required.

All accompanying documents (which should be filed in hard copy) with the request should be translated to Croatian by an official interpreter. Documents may also be submitted via the Croatian tax authorities' web platform "e-porezna" or via email. Delivery of documents via email is dependent on the agreement with the competent tax authority office, since the Croatian tax authorities have not issued any formal decision on the subject. *At the time of preparing this chapter, delivery of documents via email is still dependent on the agreement with the competent tax authority in the absence of legally binding decision with the specific date of the commencement and the end of such possibility still being unknown. For practical considerations it is important to note that some tax authority clerks accept documents submitted only via email while others demand concurrent submittal of documents in physical form.* Registration for OSS purposes

should be done through the HR-MOSS internet portal of the Croatian tax authority (https://eusustavi.porezna-uprava.hr/wps/portal/Home/MOSS/Registration/union/).

Deregistration. Taxable persons registered for VAT (because the VAT threshold was reached in past periods) may submit written application for deregistration to the Croatian tax authority until 15 January if the threshold in the preceding year was not reached.

Foreign taxable persons that have obtained a Croatian VAT ID number and cease the economic activities in Croatia for which they were registered should notify the Croatian tax authority about the cessation of business activities within eight days.

Croatian taxable persons that also perform intra-Community transactions may apply for cancellation of their VAT ID number if they cease to perform such transactions. The cancellation of a VAT number does not automatically mean that taxable person is erased from the VAT register in Croatia.

The tax authority can ex officio cancel the VAT ID number in certain cases, such as when the taxable person has not performed business activities in the EU for more than one calendar year; the taxable person has acquired goods valued at less than EUR10,000 in the previous two calendar years; the taxable person has not received services within the EU for more than one calendar year; or a foreign taxable person has not performed supplies in Croatia for more than one calendar year.

In the case of fraudulent activities, deregistration occurs almost automatically.

The tax authority can also cancel the VAT ID number if it determines that there is no further reason for VAT registration in Croatia or if the taxable person has misused the VAT ID number.

In case the tax authority suspects the VAT ID number was assigned without actual justification, the tax authority may request from the taxable person in question that it provides securities, i.e., VAT payment guarantees for the period not longer than 12 months. If the taxable person does not provide requested securities, the tax authority will cancel the taxable person's VAT ID number and render a resolution on such decision.

Tax authorities may suspend the VAT ID number if they suspect it has been misused. A suspended VAT ID number can be reactivated if the taxable person submits evidence that eliminates the reason for the suspension within one year. Failure to do so will result in cancellation of the VAT ID number.

Changes to VAT registration details. A taxable person must notify the tax authorities if there is a change in its VAT registration details (e.g., name of company, address, type of business, VAT status, etc.). The taxable person must submit a notification of the respective change together with an excerpt from the relevant register where the change is visible. There is no prescribed deadline for such notification.

All accompanying documents (which should be filed in hard copy) should be translated to Croatian by the official interpreter. Documents may be submitted via the Croatian tax authorities' web platform "e-porezna" or via email. Delivery of documents via email is dependent on the agreement with the competent tax authority office, as the Croatian tax authorities have not issued any formal decision on the subject. *At the time of preparing this chapter, delivery of documents via email is still dependent on the agreement with the competent tax authority in the absence of legally binding decision with the specific date of the commencement and the end of such possibility still being unknown. For practical considerations it is important to note that some tax authority clerks accept documents submitted only via email while others demand concurrent submittal of documents in physical form.*

D. Rates

The term "taxable supply" refers to supplies of goods and services that are liable to a rate of VAT, including supplies that are exempt with the right to deduct input tax.

The VAT rates are:
- Standard rate: 25%
- Reduced rates: 5%, 13%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or exemption.

Examples of goods and services taxable at 0%

- Exports of goods outside the EU and related services
- Intra-Community goods and services supplied to another taxable person established in the EU or to a recipient outside the EU.
- Supply and installation of solar panels on and adjacent to private dwellings, housing, and public and other buildings used for activities in the public interest

Examples of goods and services taxable at 5%

- All types of bread
- All types of milk (except for yogurt, sour milk, chocolate milk and other dairy products)
- Books containing professional, scientific, artistic, cultural and educational content, unless they are used for advertising purposes and unless they comprise video or music content
- Medicines authorized by relevant agency
- Medical products, implants and other orthopedic devices
- Cinema tickets, tickets for concerts, sports events of a competitive or exhibition character and cultural events except supply of services in culture and closely related supply of goods, performed by institutions in culture, public bodies or other legal entities in culture that are exempt supplies
- Scientific magazines
- Newspapers and magazines published daily unless they are used for advertising purposes and unless they comprise video or music content
- Live animals
- Baby food and processed grain food for infants and small children, in accordance with special legislation
- Oils and fats for human consumption, of either vegetable or animal origin, butter and margarine
- Fresh meat products
- Fresh or cooled meat
- Fresh fish
- Fresh crabs
- Fresh vegetables
- Fresh and dry fruit and nuts
- Fresh eggs
- Supply of natural gas and district heating *(until 31 March 2024; after that a reduced rate of 13% is applied)*
- Firewood, pellets, briquettes and wood chips *(until 31 March 2024; after that a reduced rate of 13% is applied);*
- Seedlings and seeds
- Fertilizers and pesticides and other agrochemical products
- Animal food, excluding food for pets

Examples of goods and services taxable at 13%

- Room only, bed and breakfast, half board or full board accommodation services in all types of the listed commercial catering facilities and agency commission services for all the above-mentioned services
- Periodic newspapers and magazines printed on paper with the exception of those subject to 5% and do not contain advertisements or serve advertising purposes and unless they comprise video or music content
- Children's car seats and babies' nappies
- Menstrual supplies that are used specifically during menstruation, regardless of whether they are intended for single or multiple use
- Supply of water, with the exception of water sold in bottles or any other packaging
- Electricity supply to another supplier or end user, including related fees
- Supply of natural gas and district heating *(from 1 April 2024; before that a reduced rate of 5% is applied)*
- Firewood, pellets, briquettes and wood chips *(from 1 April 2024; before that a reduced rate of 5% is applied)*
- Public service of collecting mixed municipal waste, biodegradable municipal waste and separate waste collection under special regulations
- Urns and coffins
- Writers, composers and artists' services and related royalties
- Restaurant and catering services

The term "exempt supply" refers to all supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Public interest activities
- Postal service
- Hospital services and health care services
- Social care services
- Financial services
- Insurance transactions
- Real estate transactions

Option to tax for exempt supplies. An option to tax is available for the provision of credit that is connected with the taxable person's supplies of goods or services. The taxable person may also opt for taxation of supplies of real estate and land (except construction land) to another taxable person who is fully entitled to input tax deduction for the respective acquisition. The option may be exercised at the moment of supply.

E. Time of supply

The time when VAT becomes due is called the "chargeable event" or "tax point." Under the general rules the chargeable event occurs when goods are delivered or when services are performed.

If no invoice is issued for supplied goods or services, VAT is due on the last day of the tax period (month) in which the goods are delivered or the services performed.

Deposits and prepayments. If a payment is made before the supply (prepayment), VAT is due the moment the prepayment is received. A regular VAT invoice must be issued when a prepayment is received. The above rules do not apply to prepayments in connection with intra-Community supplies and acquisitions.

Continuous supplies of services. If the service is being provided continuously through several tax periods, VAT becomes due at the end of each tax period in which the service is provided, regardless of whether the invoice has been issued.

Goods sent on approval for sale or return. There are no special time of supply rules in Croatia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The supply of reverse-charge services becomes generally taxable when the service is supplied, i.e., consumed by the recipient.

Leased assets. VAT law prescribes specific VAT treatment of leasing agreements. It differentiates VAT treatment of lease transactions depending on whether the lease in question is an operating or finance lease. In general, a finance lease arrangement is treated for VAT purposes as a supply of goods while an operating lease would be treated as provision of services.

In the case of a finance lease where the lessee bears depreciation costs and may acquire ownership rights over the asset, the VAT liability for total value of the lease arises for the accounting period in which the asset has been supplied to the lessee. In the case of an operating lease where the lessor bears depreciation costs of the leased asset and the lessee does not have the purchase option, VAT liability arises with respect to respective rental fees incurred in the tax period. If rental fees are not determined for the tax period, i.e., a month, it should be calculated for each month.

Imported goods. VAT on import is due when goods are imported or when the goods leave the duty suspension regime and are released for free circulation.

VAT is considered to be paid if the importer includes the VAT amount in question on its VAT return. The condition is that the importer must be the taxable person who has a full right to VAT deduction and has indicated in the customs declaration that they will account for import VAT under the postponed accounting scheme. In such cases, the reverse charge would apply (no cash flow effect).

Intra-Community acquisitions. Tax point is the moment when goods are acquired within the EU. VAT is due the moment the invoice is issued. The invoice should be issued no later than the 15th day of the month following the month in which the goods are delivered. If the invoice for the supply is not issued in time, VAT is due on the 15th day of the month following the month in which goods were acquired.

Intra-Community supplies of goods. Generally, for intra-Community supplies of goods, the time of supply is when the invoice is issued. Otherwise, the time of supply is the 15th day of the month following the month in which goods are supplied. However, intra-Community supplies of goods are exempt from VAT in Croatia if the supplier proves that the goods have left the territory of Croatia and a VAT ID is obtained from the customer. The customer's VAT ID must be reported in the EC Sales List.

Distance sales. The time of supply rules for the supply of distance sales is the moment when the payment has been accepted by the supplier.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is the VAT charged on goods and services supplied to the taxable person for its business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied in Croatia, VAT paid on imports and self-assessed VAT

on intra-Community acquisitions of goods, acquisition of goods within the triangulation and reverse-charge services (*see the chapter on the EU*).

The time limit for a taxable person to reclaim input tax in Croatia is six years. The right to deduct input tax arises at the time when the deductible tax becomes chargeable. The Croatian General Tax Act does not set a statute of limitations for the right to recognize input tax from incoming invoices, which means that input tax from incoming invoices can be deducted when the prescribed conditions for deduction are met regardless of the "age" of the incoming invoice. However, the general statute of limitation of six years applies. The statute of limitation starts from the year following the year when the tax became deductible.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for the private use of entrepreneurs). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- 50% of costs related to the purchase and lease of passenger cars, including purchase of any related goods or services. Passenger cars are considered to be motor vehicles for transport of people which, except for the driver's seat, have no more than eight seats. As an exception, the above rule will not apply to passenger cars used for drivers' training, vehicle testing, security services, business activities that include transport of passengers, goods, deceased, leasing or are acquired for further sale; nor will it apply to certain categories based on specific tariff declarations and are not subject to taxation according to the special regulations.
- The purchase of goods or services for the purpose of business entertainment, which is defined as payment for accommodations, gifts, holidays, sport or pleasure of business partners, as well as payment for rentals of cars, boats, aircraft, summer houses, etc.

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Purchase, lease, fuel and maintenance of test vehicles, taxis and rental vehicles
- Telephones
- Books and newspapers
- Attendance at seminars and training courses (except food and drinks)
- Business gifts up to EUR22
- Hotel accommodations

Partial exemption. If an entrepreneur uses goods and services in its business activity for which an input tax deduction is allowed and uses them with respect to the supply of goods and services for which input tax deduction is not allowed, the amount of "mixed" input tax must be divided between deductible input tax and nondeductible input tax.

To determine the amount of input tax that may be recovered, one of the following methods may be used:

- The deductible input tax may be determined based on accounting and other documentation that relates to taxable and exempt supplies.
- If the taxable person cannot determine the amount of input tax as described above, a pro rata method can be used to determine the amount of deductible input tax. Under the pro rata method, the total annual supplies (exclusive of VAT) for which input tax is deductible is divided by total annual supplies, including supplies for which VAT is not deductible and subsidies.

- The amount of deductible input tax may be determined separately for each business segment of the taxable person. The taxable person must maintain separate accounting records for each business segment and notify the tax authorities before this method is applied.

If a taxable person performing both taxable and exempt supplies of goods and services determines under the pro rata method that it has the right to deduct 98% or more of input tax, it is entitled to a 100% input tax deduction.

Approval from the tax authorities is not required to use the partial exemption standard method in Croatia.

Special methods are allowed in Croatia. The taxable persons may determine the part of the input tax that it may deduct separately for each part of its business, provided that it keeps separate books for each part. If the taxable person chooses the method of determining part of the input tax in this way, it must inform the competent branch office of the tax administration before the beginning of the tax period in which it begins to apply this method of division of input tax.

Capital goods. Capital goods are goods classified according to accounting standards as long-term assets. Input tax is deducted in the year in which the goods are acquired or produced. In general, input tax on the purchase or lease of vehicles for personal transportation is 50% deductible (as of 1 January 2019, 50% of input tax should be deductible on the purchase of passenger cars regardless of their value).

If the conditions applicable to the deduction of input tax change within a five-year period beginning with the year in which the goods begin to be used, the amount of input tax is corrected in the period after the change. For real estate, the adjustment period of 10 years applies.

The capital goods adjustment also applies to additional construction and refurbishment services relating to immovable property that is capitalized.

Refunds. If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that same period, the taxable person has an input tax credit. An input tax credit may be carried forward to the following tax period and used as a payment for future VAT liabilities or may be claimed as a VAT refund. A taxable person is entitled to a VAT refund upon request within 30 days after submitting a VAT return, or, in the case of a tax audit, 90 days from when the audit started.

The tax authorities must pay interest on delayed repayments of VAT. As of 1 July 2023, the annual penalty interest rate is 7%.

Pre-registration costs. The economic or other activity of the taxable person begins with preparatory activities undertaken to starting the economy activity. Input tax in relation to preparatory activities can be deducted if all other requirements for the deduction of input tax are met. In case a taxable person has applied the special scheme for small enterprises, input tax could be deducted as of the date of VAT registration (based on the invoice for supplies received from the date of VAT registration).

Bad debts. As of 1 January 2024, new amendments have been introduced to simplify the method of correcting a taxable person's VAT obligation. Thus, the taxable person will be able to adjust the tax base in the event of inability to recover all or part of an overdue receivable that has not been collected for more than one year, within six months calculating from the day when the right to reduce the tax base arose, if all actions of a good businessperson have been carried out.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Croatia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Croatia is recoverable. The Croatian VAT authorities refund VAT incurred by businesses that are not established in Croatia and that are not registered for VAT in the country. Non-established businesses may claim Croatian VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Croatia during the refund period (excluding supplies covered by the reverse charge). For full details see the chapter on the EU.

Find below specific rules for Croatia:
- The minimum claim period is three months, and the minimum claim amount for a period of less than a year is EUR400. For an annual claim, the minimum amount is EUR50.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details see the chapter on the EU.*

Croatia applies the condition of reciprocity with respect to refund claims made by applicants from non-EU countries. The current list of jurisdictions that Croatia applies the reciprocity condition, can be found at the tax authorities' website.

The VAT refund procedure under the EU 13th Directive may be used only if the business did not perform any taxable supplies in Croatia during the refund period (excluding supplies covered by the reverse charge).

For non-EU businesses, the deadline for refund claims is 30 June following the calendar year in which the tax was incurred. The application must be completed in Croatian or English.

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

The tax authorities are obliged to decide whether the request is approved in full, partially or not approved within eight months of receiving the application for the VAT refund. If the request is approved, the tax authorities must pay the refund within 10 working days following the eight-month deadline.

All claims must be supported by valid original invoices.

The completed application and supporting documents identified above should be sent to the following address:

Porezna uprava
Područni ured Zagreb
Avenija Dubrovnik 32
10 000 Zagreb
Croatia

Late payment interest. For businesses established in the EU, interest is paid for late refund payments of VAT, provided that it is approved upon request of the Croatian tax authorities and that the applicant submits additional requested information within the prescribed time limit. Interest is accrued from the day following the last day for payment of the refund until the day the refund is paid. The interest rate applicable is the interest rate applied for delayed repayments of VAT to taxable persons established in Croatia. As of 1 July 2023, the annual penalty interest rate is 7%.

For businesses established outside the EU, interest is not paid for late refund repayments of VAT.

H. Invoicing

VAT invoices. A taxable person must generally issue invoices for all taxable supplies, including exports and intra-Community supplies made to other taxable persons and legal entities that are not taxable persons. Invoices may not be issued for certain exempt financial services and for certain other supplies. A document qualifies as a valid invoice if it complies with the requirements set out in the Croatian VAT Act.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under EU Directive 2008/9/EC or the EU 13th Directive refund schemes.

Credit notes. Where the tax base is changed subsequently because of recall, discounts or impossibility of collection, the taxable person that made a supply or performed a service can correct its VAT liability: in the case of revocation or different types of discounts, provided that the taxable person to whom the goods or service were supplied is informed of the correction carried out. In the event of inability to recover all or part of an overdue receivable that has not been collected for more than a year, the tax base can be subsequently reduced within six months calculating from the day when the right to reduce the tax base arose, if all actions of a good businessperson have been carried out. For further details see the *Bad debts* subsection above.

Electronic invoicing. Electronic invoicing is mandatory in Croatia, for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Croatia. This is in line with EU Directive 2010/55/EU (*see the chapter on the EU*). Electronic invoicing is mandatory in public procurement procedures. Additionally, electronic invoicing is mandatory in case of public procurement procedures of "small" value that are carried out on the basis of purchase orders, i.e., for the procurement of goods and services below the thresholds of EUR26,544 and the procurement of work under EUR66,361.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Croatia. This is in line with EU Directive 2010/45/EU (*see the chapter on the EU*).

In the context of the project Fiscalization 2.0. Croatian government submitted a request to the European Commission to derogate from the provisions of VAT Directive in respect to planned introduction of mandatory e-invoicing in B2B sector. Planned deadline for the introduction of the obligation to issue e-invoices for B2B supplies is 1 January 2026.

The requirements related to electronic invoicing are the same as those for paper invoicing.

Taxable persons that issue or receive electronic invoices or store invoices electronically should, upon request, grant Croatian tax authorities the right to access, download and use these invoices.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A simplified invoice may be issued for supplies made within Croatia (i.e., local supplies) that do not exceed EUR100. A simplified invoice cannot be issued for supplies to other EU Member States where VAT is due by the recipient.

Self-billing. Self-billing is allowed in Croatia. An invoice can be issued by the recipient under the condition that there is a prior agreement between the supplier and the recipient for the acceptance of each invoice by the supplier. A prior agreement means that it should be concluded before the start of self-billing. When a customer issues the invoice on behalf of the supplier, the invoice must be marked "self-invoicing" (*samoizdavanje računa*).

Proof of exports and intra-Community supplies. Croatian VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods. However, to qualify as VAT-free,

exports and intra-Community supplies must be supported by evidence that the goods have left Croatia/EU. Acceptable proof includes the following documentation:

- For an export, a copy of the export document (customs declaration) officially certified by the customs authorities.
- For an intra-Community supply, two suitable pieces of evidence that goods have been removed from Croatia to another Member State. The pieces of evidence should be issued by two different parties that are independent of each other, of the supplier and of the customer.

No special documentation applies in Croatia for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. All amounts stated on an invoice should be in the domestic currency, which is the Euro (EUR). Amounts may also be stated in any other currency if the VAT liability and the total amount of the invoice are stated in EUR, applying the Croatian National Bank's exchange rate applicable on the date when VAT liability occurred. As an alternative, the taxable person may use the exchange rate published by the European Central Bank (ECB) at the time the tax becomes chargeable.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Croatia. As such, full VAT invoices are required.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Croatia, examples of what records that must be held for VAT purposes include invoices issued and received, documents used for the VAT exemption, VAT calculations and all other documents relevant for VAT purposes.

In Croatia, VAT books and records can be kept outside of the country. However, if records are held outside of Croatia, the taxable person must inform the competent branch office of the tax authorities and make the records available to the competent authorities whenever they request so, without undue delay.

Record retention period. According to the provisions of the VAT Act, all issued and received invoices either on paper or electronically, credit notes, export and import documents, documents used for the VAT exemption, VAT calculations and all other documents relevant for VAT purposes should be kept for a period regulated by the General Tax Act. According to the General Tax Act, bookkeeping documents should be archived for the period of 10 years from the date when the statute of limitation commences, i.e., from the year following the year in which the tax return should have been filed, unless longer deadlines are prescribed by special regulations.

Electronic archiving. Electronic archiving is allowed in Croatia. Bookkeeping documentation, such as invoices, should be archived for at least 10 years starting from the last day of the year following the year to which the business records relate. The bookkeeping documents should be stored in original format (paper or electronic). Taxable persons can make electronic copies of the paper invoices, so long as the authenticity of the original invoices and the legibility and integrity of their content are kept throughout the whole storage period.

I. Returns and payment

Periodic returns. Croatian VAT returns are submitted for monthly or quarterly tax periods.

All taxable persons must submit VAT returns electronically. As an exception, VAT returns may be submitted in paper by:

- Taxable persons who are not established in Croatia, have no permanent establishment, domicile or habitual residence in Croatia and perform only occasional international road transport of passengers on the Croatian territory

- Small taxable persons who only receive and perform services for taxable persons from third countries or pay VAT on supplies subject to reverse charge received from taxable persons not established in Croatia

Quarterly tax periods coincide with the months of March, June, September and December. The tax period for a taxable person is determined on the basis of its turnover in the preceding calendar year.

Taxable persons with turnover up to EUR110,000 can submit quarterly tax returns if they do not perform intra-Community supplies. Taxable persons with turnover greater than EUR110,000 submit monthly tax returns.

The tax period for foreign taxable persons (non-established businesses) is always a calendar month. VAT returns must be submitted by the 20th day of the month following the accounting period.

Periodic payments. The VAT payment for the respective tax period must be made no later than the last day of the following month. For instance: the obligation for March must be paid by the last day of April. VAT due must be paid electronically.

Payment is made via bank transfer to the bank account of State Budget of the Republic of Croatia at Croatian National Bank. A special reference number indicating that the payment relates to VAT due must be used (1201 – followed by the taxable person's 11-digit personal identification number (OIB)).

Electronic filing. Electronic filing is mandatory in Croatia for all taxable persons. VAT returns are submitted via Croatian tax authorities' web platform, e-Porezna.

The taxable person must obtain an electronic signature for the purposes of filing VAT returns online through the web platform e-Porezna. In practice, taxable persons usually appoint a third-party service provider to submit its VAT returns on their behalf. For this purpose, the third-party service provider needs to be authorized by the taxable person with a special power of attorney.

As an exception, VAT returns may be submitted in paper by:
- The taxable persons who are not established in Croatia, have no permanent establishment, domicile or habitual residence in Croatia and perform only occasional international road transport of passengers on the Croatian territory
- Small taxable persons who only receive and perform services for taxable persons from third countries or pay VAT on supplies subject to reverse charge received from taxable persons not established in Croatia

Payments on account. Payments on account are not required in Croatia.

Special schemes. *Small enterprises.* Small businesses whose yearly turnover is below a threshold of EUR40,000 may choose to apply this scheme. Taxable persons applying this scheme do not charge Croatian VAT, as their transactions are exempt from VAT, but they also cannot deduct input tax. Normal VAT filing requirements apply. For further details, see the above subsection Voluntary registration and small businesses.

Tour operator's margin scheme. This scheme applies to travel agents who deal with customers in their own name but use goods or services supplied by other taxable persons. It does not apply to travel agents acting solely as intermediaries. All the transactions in the package are treated as a single service transaction. This service is taxable in the travel agent's home EU Member State. Travel agents are taxed only on the profits (the margin) they make by supplying a travel package. They are not allowed to deduct VAT on goods or services they buy from other businesses. Travel agents providing travel packages outside the EU are exempt from VAT on these transactions.

Normal VAT filing requirements apply. This scheme is applicable only to tour operators established in the EU.

Works of art, secondhand goods, antique goods and public auctions. Taxable dealers of secondhand goods (excludes precious metals and stones) works of art, collectors' items and antiques – as listed in Annex III of the Croatian VAT Act – may choose to apply this scheme. Taxable dealers who choose to use it will pay VAT on their profit margin (difference between buying and selling price). They will not charge or deduct any VAT on transactions covered by this scheme. Organizers of public auctions of secondhand goods, works of art, collectors' items or antiques, who act under a contract and for a commission, on behalf of certain other people/bodies, may also apply this scheme. Normal VAT filing requirements apply.

Investment gold. Supply, intra-EU acquisition, importation and futures and forward transactions leading to a transfer of ownership or claims are exempt from VAT without the right of deduction, as are the services of any intermediaries involved in the supply. Taxable persons who produce investment gold or transform gold into investment gold may waive this exemption for supplies of investment gold to other taxable persons (i.e., to choose to have these supplies taxed). Normal VAT filing requirements apply.

Cash accounting. All taxable persons whose supplies in the preceding calendar year did not exceed EUR2 million (without VAT) may apply the cash accounting scheme. Taxable persons who choose to apply the cash accounting scheme are not able to deduct input tax on invoices received from their suppliers until they have paid them.

Annual returns. Annual returns are not required in Croatia.

Supplementary filings. *Intrastat.* The Intrastat reporting threshold for 2024 is EUR450,000 for arrivals and EUR300,000 for dispatches.

The Intrastat reporting period is monthly, and the report covers the month in which receipts or deliveries occur, i.e., that month in which the goods physically enter or leave the territory of Croatia. When no reportable transactions occur in the respective month, a "nil return" should be filed.

The deadline for submission of the Intrastat form is the 15th day of the month following the reporting period. If the 15th day of the month is a nonworking day, the deadline is the last working day before the 15th day of the month.

The Intrastat report is submitted electronically to the customs authorities by Intrastat application.

EC Sales List. All businesses registered for VAT are required to complete and submit the EC Sales List (ESL) if they do any of the following:
- Make supplies of goods to a VAT-registered customer in another EU Member State
- Act as an intermediate supplier in triangular transactions between VAT-registered businesses in other EU Member States
- Make supplies of services covered by the "general rule" (to which the reverse charge applies in the customer's Member State) to a VAT-registered customer in another EU Member State

The ESL should be filed electronically on the prescribed form by the 20th day of the month following the end of the month in which reportable events occurred. There is no requirement to submit the ESL if there were no reportable sales in the respective month.

EC Acquisitions List. All businesses registered for VAT are required to complete and submit the EC Acquisitions List if they receive supplies of goods or services from a VAT-registered supplier in another EU Member State.

The EC Acquisitions List should be filed electronically on the prescribed form by the 20th day of the month following the end of the month in which reportable events occurred. There is no requirement to file if there were no reportable supplies in the respective month.

Form PPO. Croatian taxable persons supplying goods and services for which the recipient is obliged to calculate and pay VAT in accordance with the domestic reverse-charge mechanism report those supplies on Form PPO. Examples of supplies subject to the domestic reverse-charge mechanism are construction works (repair, maintenance, alteration and demolition services related to immovable property), supply of staff engaged in construction work, supplies of used material and waste. The form is filed electronically on a quarterly basis.

A Croatian taxable person that acts as a VAT representative of a foreign taxable person involved in customs procedures 42 (exemption from VAT for import of goods that are intended for other EU Member States) and 63 (exemption from VAT for re-import of goods that are intended for other EU Member States) should file a report to the Croatian tax authorities by the 20th of the month following the reporting month and disclose the information of the foreign taxable person.

Special evidence for local purchases. Taxable persons that are registered for VAT purposes in Croatia must submit a report outlining all local taxed purchases in Croatia. These are the purchases where Croatian VAT has been incurred. The special evidence is submitted electronically together with the VAT return.

Requirements for payment service providers. To prevent VAT avoidance, in particular from non-residents operating in other EU Member States, payment service providers are required to collect certain payment information. As of 1 January 2024, payment service providers are required to keep sufficiently detailed records of payees and of cross-border payments. The cross-border payment is reported by the payment service provider of the payee in case the payee has its registered seat in the EU. In case the payee has its registered seat outside the EU, the cross-border payment is reported by the payment service provider of the payer.

Correcting errors in previous returns. In case there are errors or omissions in previously filed VAT returns, a corrective return should be submitted online via the tax authorities' web platform, e-Porezna. In addition, a letter that explains the error or omission should also be sent to the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Croatia.

J. Penalties

Penalties for late registration. Penalties for non-registration range from EUR260 to EUR66,360 for the company and from EUR130 to EUR6,630 for the responsible person within the company.

Penalties for late payment and filings. For late payment of VAT, the interest rate is calculated based on the average interest rate for the reference period, determined by the ECB and published on 1 January and 1 July in the *Official Gazette*. As of 1 July 2023, the interest for late payment of VAT is charged at an annual rate of 7%.

Penalties for errors. The penalties for non-registration (see above) may also apply for errors.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of up to EUR26,540 for a legal entity and up to EUR5,300 for the responsible person within the legal entity for not reporting changes to the tax authorities. For further details, see the above subsection *Changes to VAT registration details*.

Penalties for fraud. The penalties for non-registration (see above) may also apply for fraud.

If the criminal offense of tax evasion is an amount higher than EUR2,654.46, it is punishable by a term of imprisonment ranging from six months to five years. However, if the criminal offense causes great damage, the term of imprisonment may range from 1 to 10 years.

Personal liability for company officers. A responsible person within the company can be held personally liable for errors and omissions in VAT declarations and reporting. Penalties from EUR260 to EUR2,650 may be imposed for the responsible person within the company in case of errors and omissions in VAT declarations and reporting.

A responsible person within the company may be a company director, head of finance department or person responsible for VAT reporting. It is not always easy to determine a responsible person within the company. One of the elements that should be considered is the systematization of jobs and the employment contract, the essential content of which includes, among other things, the name of the job, i.e., the nature or type of work for which the worker is employed or a short list or job description. However, the company director still has a certain responsibility and should refer the court to the responsible person, and in that sense attach a contract, internal act or other appropriate evidence for the responsible person.

Statute of limitations. The statute of limitations in Croatia is six years. The statute of limitations for the determination of tax liabilities by the tax authorities for a particular tax period expires at the end of the sixth year following the year in which the tax liability has arisen.

The statute of limitations for collection of tax and interest commences in the year following the year in which the taxable person determined the tax liability itself or by the end of the year in which the resolution by which the tax authorities determined the tax liability and interest became enforceable.

The tax authorities can perform a tax audit within three years following the commencement of the statute of limitations. This is considered as a mandatory time limit, the expiry of which has the effect that the tax authorities cease to be entitled to commence a tax audit.

A taxable person is entitled to make voluntary corrections to its VAT returns within three years following the deadline for the submission of the VAT return. If, before the expiration of the three-year time limit, a tax audit is initiated, the corrections to the VAT returns can be made no later than the date of the delivery of the notice on the commencement of the tax audit.

Curaçao

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The government announced plans for new regulations and amendments to the Turnover Tax (TOT) Ordinance on 3 March 2023. These new regulations relate to the introduction of withholding and remittance of part of the TOT due by local banks, tax and duty-free shopping for tourists, exemption from import duties on purchases in the Free Economic Zone, the designation of online platform companies as taxpayers for sales tax and the introduction of the cash accounting system. However, at the time of preparing this chapter, no further news had been released.

A. At a glance

Name of the tax	Turnover tax (TOT)
Local name	Omzetbelasting (OB)
Date introduced	1 March 1999
Trading bloc membership	Bloc membership with the Netherlands (LGO-agreement)
Administered by	Inspectie der Belastingen
TOT rates	
Standard	6%
Other	7%, 9%, exempt
TOT number format	1XX.XXX.XXX (9 digits)
TOT return periods	Monthly (or annually on request)
Thresholds	None
Recovery of TOT by non-established businesses	No

B. Scope of the tax

TOT applies to the following transactions:
- The delivery of goods or services in Curaçao by a taxable business as part of its business
- The import of goods into Curaçao

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for TOT in every jurisdiction where it has customers that are not taxable persons. In Curaçao, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a TOT-registered or TOT-registrable business will be subject to TOT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of TOT. In Curaçao, a TOGC is treated as outside the scope of TOT where the following conditions are met:

- The transfer must include elements that encompass whole or part of a taxable business
- The buyer or recipient intends to continue the taxable activities, although it does not have to perform the same activities with these assets as the transferor

Transactions between related parties. In Curaçao, there are no specific rules that indicate the value for GET purposes for transactions between related parties. However, in general an arm's-length compensation should be considered.

C. Who is liable

A taxable business (i.e., a taxable person) is a business entity or individual who delivers goods or performs services (taxable activities) in Curaçao. This includes a representative that supplies services on behalf of a nonresident business. In principle, the business performing the services or delivering the goods is liable for TOT. In some cases, when the reverse-charge mechanism applies, the (business) customer will be liable for TOT on services enjoyed.

The definition of a business was broadened to include an entity or individual who manages an asset to obtain revenue from the asset on a permanent basis. For example, any form of leasing real estate located in Curaçao is subject to TOT, unless an exemption applies.

Exemption from registration. The TOT law in Curaçao does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The TOT law in Curaçao does not contain any provision for voluntary TOT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for TOT).

Group registration. Group TOT registration is not allowed in Curaçao.

Fixed establishment. In Curaçao there is no legal definition of a fixed establishment for GET purposes. However, generally a fixed establishment is understood to be a business establishment in Curaçao of an entity established outside of Curaçao, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies and/or to receive and use the services supplied to it for its own needs. A fixed establishment should be capable of acting as a taxable person independently of the head office.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Curaçao. A non-established business is deemed to have chosen a domicile at the office of the Inspectorate of Taxes, unless the Inspectorate of Taxes has been notified in writing of a different domicile in Curaçao.

Tax representatives. A taxable person may be represented by a third party based on a power of attorney.

Reverse charge. The "reverse charge" generally applies to supplies of services made by non-established businesses to taxable persons established in Curaçao, provided that local TOT is due

on these supplies. Under the reverse-charge provision, the recipient of the supply must account for the TOT due. The reverse-charge mechanism does not apply to supplies made to private individuals.

Domestic reverse charge. There are no domestic reverse charges in Curaçao.

Digital economy. TOT legislation does not specifically mention any regulations in connection with the digital economy, i.e., special TOT treatment for the supply of electronic or digital services.

For nonresidents providing electronically supplied services for business-to-business (B2B) supplies, TOT is generally applicable on the payment from the customer to the business. This is where the services provided by the non-established business are deemed to take place where the service is enjoyed. Note that electronically provided content is generally treated as a service for turnover tax purposes. For a B2B supply, the reverse-charge mechanism applies. In this case, the customer is expected to self-assess TOT on the payment to the business in its monthly turnover tax returns.

For nonresidents providing electronically supplied services for business-to-consumer (B2C) supplies, the supplier must register and account for TOT in Curaçao on such supplies.

There are no other specific e-commerce rules for imported goods in Curaçao.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Curaçao.

Registration procedures. In general, a taxable entity that begins taxable activities must register with the Inspectorate of Taxes by filing a hard copy letter requesting registration along with some additional required documentation. Completion of the registration process may take from one week up through a few weeks.

TOT registration does not require a specific form, but application should be made in writing. The registration requires an indication of all taxes in scope and relevant estimations and, if applicable, power of attorney.

When registering a business, copies of the following documents must be submitted.

In case of a sole proprietorship/contractor:
- ID card/passport
- Chamber of commerce registration
- Business license

In case of a NV/BV/other legal entities, the following documents should be submitted additionally:
- Deed of incorporation
- Director's license

Deregistration. For the deregistration with the Inspectorate of Taxes, a taxable person should provide proof of deregistration as issued by the Curaçao Chamber of Commerce and some additional documentation. The deregistration with the tax authorities should be completed once all tax filing and payment obligations have been met by the taxable person.

Changes to TOT registration details. For any changes to a taxable person's TOT registration details (in particular a change in address but includes any change that could impact the tax position), they must notify the tax authorities (in writing) within one month after the change takes place.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of TOT.

The TOT rates are:
- Standard rate: 6%
- Special rates: 7%, 9%

The standard rate of TOT applies to all supplies of goods or services, unless a specific measure provides for a different rate or exemption.

Examples of services taxable at 7%

- Insurance (exemption for life insurance, funeral insurance, health insurance, reinsurance by insurance companies and services provided by brokers)
- Hotel accommodation

Examples of goods and services taxable at 9%

- Import of most goods
- Sale of motor vehicles
- Food prepared and suitable for immediate consumption
- Soft drinks with exception of fruit juices
- Alcoholic beverages
- Tobacco products
- Digital equipment for the storage of films, games and similar data
- Mobile phones and other means of communication
- Weapons and ammunition
- Fireworks
- Christmas trees (except synthetic Christmas trees)
- Motor vehicle rental
- Recreational outings for pleasure
- Scuba diving
- Admission to cinemas, expositions, adult entertainment and permanent recreational facilities
- Film and computer game rental
- Providing food, drinks and alcoholic beverages for consumption in hotels, bars, restaurants and related venues
- Participation in lottery games

The term "exempt supplies" refers to supplies of goods and services that are not liable to TOT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Exports of goods (subject to evidence the goods have left Curaçao)
- Medical services
- Water and electricity services
- Public transportation services
- Betting and gaming (casinos)
- Postal services
- Services and goods to an oil refinery
- Bread
- Eggs
- Rice
- Potatoes
- Grain
- Flour
- Baby food
- Fruits and vegetables
- Bottled water
- Foreign-orientated activities of businesses in the possession of a foreign exchange license
- Liquefied natural gas by or through the intermediary of an LNG transfer station

- Certain services provided to companies or individuals that are in the possession of a foreign exchange license
- Sales to cruise tourists by qualifying taxable persons

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Curaçao.

E. Time of supply

The time when TOT becomes due is called the "time of supply" or "tax point." In principle, the time of supply for taxable supplies is the date on which the invoice is issued or should have been issued.

In Curaçao, an invoice must be issued by the 15th day of the month following the month in which the supply takes place. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due, at the latest, on the day on which the invoice should have been issued.

Deposits and prepayments. The time of supply rule for deposits and prepayments is the earlier of when an invoice has been issued, or should have been issued, for the delivery of goods or rendering of services.

Continuous supplies of services. The time of supply rule for continuous supplies of services is the earlier of when an invoice has been issued, or should have been issued, for the delivery of goods or rendering of services.

Goods sent on approval for sale or return. There are no special time of supply rules in Curaçao for supplies of goods sent for sale or return. As such, the general time of supply rules apply (see above).

Reverse-charge services. There are no special time of supply rules in Curaçao for supplies of reverse-charge services. As such, the general time of supply rules apply (see above).

Leased assets. There are no special time of supply rules in Curaçao for supplies of leased assets. As such, the general time of supply rules apply (see above).

Imported goods. There are no special time of supply rules in Curaçao for supplies of imported goods. As such, the general time of supply rule applies, and the time of supply is considered to be the moment of importation.

F. Recovery of TOT by taxable persons

In principle, the recovery of TOT by taxable business is not allowed in Curaçao.

There is no set time limit for a taxable person to reclaim input tax in Curaçao. This means that, effectively, the input tax may be carried forward indefinitely until its complete recovery. However, while in principle there is no time limit, a taxable person must have a valid decree allowing it to effectuate the deduction of input tax. The decree must be renewed upon expiration.

Nondeductible input tax. In general, TOT is nondeductible in Curaçao. However, with regard to the import of goods, an entrepreneur may, subject to certain conditions and instructions, request the Inspectorate of Taxes to approve a 50% deduction of TOT.

Examples of items for which input tax is nondeductible

- Input tax due on services to a manufacturer with services that are not directly related to the production of taxable goods by such manufacturer in Curaçao.

Examples of items for which input tax is deductible (if related to a taxable business use)

- TOT paid by the selling business on the import of a commodity

- TOT paid on the import of raw materials, semi-finished products and packing materials used for exported goods produced by the importing business

Fifty percent of TOT paid on imports is recovered by deducting it against TOT due in the TOT return for each TOT period. If the input tax exceeds TOT due in a period, the excess may be carried forward to the following TOT period and subsequent periods.

Partial exemption. In general, TOT is nondeductible in Curaçao. As such, there is no distinction between input tax incurred in relation to exempt and taxable supplies. Consequently, the TOT legislation does not specifically mention any regulations in connection with partial exemption.

Capital goods. In general, TOT is nondeductible in Curaçao. As such, there are no special rules regarding input tax incurred in relation to capital goods. Consequently, the TOT legislation does not specifically mention any regulations in connection with capital goods.

Refunds. In general, TOT is nondeductible in Curaçao. As such refunds are not allowed.

Pre-registration costs. Input tax incurred on pre-registration costs in Curaçao is not recoverable.

Bad debts. When an amount receivable will not be paid (in full), businesses can reclaim the remitted TOT. Entitlement to a TOT refund arises when it is established that a receivable will not be paid partially or in full, at the moment that this can be determined. Entitlement to a refund arises when it becomes clear the debtor will not pay its receivable. The refund request is not included in the regular TOT return, a separate request must in principle be made with the Curaçao tax authorities. Note that if a receivable has been marked as a "bad debt," and then is subsequently paid (in full or partially) after the overpaid TOT has been refunded, the business will have to repay (in full or partially) the refunded TOT.

Specifically, a refund of TOT can be requested if certain conditions are met, and the taxable person is sufficiently able to prove the following:
- The TOT paid was not actually due
- Payment for the supplied goods or services will eventually not be received by the taxable person
- Payment is reimbursed by the taxable person following the reduction of the amount due or in the event that the goods have been returned unused

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Curaçao.

G. Recovery of TOT by non-established businesses

Input tax incurred by non-established businesses that are not registered for TOT in Curaçao is not recoverable.

H. Invoicing

TOT invoices. A taxable person must provide a receipt or invoice for all taxable supplies made, including exports. The invoice must be issued within 15 days after the end of the month in which the goods were delivered, or the services were rendered. The invoice must include certain information of the supplier, such as address and tax identification number and the transaction.

Credit notes. A TOT credit note must be issued if the quantity or consideration shown on an invoice is altered. In general, credit notes must contain the same information as the original invoices.

Electronic invoicing. Electronic invoicing is allowed in Curaçao, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Curaçao.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Curaçao.

The requirements related to electronic invoicing are the same as those for paper invoicing.

Simplified TOT invoices. Simplified TOT invoices are allowed for certain industries. This includes entrepreneurs active in the hospitality industry, repair of retail products and sale of retail products, as well as entrepreneurs providing personal services. Such suppliers are required to provide a receipt to their customers instead of a full TOT invoice. A simplified version of a TOT invoice is a tax receipt, which should be provided at the time of transaction and contain the base information regarding the supplier and the transaction (rate, etc.).

Self-billing. Self-billing is not allowed in Curaçao.

Proof of exports. To qualify for the TOT exemption applicable to the export of goods, the following documents are required for the business's administration:
- A copy of the issued invoice
- A proof of payment
- Transport documentation evidencing that the goods have left the levy territory

Foreign currency invoices. All amounts indicated on an invoice can be in a foreign currency provided that the amount of TOT due is indicated in the domestic currency, which is the Antillean guilders (ANG).

Supplies to nontaxable persons. The Curaçao TOT legislation does not have any special rules for TOT invoices issued to private consumers. However, retailers, businesses that provide personal services, businesses in the catering industry ("horeca") and lottery vendors are required to use a cash register system, and in principle, they will need to issue receipts to their customers. All other businesses will need to issue invoices.

Records. In Curaçao, examples of what records must be held for TOT purposes include records of their assets and of everything relating to their business activities. Such records are required to be held in such a manner that at any time their rights, obligations and all other information relevant for tax purposes are clear and readily available within a reasonable time frame upon request from the tax authorities. Copies of all AR invoices and foreign AP invoices for services must be kept, as well as export documentation.

In Curaçao, TOT books and records can be kept outside of the country. Records may be kept outside Curaçao, provided these can be presented upon request of the tax authorities and the integrity and authenticity of the documents is safeguarded.

Record retention period. Records, invoices and other accounting information must be kept for 10 years.

Electronic archiving. Electronic archiving is allowed in Curaçao.

I. Returns and payment

Periodic returns. TOT returns can be filed on a monthly or annual basis. TOT returns are generally submitted for monthly periods. Returns must be filed by the 15th day of the month following the end of the reporting period.

The Inspectorate of Taxes may allow the filing of an annual TOT return instead of monthly TOT returns in one of the following situations:
- It concerns a small enterprise (see below under the *Special schemes* subsection)
- The taxable person almost exclusively provides TOT-exempt supplies and the TOT taxable revenue does not exceed the threshold of ANG30,000

The annual tax return (and payment) is due on 15 February following the respective calendar year.

Periodic payments. TOT due must be paid by the 15th day of the month following the end of the reporting period. The TOT due for the period must be remitted together with the return.

Electronic filing. Electronic filing is mandatory in Curaçao for all taxable persons. TOT returns must be filed electronically upon online registration with the tax authorities (http:/www.online.belastingdienst.cw).

Payments on account. Payments on account are not required in Curaçao.

Special schemes. *Small enterprises.* A small enterprise is a resident individual who has a business or permanent establishment in Curaçao and who had turnover (excluding TOT) in the preceding calendar year of ANG30,000 or less. If a request is filed with the Inspectorate of Taxes and it is granted, a small enterprise is not liable for TOT. However, the small enterprise must still submit TOT returns for monthly periods. Upon request of the small enterprise, the small enterprise may submit annual TOT returns.

If the annual turnover of ANG30,000 is exceeded in any year, TOT is due on the excess amount. Furthermore, the business will also lose its status as a small enterprise.

The arrangement for small enterprises mentioned above does not apply to businesses who manage real estate to obtain revenue from the real estate on a permanent basis.

Nonprofit organizations. Supplies by organizations of a social, cultural, charitable, sports or religious nature may also be exempt from TOT if there is no profit motive nor distortion of competition.

Gambling companies. The term "gambling" refers to the participation in lottery and bingo games. If the exploiter is a non-established business, the organizer or the contract arranger of the gambling games is liable for TOT.

E-zones. In principle, E-zone companies are not liable for TOT as the economic zone is excluded from the levy area.

Offshore companies and onshore banks. Companies and banks that are taxed under the so-called offshore tax regime and hold a foreign-exchange license are generally business liable for TOT but exempt for their foreign-orientated activities. The offshore regime is grandfathered up to and including the year 2019. Foreign-orientated activities of businesses in the possession of a foreign exchange license are exempt, as well as certain services provided to businesses in the possession of a foreign exchange license.

Annual returns. Annual returns are not required in Curaçao.

Supplementary filings. No supplementary filings are required in Curaçao.

Correcting errors in previous returns. In case a taxable person needs to correct any errors, they will need to file a new return over the respective period or a reconciliation return. A taxable person can also file an objection against an incorrectly filed return and thus reclaim an overpayment.

Digital tax administration. There are no transactional reporting requirements in Curaçao.

J. Penalties

Penalties for late registration. There is no specific penalty in Curaçao for the late registration of TOT. However, if the late registration results in the late payment of TOT or the late submission of TOT returns, penalties may be imposed.

Penalties for late payment and filings. TOT penalties are imposed for the late submission of a TOT return or for the late payment of TOT, in the following amounts:
- For the late submission of a TOT return, the maximum fine is ANG2,500.
- For the late payment of TOT, the maximum fine is ANG10,000.
- If the late payment is caused by negligence, fault or intent, a fine of 100% of the TOT payable may be imposed.

Penalties for errors. A negligence tax penalty of up to 100% of the additional tax due can be imposed if the deficit is attributable to the intent or gross negligence of the taxable person.

The late notification or failure to notify the tax authorities of changes to a taxable person's TOT registration details can result in a regular administrative penalty.

Penalties for fraud. Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in TOT declarations and reporting in Curaçao.

Statute of limitations. The statute of limitations in Curaçao is five years. However, in the case of bad faith, this increases to 10 years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Φόρος Προστιθέμενης Αξίας (ΦΠΑ)
Date introduced	1 July 1992
Trading bloc membership	European Union (EU)
Administered by	Tax Department, Indirect Taxation (https://www.mof.gov.cy/tax)
VAT rates	
Standard	19%
Reduced	3% *(with effect from 13 July 2023)*, 5%, 9%
Other	Zero-rated (0%) and exempt
VAT number format	12345678X
VAT return periods	Quarterly

Thresholds	
Registration	
Established	EUR15,600
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,251
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Cyprus by a taxable person
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- Reverse-charge services received by a taxable person in Cyprus
- The importation of goods from outside the EU, regardless of the status of the importer

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

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing. Proof of exports and intra-Community supplies.*

The Cyprus government has partially implemented into domestic law the Quick Fixes provisions with effect from 1 January 2020. Specifically, Cyprus VAT law has up to now implemented the provisions relevant to the four Quick Fixes being the simplified treatment of call-off stock transactions (for sales of goods stored in another Member State), the requirement for evidence/proof that the goods have been actually transported to another Member State, the simplification rules for chain transactions and the existence of a valid VAT registration number of the recipient of the goods for applying the VAT exemption/zero rate.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Cyprus, the following services are subject to the use and enjoyment provisions:
- Hiring of means of transport
- Hire of goods
- Broadcasting services for business-to-business (B2B) supplies only
- Electronically supplied services
- Telecommunication services
- Transport of good services

Transfer of a going concern. In Cyprus, a transfer of a going concern (TOGC) is not a taxable transaction, subject to the following conditions:

- The result of the transfer is that the new owner acquires a business that can operate as such.
- The business or part of it is a going concern at the time of the transfer.
- The assets transferred will be used by the new owner for the same type of business activities.
- No successive transfers should take place.
- The new owner should be VAT registered or become liable to register as a result of the transfer or registered voluntarily.
- There is no significant interruption of business operations.
- For partial transfers of a business, the part that is transferred should be able to operate independently.

Transactions between related parties. There are provisions within the VAT legislation with respect to related party transactions being applicable, where involved parties do not have the full/partial right to recover input tax.

Cyprus follows the rules as per the EU Directive regarding arm's-length adjustments on the taxable amount for related entities. Specifically, when the value of a transaction (supply of goods/services) is carried out by a taxable person for consideration and that person is related with the recipient of the supply, who does not have the full/partial right to recover input tax, the Cyprus Tax Commissioner may adjust the value of the transaction to be equal to the market value.

C. Who is liable

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

A person making taxable supplies must register at the end of any month if the value of taxable supplies in the year ended on the last day of that month exceeds EUR15,600. A person exceeding this threshold must notify the Tax Commissioner by submitting Form T.F. 2001, "Application for registration of a new taxable person and issue of tax identification number," and Form T.F. 1101, "Supplementary application for registration to the VAT registry," to the local VAT office within 30 days after the end of the relevant month. Registration is effective from the end of the month following the relevant month or from such earlier date as may be agreed.

If a person makes a supply of services to a taxable person in another EU Member State and if such services are taxable where the recipient of the services is established, the person making the supply must register from the date of making the supply. A person making such supply must notify the Tax Commissioner by submitting Form T.F. 2001, "Application for registration of a new taxable person and issue of tax identification number," and Form T.F. 1101, "Supplementary application for registration to the VAT registry," to the local VAT office within 30 days after the creation of the obligation. Registration is effective as of the date of the creation of the obligation.

A person must register for VAT purposes if reasonable grounds exist for believing that taxable supplies in the next 30 days will exceed EUR15,600. The taxable person must submit Form T.F. 2001, "Application for registration of a new taxable person and issue of tax identification number," and Form T.F. 1101, "Supplementary application for registration to the VAT registry," to the local VAT office within the 30 days and registration is effective from the beginning of that 30-day period.

Exemption from registration. The VAT law in Cyprus does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Cyprus contains a provision for voluntary registration for VAT for taxable persons who have a business establishment in Cyprus, or

their usual place of residence is in Cyprus and make supplies outside Cyprus (that would be treated as taxable supplies if made within Cyprus).

Group registration. VAT grouping is possible for two or more taxable legal persons (i.e., companies) registered in Cyprus. The following are the principal aspects of grouping:
- One member of the group is appointed as the representative member.
- The representative member is responsible for the preparation and submission of the VAT returns and for paying or reclaiming any VAT on behalf of all group members.
- Any business carried on by a member of the group is treated as being carried on by the representative member.
- Any supply of goods or services performed by a member of the group to another member of the group is disregarded.
- Any supply of goods or services by or to a third party is treated as a supply to or by the representative member.
- All members of the group are jointly and severally liable for any VAT payable and/or penalties owed by the representative member. In addition, former members of the group continue to be liable for tax debts incurred during the time they were members of the group.

The tax authorities have discretion to dismiss a VAT group application for the purpose of protecting public revenue.

There is no minimum time period required for the duration of a VAT group.

Holding companies. In Cyprus, a pure holding company cannot be a member of a VAT group. However, there is scope to further examine applicability on a case-by-case basis.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been implemented in Cyprus. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Cyprus VAT law).

Fixed establishment. A foreign business has a fixed establishment for VAT purposes in Cyprus if there is a sufficient degree of permanence and a suitable structure in terms of human and technical resources to receive and use or to make the respective supplies. Simply having a VAT identification number does not in itself mean that an establishment qualifies as a fixed establishment.

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

Consequently, a non-established business must register for Cypriot VAT if it makes any of the following supplies:
- Intra-Community supplies
- Intra-Community acquisitions
- Distance sales in excess of the threshold
- Supplies of goods and services that are not subject to the reverse charge (e.g., goods or services supplied to private persons)
- Supplies of services that are taxable in Cyprus if the reverse charge is not applicable to the recipient

Tax representatives. The VAT authorities may instruct any taxable person that does not have any business establishment, fixed establishment or usual place of residence within the EU to appoint a VAT representative to act on its behalf with respect to VAT. This representative is personally liable for any VAT that is not paid. In most instances where a taxable person is established in Switzerland, a VAT representative appointment is not required.

If the taxable person fails to appoint a VAT representative, the Tax Commissioner may require the taxable person to provide adequate security for the payment of any VAT that is or may become due.

Reverse charge. The reserve-charge mechanism applies in situations where services subject to specific exceptions are supplied by a person outside Cyprus to a person who is carrying on a business in Cyprus. The recipient is treated as having made the supply himself and as if that supply was a taxable supply and thus must account for output tax. The person will then have the right to claim a corresponding amount as input tax, subject to their partial exemption status.

The reverse charge should be treated like output tax with a corresponding credit for input tax depending on the ability of a person to recover input tax.

Domestic reverse charge. If a taxable person provides services or services together with goods in the context of construction, alteration, demolition, repair or maintenance of a building or any civil engineering project, including services provided by developers, contractors, architects, civil engineers and quantity surveyors, to another taxable person who receives these in the furtherance of his business, then the supplier will not charge VAT.

With effect from 20 August 2020, the obligation of a taxable person to self-account for VAT by applying the reverse-charge mechanism on the above services has been extended to cases where the supplier of the services is not a taxable person. The requirement for the reverse charge is on the taxable person, whereby the supplier of the aforementioned construction services is not VAT registered. Such provision introduced for instances where the suppliers have fluctuating volume of services and/or did not register for VAT purposes.

The customer must account for the VAT in accordance with the reverse-charge rules. Reverse charge is also applicable for the recipient where a property supply arises under relevant restructuring laws or foreclosure procedures.

This amendment has been introduced as part of a package of measures in Cyprus to improve tax collection and to tackle VAT fraud by so practitioners. This implies that if a person provides construction services of low value and not registered for VAT purposes, the recipient (being a taxable person) of construction services would have an obligation to self-account for VAT through the reverse charge. The Cyprus tax authorities did not impose a threshold for such reverse-charge application.

The supply of scrap and/or precious metals to a taxable person that acquires these materials in the course of the furtherance of their business is also subject to the local reverse charge. The purchaser must account for the VAT in accordance with the reverse-charge rules outlined above.

Moreover, with effect from 1 October 2020, the supply of mobile phones, other devices operating in networks, microprocessors, central processing units, gaming consoles, tablets and laptops is subject to a local reverse charge. The purchaser will also need to account for VAT in accordance with the reverse-charge rules, with immediate right for input tax recovery.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (i.e., e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules, because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see the *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.

- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" (OSS) mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Note that the European e-commerce rules (as outlined below) were transposed into the Cyprus VAT law via a number of regulations and amendments published in the Official Gazette of the Republic in December 2021. The rules have a retrospective effect (i.e., effective from July 2021).

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the non-established businesses subsection above).

In Cyprus, to register for VAT it is necessary for the nonresident supplier to have an establishment in Cyprus or appoint a representative. Registration is made via the submission of a Form T.F. 2001 to the VAT authorities. In case the nonresident supplier will appoint a representative, it is necessary to also submit form 104,

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Cyprus, registration for OSS can be made online (https://tax-oss.mof.gov.cy/login). *For more details about the operation of the OSS, see the chapter on the EU.*

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance ales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers

in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). The intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. As from 1 January 2019, the Cypriot VAT treatment of vouchers is determined in line with the EU VAT Directive. In essence, the Cypriot VAT law provides definitions of what constitutes a voucher separating a single-purpose voucher (SPV) and a multi-purpose voucher (MPV) according to their contractual terms and conditions.

A SPV is a voucher for which the country of supply is known at the time of the issue and the goods/services that can be redeemed are subject to one VAT rate (one of 5% or 9% or 19%). VAT is accounted at the time of issue or subsequent transfer (sale) of the voucher.

An MPV is a voucher for which at the time of its payment, the nature of goods/services that will be delivered is not known. VAT is accounted at the time of redemption. Issue and subsequent transfer (sale) is not subject to VAT.

Registration procedures. A person making taxable supplies must be registered at the end of any month if the value of the taxable supplies in a period of 12 months has exceeded EUR15,600. The person must notify the VAT authorities by submitting in person Form T.F. 2001, "Application for registration of a new taxable person and issue of tax identification number," and Form T.F. 1101, "Supplementary application for registration to the VAT registry," to the local VAT office within 30 days of the end of the relevant month. A person is also liable to register if there are reasonable grounds for believing that taxable supplies in the next 30 days will exceed EUR15,600,

also by submitting Form T.F. 2001, "Application for registration of a new taxable person and issue of tax identification number," and Form T.F. 1101, "Supplementary application for registration to the VAT registry," to the local VAT office within 30 days. Online registration is not available, and the process can be completed within one to four weeks.

Deregistration. Registration is canceled in the following cases:
- Decreasing business turnover. Where any registered person notifies the Tax Commissioner that the value of taxable supplies in one year has fallen below EUR13,668.81 and applies for cancellation of his registration, then an authorized VAT officer, if satisfied of this fact, shall cancel the registration with effect from the date of the notification or from any other later date as may be agreed between the Tax Commissioner and that person.
- Termination of taxable supplies or termination of the intention to make taxable supplies. When a registered person ceases to make taxable supplies and is not entitled to remain registered or ceases to have the intention to make taxable supplies, it must notify the Tax Commissioner within 60 days of the date of the termination by submitting an Application for Cancellation of Registration (Form VAT 204). Failing to comply, the person is liable to a levy of EUR85. If an authorized VAT officer is satisfied of the fact of the termination, it must cancel the registration with effect from the date that the person ceased to make taxable supplies or ceased to have the intention of making taxable supplies or from any other later date as may be agreed between the VAT officer and that person.
- Deregistration in the case of distance sales. A person registered for making or intending to make distance sales in Cyprus is liable to apply for deregistration when it no longer makes or intends to make distance sales in Cyprus and it is not liable to register in Cyprus for any other taxable transactions.
- Deregistration in the case of acquisitions. A person registered for making or intending to make acquisitions in Cyprus is liable to apply for deregistration when that person no longer makes or intends to make acquisitions in Cyprus.
- Retrospective cancellation of registration. If the VAT officer is satisfied that on a specified date, a registered person was neither entitled nor liable to be registered, the VAT officer can cancel the registration with effect from that date.

Changes to VAT registration details. If there are changes to a taxable person's VAT registration details, they must notify the tax authorities immediately (i.e., as soon as it comes to the knowledge of the taxable person) by submitting Form T.F 2003. Online submission is not available. There is no specific deadline or penalties that apply for such notification.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 19%
- Reduced rates: 3% *(with effect from 13 July 2023)*, 5%, 9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure allows a reduced rate, the zero rate or exemption.

Examples of goods and services taxable at 0%
- Supply, lease and repair of seagoing vehicles and aircraft and related services
- International transport of persons
- Exports of goods outside the EU and related services
- Intra-Community supplies of goods and intangible services supplied to another taxable person established in the EU or to recipients outside the EU (*see the chapter on the EU*)

- Typewriters with Braille characters and special electronic typewriters (e.g., electronic pocket communication devices) and new type embossing typewriters *(with effect from 13 July 2023)*
- Wheeled and other vehicles for the disabled, including those with motor/otherwise within C.N. 87.13 exclusively for personal use by people with disabilities *(with effect from 13 July 2023)*
- Bread: all types of bread, including frozen bread with or without leaven, but excludes pastries, baked or dried products and breads with additional ingredients (e.g., raisins) *(with effect from 1 November 2023 to 30 April 2024)*
- Milk: fresh milk (e.g., cow, goat and sheep), sweetened, condensed, long-life, flavored milk, plant-based milk *(with effect from 1 November 2023 to 30 April 2024)*
- Eggs *(with effect from 1 November 2023 to 30 April 2024)*
- Baby food, in powder, dry or liquid form intended for the consumption by children, but snacks (e.g., crisps, candies) are excluded *(with effect from 1 November 2023 to 30 April 2024)*
- Baby and adult diapers *(with effect from 1 November 2023 to 30 April 2024)*
- Feminine hygiene products (e.g., tampons, sanitary napkins and incontinence pads) *(with effect from 1 November 2023 to 30 April 2024)*
- Coffee: unroasted, roasted beans, ground, powdered, instant, flavored, caffeinated or decaffeinated in any package, but does not include ready-to-consume drinks or beverages that contain coffee and are consumed cold or hot *(with effect from 1 November 2023 to 30 April 2024)*
- Sugar: crystalline (white, brown, black), fine (powdered), coarse, cubed, in sachets *(with effect from 1 November 2023 to 30 April 2024)*

Examples of goods and services taxable at 3%

- Books, newspapers and periodicals provided in either physical or electronic form or both (including brochures, prospectuses and similar printed material, children's illustrated books and tracing – coloring books, printed or handwritten musical scores, hydrographic charts), excluding publications intended mainly for advertising purposes and publications consisting wholly or mainly of video or audio content music; production of publications by non-profit organizations and services related to their production (C.N. 49.01 – 49.05)*(with effect from 13 July 2023)*
- Books for people with disabilities (C.N. 85.23) *(with effect from 13 July 2023)*
- Special lifting devices (e.g., stairs, lifts, similar lifting equipment) for people with disabilities *(with effect from 13 July 2023)*
- Wheelchairs and other vehicles for people with disabilities *(with effect from 13 July 2023)*
- Orthopedic items and appliances, including medical surgical belts or bandages and crutches *(with effect from 13 July 2023)*
- Splints and other devices/items for fractures, prosthetic items, devices and hearing aids for the deaf, and other devices that are handheld, carried by persons or inserted into the human body for the purpose of filling a deficiency or treating a disability; parts and accessories for these goods are excluded *(with effect from 13 July 2023)*
- Street cleaning, sewage and refuse collection performed by private entities; services provided by state, local authorities and public law bodies are excluded *(with effect from 13 July 2023)*
- Waste treatment or waste recycling *(with effect from 13 July 2023)*
- Debut performance of theatrical, musical, dance or classical plays *(with effect from 13 July 2023)*

Examples of goods and services taxable at 5%

- Services provided by undertakers
- Services of writers and composers
- Refuse collection
- Waste treatment
- Road cleaning
- Fertilizers
- Animal feeding stuffs

- Liquefied petroleum gas
- Various goods for incapacitated persons
- Bus fares for rural and urban areas
- Newspapers, books, magazines and similar items
- Water
- Medicines
- Food (except supplied in the course of catering)
- Purchase, construction or renovation of a house or flat to be used as a private main residence, (subject to conditions), including additions/extensions to a private house, provided that at least three years have passed since its first occupation

Examples of goods and services taxable at 9%

- Restaurant services (excluding the supply of alcoholic drinks)
- Transportation of passengers and their luggage by taxi
- Accommodation provided by hotels and other similar establishments, including the provision of holiday accommodation
- A combined provision of services that includes accommodation provided by hotels and other similar establishments and the provision of breakfast and/or half-board and/or full board, and/or a combined service that includes, in addition to accommodation, the provision of other catering facilities, such as alcoholic drinks, beer and wine

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Real estate (except: "new buildings," transfer of developed building land intended for the construction of structures in the course of carrying out a business activity, and leasing of immovable property to taxable persons for taxable business activities, for which a permanent non-imposition of VAT can be exercised by the lessor)
- Services of doctors and dentists
- Social welfare
- Finance (except Society for Worldwide Interbank Financial Telecommunications [SWIFT] services)
- Insurance and reinsurance
- Human organs
- Education services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Cyprus.

E. Time of supply

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

For a supply of goods, the tax point is the earliest of the following:
- The date of delivery of goods
- The date of issuance of the invoice
- The date of payment

For a supply of services, the tax point is the earliest of the following:
- The date of completion or performance of the services
- The date of issuance of the invoice
- The date of payment

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

Deposits and prepayments. Prepayments create a tax point for Cypriot VAT purposes for the value of the paid amount. However, in the case of intra-Community supplies, a prepayment does not create a tax point for Cypriot VAT purposes.

Continuous supplies of services. In the case that no invoices have been issued and/or no payments have been made for a period of a calendar year, an annual tax point is created.

Goods sent on approval for sale or return. Goods sent for "sale or return" are considered as a supply of goods for VAT purposes, only where it is certain that the sale will take place (i.e., client shows intention to keep the goods or pays for the goods).

If no sale or return of the goods takes place within a period of 12 months and the 12-month period has elapsed, then the tax point is created at 12 months. Where it is certain that the sale will take place, the normal tax point rules in relation to goods apply (as per the above) being the earliest of delivery, invoice issuance or payment.

Reverse-charge services. For reverse-charge supplies, the tax point is the earliest of:
- The date of completion or performance of the services
- The date of issuance of the invoice
- The date of payment

For continuous supplies of reverse-charge services, refer to the paragraph below for continuous supplies of services.

Leased assets. There are no special time of supply rules in Cyprus for supplies of leased assets. As such, the general time of supply rules apply (as outlined above). In accordance with Court of Justice of the European Union (CJEU) case law, financial leases where the economic rationale lies in acquiring the asset at the end of the lease may be considered to be supplies of goods and VAT on the full amount of the asset's value is due from the onset of the lease.

Imported goods. The time of the supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime

Intra-Community acquisitions. For an intra-Community acquisition of goods, the tax point is the earliest of the following:
- The 15th day of the month following the month in which the goods are sent
- The date of issuance of the invoice by the supplier

Intra-Community supplies. For an intra-Community supply of goods, the tax point is the earliest of the following:
- The 15th day of the month following the month in which the supplier sent the goods, or the recipient receives them to transfer them outside Cyprus
- The date of the issuance of the invoice by the supplier

Distance sales. There are no special time of supply rules in Cyprus for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

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

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

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

The time limit for a taxable person to reclaim input tax in Cyprus is six years. This is from the date of submission of the relevant VAT return with a refundable balance, unless otherwise approved by the Tax Commissioner.

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

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

Examples of items for which input tax is nondeductible

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

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire, lease and maintenance for vans and trucks
- Fuel
- Parking costs
- Attending conferences, seminars and training courses
- Business gifts (if valued at more than EUR17.09, output tax is due)
- Business use of home telephone
- Mobile phones (the invoices must be issued in the name of the business)
- Advertising

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

Input tax directly relating to taxable supplies is fully recoverable and input tax directly relating to exempt supplies is not recoverable. Non-attributable input tax (i.e., common expenses) must be apportioned. The standard method for apportioning input tax is to multiply non-attributable input tax by the ratio of the value of taxable supplies to the value of total supplies.

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

If a business provides services described above to customers both in the EU and outside the EU, the amount of refundable input tax is apportioned accordingly.

Approval from the tax authorities is not required to use the partial exemption standard method in Cyprus. However, while it is not a mandatory requirement, it is recommended for the apportionment method to be confirmed with the authorities in advance through a VAT ruling.

The tax authorities expect a fair and reasonable method to be applied with respect to input tax calculation. There are provisions within the domestic regulations that allow for special methods to be used as long as advance approval is obtained from the Cyprus Tax Department.

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

The capital goods scheme in Cyprus applies to the following transactions:
- The acquisition of tangible fixed assets maintained and used by a business (the cost of repairs and maintenance are not included in the value of the tangible fixed assets) and intangible fixed assets, such as the use of property rights, trademarks, patents and goodwill, that have more than one use and a value of EUR17,086 or more.
- The transfer of all or part of a building including the land if the transfer takes place before the first occupation.
- The transfer of ownership of all or part of a building including the land under a sales or lease agreement that is transferred at the end of the agreement, if the transfer takes place before the first occupation.
- The construction of buildings constructed by a taxable person on immovable property not owned by the taxable person.

The input tax adjustment lasts for a period of five years for the capital goods except for immovable property for which the input tax adjustment lasts for a period of 10 years.

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

In Cyprus, the capital goods adjustment does not apply to any services.

Refunds. If the amount of input tax recoverable in a quarterly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The input tax credit is offset against future payments, or it is refunded to the taxable person after submission of a claim electronically through the "Tax For All" system if the input tax relates to one of the following categories:
- The making of zero-rated supplies
- The supply of services provided outside Cyprus
- The acquisition of fixed assets
- The taxable supplies of the taxable person

In addition, late refunds may be eligible for interest under certain conditions.

Pre-registration costs. VAT costs paid on the purchase of services during the six months prior to the effective date of registration can be recovered, and for the purchase of goods, the recoverable period is three years prior to the effective date of registration.

Bad debts. Where a taxable supply has been made, VAT has to be accounted and paid for with reference to the quarter in which the tax point falls, irrespective of whether payment has been received from the customer. VAT can be recovered after making a claim to the Commissioner of VAT on the grounds that payment from the customer has not been received provided that:
- The VAT on the supply has been paid to the VAT authorities.
- The consideration for the supply has been written off in the vendor's records as a bad debt.
- All necessary steps to recover the consideration have been taken.
- A period of 12 months has elapsed.

A claim must be made within a period of four years following the later of:
- The date on which the consideration that has been written off as a bad debt becomes due and payable
  Or
- The date of supply

Where the purchaser is a taxable person, the claimant must notify that purchaser that bad debt relief is being claimed.

Noneconomic activities. A taxable person who is engaged in noneconomic activities, such as holding activities, may not deduct input tax on local and reverse-charge expenses that are directly related to noneconomic activities.

A taxable person that carries out both economic and noneconomic activities and that purchases local and reverse-charge services relating both to its economic and noneconomic activities must apply a reasonable basis for the apportionment of the input tax on the general overhead expenses to economic and noneconomic activities. A taxable person may deduct the portion of input tax based on this reasonable percentage of input tax attributed to economic activities of the taxable person.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Cyprus is recoverable. The Cypriot VAT authorities refund VAT incurred by businesses that are not established in Cyprus and that are not registered for VAT in the country. Non-established businesses may claim Cypriot VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, a refund is made under the terms of the EU 2008/9/EC Directive. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business is not established and/or registered for VAT in Cyprus and did not perform any taxable supplies in Cyprus during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Cyprus:
- For a person registered for VAT in an EU country, a claim for repayment must be made by 30 September of the calendar year following the refund period. To obtain a refund of Cypriot VAT, a taxable person not established and/or registered for VAT in Cyprus must submit an application in electronic format in the EU Member State of its establishment via the electronic portal of that Member State.
- If the refund application relates to a refund period of less than one calendar year but not less than three months, the minimum amount of VAT for which an application for a refund can be submitted is EUR400. If the refund application relates to a refund period of a calendar year or the remainder of a calendar year, the minimum amount of VAT for which an application for a refund can be submitted is EUR50.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

For a person established in a country outside the EU, the refund system applies if that country provides reciprocal arrangements for similar repayments to be made to Cypriot businesses. In addition, to take advantage of this refund system, the person must not be established or registered in any of the other EU Member States. Cyprus has a reciprocity agreement with Switzerland for the refund of 13th Directive VAT claims. Cyprus also provides refunds on the basis of reciprocity to Norway and Israel. In the event of such refund applications, advance consultation ought to be sought.

For persons established in a country outside the EU, claims with respect to VAT incurred in the one-year period from 1 July to 30 June must be made within six months of the end of that one-year period (i.e., by 31 December).

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

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is EUR25.63. For an annual claim, the minimum amount is EUR205.03.

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

Commissioner of Tax
VAT Headquarters
1471 Nicosia
Cyprus

Late payment interest. In case of late VAT refund payments to EU businesses, according to the Directive n° 2008/9/EC, implemented in the Cyprus VAT law, Cyprus must pay late payment interest at a rate of 2.25% per year for late refund payments (i.e., payments made later than 10 days following the day of the approval of the refund application).

In Cyprus, interest is not paid on late refunds to non-EU non-established businesses.

H. Invoicing

VAT invoices. A Cypriot taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions valued at less than EUR85 (if the supply is not to a person in another EU Member State), unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 2008/9/EC Directive or 13th Directive refund schemes (*see the chapter on the EU*).

An invoice should be issued, if a prepayment has been received for the supply of goods or services to a customer.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. Credit notes adjusting the initial amount of VAT charged may be issued if a genuine mistake or overcharge has been made or if agreement on a discount has been reached. To be valid for VAT purposes, the credit note must be issued within one month after the date on which the mistake is discovered or the agreement on the discount is reached. It must be marked "Credit Note" and contain details of the original supply and the circumstances under which the credit is given (e.g., the return of faulty goods).

Electronic invoicing. Electronic invoicing is allowed in Cyprus, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Cyprus. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Cyprus. The requirements related to electronic invoicing are the same as those for paper invoicing.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. Simplified invoices are allowed for retail supplies where the gross value does not exceed EUR85. Such invoices must contain the name, address and VAT number of the supplier, the date of issue, a description of goods supplied, the total gross value of the goods inclusive of VAT, as well as for each applicable VAT rate – the total amount payable inclusive of VAT together with the applicable VAT rate.

Self-billing. Self-billing is allowed in Cyprus. Cyprus VAT law permits self-billing upon pre-approval from the Tax Commissioner and subject to certain conditions in line with the EU VAT Directive. The person operating the self-billing system is liable for any understated VAT. There are various requirements for self-billing and the mutual consent of the two parties is a prerequisite. Such requirements among others include:
- The existence of a self-billing agreement between the parties, whereby the customer will be authorized to bill itself for supplies by the supplier (no invoicing by supplier).
- Period for the effect of such agreement is 12 months, unless prolonged by the Tax Commissioner.
- Self-billing documentation to be signed by both parties.

Proof of exports and intra-Community supplies. Cypriot VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (*see the chapter on the EU*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Cyprus. Acceptable proof includes the following documentation:
- For an export, a copy of the export document, officially validated by the Department of Customs and Excise, showing the supplier as the exporter
- For an intra-Community supply, a range of commercial documentation, such as purchase orders, transport documentation, proof of payment and contracts

No special documentation applies in Cyprus for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. Normal documentation rules apply.

Foreign currency invoices. If Cypriot VAT is charged on an invoice, the invoice must be issued in euros (EUR). If an invoice is issued in a foreign currency, the amount before VAT and the VAT amount must be converted to euros using the exchange market rate or the rate issued by the Department of Customs and Excise.

Supplies to nontaxable persons. A VAT-registered person who carries out a taxable supply of goods/services to a nontaxable person/consumer in Cyprus should issue a legal receipt at the time of the supply. The legal receipt should include at least the following:
- Date of issuance
- Serial/ID number
- The name, address and VAT registration number of the supplier
- Sufficient description of the goods/services supplied
- Total gross amount inclusive of VAT
- For each applicable VAT rate, the total gross amount inclusive of VAT together with the relevant VAT rate
- Indication of whether it relates to cash payment, prepayment or otherwise

Distance selling. For intra-Community distance sales made B2C, a legal receipt or simplified invoice must be issued (even though such legal receipts bear a lot of characteristics of full invoices). Similarly, if the supplier operates the OSS regime, no full VAT invoice is required unless requested.

Records. In Cyprus, examples of what records that must be held for VAT purposes include the following:
- Purchase books/ledgers
- Sales books/ledgers
- Records of daily takings, such as till rolls

- Records in relation to annual inventory count
- Records in relation to privately used assets or assets given as gifts
- Records in relation to self-supplies
- Records for purchases for which no right for input VAT recovery exists
- VAT account and VAT returns filed together with their workings
- Import and export documentation
- Cash book
- Documentation in relation to dispatches/acquisitions of goods to/from other EU Member States
- Archive of temporary movements of goods to other EU Member State
- Credit or debit notes that the taxable person issues or receives
- Orders and delivery notes
- Relevant business correspondence

In Cyprus, VAT books and records can be kept outside of the country. While in principle, the records that a Cypriot taxable person needs to maintain should be stored in Cyprus, there is the option for the taxable person to store its records outside Cyprus, provided that the Tax Commissioner is notified in advance and provided that online access to the data is available. Invoices, whether in paper or electronic format, must be stored in the original form in which they have been sent or made available.

Upon request of the Tax Commissioner, the records of a Cypriot taxable person must be made available to the tax authorities within a period of five days.

Record retention period. Records, invoices and other accounting information must be kept for at least six years.

Electronic archiving. Electronic archiving is allowed in Cyprus. Online access to information can be granted to the Tax Commissioner in cases where the Commissioner wishes to review the documents.

I. Returns and payment

Periodic returns. Cypriot VAT returns are submitted for quarterly periods. Quarterly VAT returns must be filed by the 10th day of the second month following the end of the VAT quarter.

Periodic payments. Any VAT due must be paid by the same date as VAT return submission, i.e., by the 10th day of the second month following the end of the VAT quarter. Payment of the VAT due can be made at the till of any commercial bank in Cyprus, by wire transfer or through designated internet banking services of selected major banks in Cyprus.

Electronic filing. Electronic filing is mandatory in Cyprus for all taxable persons. The submission of VAT returns and VIES forms is only possible through the "Tax For All" system, while Intrastat submissions are only possible through the "TAXISnet" system. This does not apply for retrospective VAT returns, final VAT returns before VAT deregistration, as well as revised Intrastat and VAT Information Exchange System (VIES) forms, which must be submitted in printed form and duly authorized. The deadlines for submission have not changed, following the abolition of paper-based returns and forms.

Payments on account. Payments on account are not required in Cyprus.

Special schemes. *Profit margin scheme.* The method of calculating the taxable value and output tax of supplies of secondhand goods differs from the standard rules, as do the records that a taxable person is required to keep. The tax due is taken to be included in the gross margin of the

trader, provided that a margin has been realized. The sale of assets previously used by a company is a taxable supply if the company is already a taxable person.

Farming. Sales by farmers of their produce are standard rated; alternatively, farmers can choose to claim 5% of the value of their sales to taxable persons as notional input tax and do not have to charge output tax.

Tour operators. The method of calculating the taxable value for tour operators is taken to be the travel agent's gross margin on the sale of package tours after deduction of the actual cost to the travel agent.

Retail schemes. Under these schemes, the method of calculating the taxable value and output tax on supplies deviates from the general rules, as do the books and records that retailers must keep.

Retail export scheme. This is an optional scheme for registered retailers where a supply of goods, on which a positive rate of VAT was originally imposed, is converted to a zero-rated supply through correction of the VAT account after the retailer receives certification from customs that the goods were exported.

Cash accounting. The scheme is applicable since 20 December 2013 for businesses whose turnover does not exceed EUR25,000 in the last 12 months.

Annual returns. Annual returns are not required in Cyprus.

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

The Intrastat thresholds for 2023 are EUR270,000 for Arrivals and EUR75,000 for Dispatches. Traders that make intra-Community supplies and acquisitions below these thresholds are not required to complete all the information required on the Intrastat return. *At the time of preparing this chapter, the thresholds for 2024 are not known.*

Intrastat forms are submitted electronically through the TAXISnet system and has been obligatory for all taxable persons who are registered for Intrastat purposes in Cyprus and submit monthly Intrastat forms to the VAT authorities.

Intrastat returns must be submitted electronically by the 10th day of the month following the end of the month to which they relate. Cypriot taxable persons must complete Intrastat declarations in EUR, rounded up to the nearest whole number. The Intrastat return period is monthly.

EU Sales Lists. Every VAT-registered person who supplies goods and/or provides services to VAT-registered persons in other EU Member States has been required to submit an EU Sales List (i.e., a VIES form) every month to the Cypriot VAT authorities.

The VIES form must be submitted electronically by the 15th day of the month following the end of the relevant month. The VIES form must be submitted even if no intra-Community supplies are made in the month.

Correcting errors in previous returns. *Correction of Intrastat form.* A corrected Intrastat table must be submitted to the tax authorities with one corrected table per month. Submission can be made either in person or via email to the tax authorities.

Correction of a VIES form. A corrected VIES table must be submitted to the tax authorities with one corrected table per month. Submission can be made either in person or via email to the tax authorities. If corrections need to be made for more than one monthly VIES form, then one corrective table should be submitted for each relevant monthly VIES form that needs correction/amendment.

Correction of VAT returns. A company is entitled to claim input tax on prior period expenses without a correction, provided that the total VAT amount does not exceed the threshold of EUR1,708. If the threshold is exceeded, a company can submit a correction of error letter to the tax authorities to claim input tax. Submission can be made either in person or via email to the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Cyprus.

J. Penalties

Penalties for late registration. A penalty is applied to late registration equal to EUR85 for each month the failure continues.

Penalties for late payment and filings. A one-off penalty of EUR100 per late submitted VAT return applies. Late payment of an outstanding VAT amount results in the imposition of a penalty of 10% of the outstanding amount. Interest is charged at the rate of 2.25% per annum on the outstanding amount and the penalty (interest is calculated for complete months).

For Intrastat forms, a one-off penalty of EUR15 is imposed for each late submitted form. Any omission or delay in submission of Intrastat forms for a period beyond 30 days constitutes a criminal offense and in case of conviction the penalty may reach up to EUR2,562.

For VIES forms, a one-off penalty of EUR50 is imposed for each form that is submitted late. Continuous omission to submit the VIES forms constitutes a criminal offense and in case of conviction the penalty may reach up to EUR850.

Penalties for errors. Penalties may be also assessed for the following offenses:
- Failure to apply the reverse charge: a EUR200 one-off penalty per VAT return but does not exceed the total penalty amount of EUR4,000
- Failure to keep records for a prescribed period: a penalty of EUR341
- Issuing an unauthorized invoice: a penalty of EUR85

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Fraudulent evasion of VAT may be penalized by up to three years' imprisonment or a fine up to three times the amount due, or both.

Receipt of goods on which VAT was evaded may result in up to 12 months' imprisonment or a fine of EUR8,543, or both.

VAT shown in assessments issued by the Tax Commissioner and not paid may result in up to 12 months' imprisonment or a fine of EUR8,543, or both.

Personal liability for company officers. In accordance with legislation and recent case law, any persons of authority (i.e., directors and secretaries) may be personally liable for the above offenses.

Statute of limitations. The statute of limitations in Cyprus is six years. Following the submission of a VAT return, the Cyprus tax authorities have six years from the end of the relevant tax year to go back and raise an assessment/tax audit to the taxable person. Taxable persons have three years to voluntarily correct errors in previous VAT returns following the end of the specified VAT return period for which the tax return was filed. The Tax Commissioner may also approve a voluntary correction of error application made even after the three-year limit passed upon its discretion.

Czech Republic

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Dan z pridane hodnoty (DPH)
Date introduced	1 January 1993
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (www.mfcr.cz)
VAT rates	
Standard	21%
Reduced	12%
Other	Zero-rated (0%) and exempt
VAT number format	CZ then 8 to 10 digits ranging from 0 to 9
VAT return periods	Monthly Quarterly
Thresholds	
Registration	
Established	CZK2 million (approx. EUR83,000)
Non-established	None
Distance selling	CZK240,000 (approx. EUR10,000)
Intra-Community acquisitions	CZK326,000 (approx. EUR13,500)
Electronically supplied services	CZK240,000 (approx. EUR10,000)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made for consideration in the Czech Republic by a taxable person acting as such, including the transfer of real estate

- The intra-Community acquisition of goods for consideration made in the Czech Republic by a taxable person acting as such (*see the chapter on the EU*)
- The intra-Community acquisition of goods by a nontaxable legal person (*see the EU chapter*
- The acquisition of a new means of transport from another Member State of the EU for consideration by a person who is not a taxable person (*see the EU chapter*
- The importation of goods into the Czech Republic regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

As of 1 September 2020, the Quick Fixes rules are obligatory for all taxable persons. The Czech Republic fully implemented the amendment to the EU VAT Directive without any significant deviation. The following rules were introduced:

- New, substantive conditions for the application of a VAT exemption for intra-EU supplies of goods, namely the following:
  - The acquirer of goods has to be VAT-registered in another EU Member State.
  - The supplier should declare the supply in his recapitulative statement (i.e., EC Sales List).
- Call-off stock simplification: Call-off stock rules were unified across the EU. The old Czech rules for call-off stock were abolished. Based on the new rules, the Czech customer declares an intra-EU acquisition of goods upon withdrawal of the goods from the warehouse. The transfer of goods to the Czech warehouse is reported in the EC Sales List of the supplier and also in the stock records of both the customer and the supplier. The new rules bring significant administrative requirements for both supplier and the customer. The rules, among others, introduce a 12-month limitation period for storage of goods under simplification rules.
- Rules for chain transactions: In chain transactions, where the goods are directly transported from the first supplier to the final customer and the transport is organized by an intermediary, the cross-border transportation will be allocated either to the supply made to the intermediary or to the supply from the intermediary to his customer, depending on what VAT number the intermediary communicated to his supplier.
- Proof of transportation. The transportation of goods to another EU Member State is deemed to be proved if the supplier submits noncontradictory evidence based on Article 45a of the Council Implementing Regulation 282/2011. The Czech tax authorities confirmed that other proof of transportation will also be accepted.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU*.

In the Czech Republic, the use and enjoyment provision applies for business-to-business (B2B) supplies in cases where the customer, being a taxable person, is established or has a fixed establishment in a non-EU country and at the same time is registered as a VAT payer in the Czech Republic. If such service is used and enjoyed in the Czech Republic, the place of supply will be the Czech Republic.

For business-to-consumer (B2C) supplies, the use and enjoyment rules apply on short-term and long-term rental of means of transport. If the service is actually used in the Czech Republic, it is subject to the Czech VAT. Thus, the non-EU supplier would be obliged to pay Czech VAT either

through local registration or through the One-Stop-Shop (OSS) non-Union scheme. If the service (e.g., transport rental) is actually used outside the EU, it is not subject to the Czech VAT.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In the Czech Republic, there are no specific conditions for a TOGC. Case law of the Court of Justice of the European Union (CJEU) is generally followed by the Czech tax authorities.

Transactions between related parties. In the Czech Republic, certain transactions between related parties are subject to special rules for VAT. Particularly where one of the related parties applies pro rata to reduce its VAT deduction entitlement, the VAT base for supplies between the related parties should be the arm's-length price. For this purpose, the parties are considered to be related if they are connected through 25% of their capital and/or by other personal connections.

C. Who is liable

A taxable person is an individual or business that independently carries out economic activities. In addition, a taxable person is a legal entity that was not established for the purpose of doing business if it undertakes economic activities. Employees are deemed not to perform the activity independently of the business. There are two different kinds of VAT registrations in the Czech Republic: (1) VAT payers and (2) VAT-identified persons. In the Czech Republic "taxable person" and "VAT payer" have different meanings. A "VAT payer" is a taxable person that is VAT-registered or should have been VAT-registered, while "taxable person" is more general.

A taxable person that is established in the Czech Republic must register as a VAT payer particularly in any of the following circumstances:

- The taxable person's turnover in the preceding 12 consecutive calendar months exceeded CZK2 million. A taxable person must file an application for VAT registration by the 15th day of the calendar month following the month in which the threshold was exceeded. The taxable person then becomes a VAT payer as of the first day of the second month following the month in which the turnover threshold was exceeded. Specific rules apply to certain types of supplies, e.g., a sale of long-term assets is typically not included.
- The taxable person provides a service (except for an exempt-without-credit service) with a place of supply in the Czech Republic, or it effects distance sales of goods or imported goods to the Czech Republic with a place of supply in the Czech Republic through its fixed establishment located outside the Czech Republic. The taxable person must file an application for VAT registration by the 15th day following the tax point of the supply.
- The taxable person engages in certain other specified transactions. For example, a taxable person acquires a property from a VAT payer based on the TOGC concern agreement, or a taxable person becomes a successor company in a business transformation in which the dissolving company is a VAT payer.

A taxable person that is established in the Czech Republic and is not a VAT payer must register as a VAT identified person in the following circumstances:

- It acquires goods from another EU Member State subject to tax (i.e., above the threshold of CZK326,000) This applies also to nontaxable legal persons.
- It receives a service subject to the reverse-charge mechanism (in general, see Article 44 of EU Directive 2006/112/EC) from a non-established business. The taxable person must file an application for registration by the 15th day following the tax point of the service (see *Section E. Time of supply*).

- It receives a service according to Article 47, 48, 53, 55 or 56 of EU Directive 2006/112/EC, goods with installation, or electricity or gas from a non-established business, and the place of supply for such item is in the Czech Republic. The taxable person must file an application for registration by the 15th day following the tax point of the supply.
- It provides an Article 44 service with a place of supply in another EU Member State except for services that are VAT exempt in another EU Member State. The taxable person must file an application for registration by the 15th day following the tax point of the service.

Exemption from registration. Businesses that exclusively make exempt supplies, that is, supplies that are exempt without the right to deduct input tax, may not register for VAT.

Voluntary registration and small businesses. Both established and non-established taxable persons may register for VAT voluntarily if they make supplies with a right to credit in the Czech Republic.

An established VAT taxable person may register as a VAT identified person in the Czech Republic provided:

- It is going to supply goods and/or services to nontaxable customers using the EU One-Stop Shop (OSS) regime, then the Czech Republic will be their state of identification for OSS purposes.
- It is going to receive services, goods with installation or supply of gas and electricity from non-established supplier with the place of supply in the Czech Republic.
- It is going to supply services with the place of supply in another EU Member State according to Article 44 except for services that are VAT exempt in that EU Member State.

Regardless, if a taxable person is established or non-established in the Czech Republic, it may opt to register as a VAT identified person provided it is going to acquire goods from another EU Member State.

Group registration. Group registration for VAT purposes is possible in the Czech Republic. Entities that are closely connected (through capital or management) may choose to register as a VAT group. Nontaxable persons may also join a VAT group.

A VAT group is treated as a single taxable person, where members of the VAT group are not regarded as independent taxable persons. Only persons established in the Czech Republic may be part of a VAT group. Any establishments (e.g., a seat or fixed establishment) of such persons outside the Czech Republic may not be part of a VAT group (i.e., are excluded). The group members share a single VAT number and submit a single VAT return.

Group members are jointly and severally liable for all VAT liabilities. A group member can continue to be jointly and severally liable once it has left the group.

An application for group registration must be filed before 31 October for the group registration to be effective from 1 January of the following year. There is no minimum time period required for the duration of a VAT group.

Holding companies. A pure holding company may be included in a VAT group, as long as its residence or permanent establishment is in the Czech Republic.

Cost-sharing exemption. The VAT cost-sharing exemption, in accordance with VAT Directive 2006/112/EEC Article 132(1)(f), has been implemented in the Czech Republic from 2009. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in the Czech Republic VAT law).

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in the Czech Republic, if it has a branch of a taxable person that is sufficiently permanent and has appropriate personnel and technical resources to be able to:
- Supply goods or provide services, i.e., active fixed establishment
- Receive and consume services, i.e., passive fixed establishment

Although the Czech VAT Act contains the word "branch," the Czech tax authorities respect the EU concept of a fixed establishment. This means that a fixed establishment can be created in the Czech Republic without having a formal branch registration.

Non-established businesses. For the purposes of determining if a person is liable for payment of VAT to tax authorities, the Czech VAT Act defines a non-established business as a taxable person that:
- Does not have a seat or fixed establishment in the Czech Republic
- Has a fixed establishment that does not participate in the effected supply of goods or services in the Czech Republic

There are two different kinds of VAT registrations of persons without a seat in the Czech Republic – VAT payers and VAT identified persons.

A taxable person not established in the Czech Republic must register as a VAT payer particularly in any of the following circumstances:
- It makes a taxable supply of goods or provision of service with the place of supply in the Czech Republic except for the supplies subject to reverse-charge mechanism or the OSS regime. The taxable person must file an application for VAT registration by the 15th day following the tax point of the supply.
- It makes an intra-Community supply of goods from the Czech Republic to another EU Member State or transfer of own goods. The taxable person must file an application for VAT registration by the 15th day following the tax point of the supply.
- Certain specified transactions occur. For example, a taxable person acquires a property from a VAT payer based on the transfer of a going concern agreement, or a taxable person becomes a successor company in a business transformation in which the dissolving company is a VAT payer.

Similarly, as in the case of taxable persons established in the Czech Republic, a taxable person without a seat in the Czech Republic must register as an identified person for VAT in any of the following circumstances:
- It acquires goods from another EU Member State subject to tax (except for acquisition of goods made by a middleman under the simplified rules of triangulation). This applies also to nontaxable legal persons.
- A fixed establishment of a taxable person without a seat in the Czech Republic receives a service subject to the reverse-charge mechanism from a non-established business or it receives a service, goods with installation, or electricity or gas from a non-established business, and the place of supply for such item is in the Czech Republic or it provides a service with a place of supply in another EU Member State.

The taxable person must file an application for registration by the 15th day following the tax point.

Tax representatives. Tax representatives are allowed in the Czech Republic, but not mandatory. This is also the case for non-EU taxable persons. General rules concerning representation for tax proceedings (including the possibility of representing a person with respect to tax registration) may apply.

VAT registration applications for non-established businesses must be sent to this address:

Tax Authority for Moravian-Silesian Region, Territorial branch Ostrava I
(Financni urad pro Moravskoslezsky kraj – Uzemni pracoviste Ostrava I)
Jureckova 940/2
700 39 Ostrava
Czech Republic

Reverse charge. In general, the reverse charge applies to services and supplies of gas and electricity with the place of supply in the Czech Republic if provided by a non-established supplier in the Czech Republic to a Czech VAT payer or a Czech identified person. Further, the reverse charge applies to supplies of goods and supply of goods with installation with the place of supply in the Czech Republic if provided by a taxable person not established and not registered as a VAT payer in the Czech Republic to a purchaser that is a VAT payer in the Czech Republic.

Domestic reverse charge. Certain local transactions (supplies between persons registered for Czech VAT and acting as taxable persons) are subject to the reverse charge. For example:
- Supplies of construction services, including supply of construction staff
- Supplies of gold
- Certain types of waste
- Emission allowances
- Certain supplies of immovable property (real estate)
- Supply of electricity and gas to a trader via distribution systems or networks including transfer of guarantees of the origin of an energy source
- Certain telecommunication services

Additionally, the local reverse charge applies to certain commodities for transactions exceeding CZK100,000, for example:
- Mobile phones
- Laptops and tablets
- Game consoles
- Certain integrated circuits
- Cereals and technical crops
- Certain raw or semi-processed metals

The vendor and the customer may agree in written form to waive the threshold and apply the reverse charge also to supplies not exceeding CZK100,000.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021 (in the Czech Republic this was implemented from 1 October 2021). These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules, because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B. Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (i.e., B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (i.e., B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.

- For supplies of goods or services made by a nonresident supplier to a final consumer (i.e., B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a OSS mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021 (in the Czech Republic this was fully introduced from 1 October 2021), an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In the Czech Republic, there are no additional specific local rules that apply.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services.
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return.

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In the Czech Republic, to register for the OSS EU scheme as a Member State of Identification, a taxable person is required to be registered as a VAT payer or a VAT identified person. The registration application for OSS must be filed electronically on the website of the Czech tax authorities using an authorized form of identification (e.g., electronic signature, data box).

The registration application also includes a request for user access to the authenticated part of the tax portal in a special application for OSS (i.e., the EU scheme), where tax returns are submitted later. Requests for access can also be made after registration, for example, if the user requests access for other people.

After submitting an application for the EU scheme, the applicant will receive a decision on registration for the EU scheme from the tax administration. The EU Member State in which the applicant registers for the EU scheme is considered to be the so-called Member State of Identification.

The registration is effective from the first day of the tax period following the submission of the application for registration, or from the date of the selected supply, which the applicant stated in the application for registration.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In the Czech Republic, the requirements and the application process for the IOSS are similar to those for the EU scheme *(see above)*. Registration in the EU scheme is feasible only after obtaining a decision on VAT registration as a VAT payer or an identified person from the Czech tax authorities.

The application for registration also includes a request for user access to the authenticated part of the tax portal in a special application for IOSS, where tax returns are submitted later. A request for access can also be submitted after registration, e.g., if the user requests access for other people.

After submitting the application for the import regime, the applicant will receive a decision on registration for the import regime from the tax administration. In the decision on registration, the tax administrator assigns the user a tax registration number for the purposes of the import regime, so-called IOSS number.

Registration for the import scheme is effective from the date of notification about the decision regarding registration.

For more details about the IOSS, see the EU chapter.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In the Czech Republic, there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021 (in the Czech Republic, this was fully implemented from 1 October 2021), taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply)

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow thee-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one

Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In the Czech Republic, there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. There are two types of vouchers that need to be distinguished – single-purpose vouchers (SPVs) and multi-purpose vouchers (MPVs). A voucher is regarded to be an SPV if upon the issue of the voucher, at least the place of supply and VAT rate of future transactions is known. Such a voucher is taxed upon any transfer (i.e., is VAT inclusive), while the actual supply of goods or services in return for the voucher is not taxed. If, however, the SPV is redeemed by a person who did not issue the voucher, the redeemer will be deemed to provide the supply to the issuer. Any other voucher should be treated as an MPV and should be taxed upon actual supply of goods or services.

Registration procedures. A taxable person that becomes a VAT payer by law or would like to register for VAT must file electronically an application form that is available online in the Czech language on the Czech Ministry of Finance website at http://www.mfcr.cz by the 15th day following the tax point of the supply. The Tax Administrator should issue an official registration decision within 30 days from the date a complete and correct application for registration (including all relevant documents) is filed.

Non-established persons should accompany the VAT registration form with the extract from the Commercial Register, certificate of tax (i.e., VAT) registration and trade license. The tax authorities often require the application to also include the proof of the economic activity and other information and/or documents. The Czech VAT Act does not contain a precise list of documents.

Deregistration. If a company does not perform economic activities, it is deregistered for VAT. The tax authorities also deregister a VAT payer if it makes only exempt supplies without credit or if it does not make any supplies within 12 consecutive calendar months without notification of reasons.

An established taxable person may apply for deregistration if either of the following occurs:
- Its turnover falls below the registration threshold. Although deregistration is not compulsory in these circumstances, it may be requested after one year from the registration date, at the earliest.
- It ceases to effect economic activity in the Czech Republic.

A non-established taxable person may apply for deregistration if either of the following occurs:
- It did not make any taxable supplies or supplies of goods to another EU Member State that are exempt with credit in the Czech Republic within the previous six consecutive calendar months, except for taxable supplies from which the recipient would be obliged to declare output tax under the reverse-charge mechanism, or supplies of goods that would qualify for triangular simplification if the supplier were not registered for VAT in the Czech Republic, or supplies declared in OSS.
- It ceased to carry out economic activities in the Czech Republic.

A non-established business is likely to be deregistered from VAT by the tax authorities if it did not make any taxable supplies or VAT-exempt supplies with credit in the preceding 12 calendar months.

The VAT registration will be also canceled by the tax authorities in certain specific cases if the VAT payer breaches its tax administrative obligations.

A VAT-identified person may apply for deregistration if it is not registered for OSS in the Czech Republic and any of the following circumstances exist:
- Its liability to account for VAT (e.g., from incurred services, supplies of goods with installation or assembly) did not arise within the previous six consecutive calendar months.
- Neither in the current calendar year nor in the preceding year has it acquired goods from another EU Member State subject to Czech VAT.
- It ceased to effect economic activity in the Czech Republic.

The tax authorities may deregister an identified person if the person was not liable to declare any VAT in two previous calendar years. Group registration is typically deregistered from VAT only as of 31 December. The application for voluntary de-registration of a VAT group must be filed before 31 October of the current year. Otherwise, the group registration will be canceled as of 31 December of the following year.

Deregistration shall be supported by sufficient evidence that the conditions for deregistration are fulfilled.

Changes to VAT registration details. It is mandatory to report any changes in information declared during the registration, especially the name of the company, bank account numbers, seat of the company. The change must be reported within 15 days from the change via a special electronic form (see the *Electronic filing* subsection below, under *Section I. Returns and payment*).

Guarantee for unpaid VAT. The VAT law stipulates several instances when purchasers may be held liable (as guarantor) for unpaid VAT by the seller, such as:
- The purchaser knew or should have known at the moment the transaction was carried out or paid for that VAT would not be paid by the seller.
- The seller is listed as an unreliable VAT payer, (which are those who seriously breach their obligations) on websites of the Ministry of Finance.
- The consideration is obviously different from a fair market price and the reason is not properly explained.
- The consideration exceeds CZK 540,000 and is paid by bank transfer partly or in full to a bank account that is not properly published on the websites of the Ministry of Finance.
- The consideration is paid using a virtual asset.
- The consideration is paid to a foreign bank account.
- The supplier of fuels was not at the moment of supply properly registered as a distributor of fuels according to the relevant legislation.

The VAT guarantee can be avoided if the purchaser agrees with the seller that the amount of VAT will be remitted directly to the bank account of the tax authorities.

D. Rates

In the Czech Republic, the term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The following are the VAT rates:
- Standard rate: 21%
- Reduced rate: 12% *(with effect from 1 January 2024)*
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the reduced rate or exemption.

With effect from 1 January 2024, there are only two applicable VAT rates – the standard VAT rate of 21% and the reduced VAT rate of 12%. The new reduced rate of 12% replaces the previous

two reduced rates of 10% and 15%, which have been converted into the single reduced rate of 12%.

Some supplies are classified as "exempt-with-credit" or "zero-rated," which means that no VAT is chargeable, but the supplier may recover input tax related to the supply.

Examples of goods and services taxable at 0%

- Exports of goods
- Intra-Community supplies of goods
- International transportation of passengers and their luggage
- Transport and services directly related to the importation or exportation of goods
- Books in paper or electronic form and certain similar supplies

Examples of goods and services taxable at 12%

- Public transport
- Heating
- Newspapers and magazines in paper or electronic form
- Medications
- Medications for veterinary use
- Necessary baby food
- Restaurant and catering services,
- Children, senior and disabled home care
- Drinking water supplied through a pipe (i.e., drinkable tap water), milk, some milk-based drinks and milk-equivalent products (applies both to sale as goods and as part of restaurant services)
- Water distribution and treatment of sewage
- Accommodation services
- Admission charges to cultural and sport events
- Services of fitness centers
- Surface ski lifts
- Services of saunas and baths
- Foodstuffs
- Certain medical equipment and devices
- Medical and social care (unless exempt)
- Children's car safety seats
- Transfers of "social housing" (includes apartments with a maximum floor area of 120 square meters and family houses up to 350 square meters)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction. These supplies are sometimes referred to as "exempt without credit."

Examples of exempt supplies of goods and services

- Basic postal services
- Insurance
- Financial services
- Transfer of real estate (after lapse of five years from issuance of first building permit, first approval for use or from the first use; substantial change of the real estate restarts the five-year exemption test) or non-building land
- Rent of real estate (excluding short-term rent, rent of parking space, safety boxes and machines)
- Education
- Betting and gambling
- Medical care
- Social welfare

Option to tax for exempt supplies. Under certain conditions, a VAT payer can opt to tax a supply of real estate that qualifies for exemption (approval of the customer may be required in some cases). In such cases, the local reverse-charge mechanism applies if the buyer is a VAT payer.

A VAT payer can also opt to tax a rent of real estate if a tenant is also a VAT payer and will use the immovable property for his economic activities. From 1 January 2021, this option of taxation will be limited to renting of nonresidential premises only.

E. Time of supply

VAT is charged at the time of the earlier of the following events (known as the tax point):
- A taxable supply is carried out.
- Payment for the supply is received.

Supply of goods is generally considered to be carried out on the date of supply (i.e., delivery).

Supply of services is generally considered to be carried out on the date on which the service is performed or the date on which the tax document is issued, whichever date is earlier.

Deposits and prepayments. If the payment is received by the supplier before the supply takes place, the supplier is generally obliged to issue the VAT document for the received payment and declare and pay output tax. This applies only if the taxable supply and its VAT treatment are sufficiently specified upon the receipt of the payment.

Continuous supplies of services. If the service is provided for a longer period, the parties can agree on the partial supplies in the contract (for certain types of supplies). In such a case, the days of supply are the days agreed in the contract. Alternatively, if there is no such agreement between the parties, the day of supply is the last day of the period in which the service is provided unless payment is received earlier.

If the taxable supply is being provided in the Czech Republic for more than 12 calendar months, it is usually regarded as having taken place, at the latest, on the last day of each calendar year, following the calendar year in which the provision of the supply began.

Goods sent on approval for sale or return. There are no special time of supply rules in the Czech Republic for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. For reverse-charge services, the tax point is the earliest of the following dates:
- The date on which the service is rendered (specific rules may apply to particular types of services).
- The date on which consideration is paid (applies only to certain types of services). This does not apply if the taxable supply is not sufficiently specified upon the receipt of the payment or if the prepayment relates to supplies with different VAT rates or VAT regimes.
- The last day of each calendar year if the service is being provided for more than 12 calendar months and if no consideration is paid during this period.

Leased assets. The time of supply of leased assets depends on the type of leasing and contractual documentation agreed between the parties.
- In case of financial leasing where the customer can buy the asset after the leasing, the time of supply is the date on which the asset is handed over to the customer if under the normal course of events the customer will likely buy the asset at the end of lease.
- In the case of a standard lease, the VAT is typically payable based on the agreed (e.g., monthly or quarterly) installments.

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

Import VAT liability needs to be reported by the VAT payers in the VAT return (i.e., postponed accounting) where input tax deduction may generally be claimed at the same time (if the standard conditions are met). The import VAT due is calculated based on the import customs declaration.

The self-assessment of VAT does not apply to identified persons or private individuals who are not registered for VAT.

Intra-Community acquisitions. VAT on intra-Community acquisitions of goods is charged at the earliest of the following dates:
- On the date of issuance of the tax document
- On the 15th day of the month following the month in which the supply took place

Intra-Community supplies of goods. The time of supply for intra-Community supplies of goods that meet the conditions for the VAT exemption laid down by the Czech VAT Act is the 15th day of the month following the month of supply unless the VAT document for the supply was issued earlier.

Distance sales. There are no special time of supply rules in the Czech Republic for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

In addition, in case of distance sales of imported goods where IOSS is used for distance sale of goods via market interface, the supply is deemed to take place on the day when the payment is received. This day is stipulated according to Article 41a of the EU VAT Regulation 282/2011.

F. Recovery of VAT by taxable persons

A VAT payer may recover input tax, which is VAT charged on goods and services supplied to the VAT payer for business purposes. A VAT payer generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in the Czech Republic, VAT self-assessed on intra-Community acquisitions of goods and on services subject to the reverse-charge mechanism and VAT paid on imports *(see the chapter on the EU)*.

VAT payers prove their entitlement to VAT deduction by valid tax documents. Input tax on local supplies made by another Czech VAT payer may not be deducted earlier than the tax period in which the recipient obtains a valid tax document (i.e., invoice).

The time limit for a taxable person to reclaim input tax in the Czech Republic is three years. Input tax cannot be recovered afterward (limited exceptions may apply).

Identified persons may not claim input tax deduction.

From 1 January 2024, input tax deduction for input tax incurred on the purchase of personal cars is generally limited to CZK420,000. Certain exceptions apply, especially for the resale of such goods.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes such as goods acquired for private use by an entrepreneur. In addition, input tax may not be recovered for some items of business expenditure (e.g., input tax incurred on gifts with an acquisition cost exceeding CZK500 excluding VAT).

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

Examples of items for which input tax is nondeductible

- Business entertainment
- Nonbusiness expenditure
- Goods and services used exclusively for the making of exempt supplies without credit

Examples of items for which input tax is deductible (if related to a taxable business use)

- Passenger car acquisition (see the limitation above)
- Car hire
- Fuel for vehicles
- Books
- Conferences
- Advertising
- Accommodation
- Mobile phones

Partial exemption. A Czech VAT payer is entitled to a full VAT deduction with respect to purchases used within its economic activity for taxable supplies (that is, supplies on which output tax is charged), certain other supplies that fall outside the scope of Czech VAT (that have a place of supply abroad) and supplies that are exempt-with-credit.

A VAT payer may not deduct input tax related exclusively to the following supplies:
- Supplies that are exempt-without-credit.
- Supplies used exclusively for noneconomic activity (for example, private consumption or private consumption of employees).

The VAT payer must reduce the input tax deduction as follows to:
- Claim only a proportional deduction of input tax with respect to supplies used for both economic and noneconomic activities.
- Claim only a partial deduction of input tax with respect to supplies used for both taxable (or exempt-with-credit) and exempt-without-credit supplies.

The final entitlement for input tax deduction is calculated taking into account both proportional deduction (economic and noneconomic activity) and partial deduction (taxable and exempted supplies). In particular:
1) The VAT payer identifies the input tax that may be directly allocated to economic activity and noneconomic activity (private use, holding, public authorities).

Input tax directly related to noneconomic activity cannot be deducted. The only exception from this rule is private use and private use of employees. In case of private use and private use of employees, it is possible to deduct the input tax in full and subsequently pay output tax on nonbusiness consumption. This option is not possible for capital goods or other types of noneconomic activity.

The input tax from supplies received in connection with both economic and noneconomic activity (i.e., which cannot be allocated to one of them only) should be reduced to a proportion using any reasonable method of calculation (the Czech VAT Act does not state any particular method).

2) The input tax from received supplies that was fully allocated to the economic activities of the VAT payer and also the proportion of input tax related to received supplies only partly allocated to economic activity, should be further investigated with respect to their use for taxable and exempted output supplies.

Input tax directly allocated to exempt supplies without credit is not deductible. Input tax directly allocated to taxable supplies or exempt supplies with credit is deductible in full.

The remaining input tax that cannot be allocated to one type of output supplies but relates to both taxable (or exempt-with-credit) and exempt-without-credit should be reduced using yearly pro rata of the taxable person. For example, this treatment applies to the input tax on general business overhead costs. In general, the ratio is based on the value of taxable and exempt-with-credit supplies, compared with total turnover. If the ratio is at least 95%, full input tax deduction may be claimed.

Approval from the tax authorities is not required to use the partial exemption standard method in the Czech Republic. Special methods are not allowed in the Czech Republic.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the tax period in which the goods have been acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition (see the *Partial exemption* subsection above). However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption recovery percentage changes during the adjustment period or when the use of the capital goods changes. For example, a taxable person that acquired an asset and recovered VAT in full at the time of its acquisition must adjust the amount of recovery if the asset is later used for an exempt activity. In contrast, if the asset was originally acquired for an exempt activity and no input tax was reclaimed, and the asset is later put to a fully taxable use, input tax may be recovered when the use changes.

In the Czech Republic, the capital goods adjustment applies to the following assets:
- Long-term tangible assets with a value higher than CZK80,000
- Long-term intangible assets if treated as a long-term intangible asset based on internal accounting rules
- Land (unless accounted for as merchandise)
- Technical appreciation (substantial improvement) of fixed assets
- Assets or land leased by financial leasing

The adjustment period is generally five years (10 years for real estate), beginning with the calendar year of the acquisition of the asset and extending for the subsequent four or nine calendar years. In the tax period of acquisition, the input tax is deducted depending on whether and to what extent the goods are used for taxable activities (see the *Partial exemption* subsection above). A portion of the total input tax must be adjusted according to the use of the goods (i.e., exempt, nonbusiness or taxable) in that particular year.

No change needs to be made if the difference between the use in the current year and in the first year is not material (i.e., the difference in use is not more than 10 percentage points).

If, within the adjustment period, the capital goods are damaged, lost or stolen and these losses are not properly documented, then a VAT adjustment should be done for all remaining years left within the adjustment period. The adjustment should be done in the VAT period in which the VAT payer found out about the loss.

A three-year VAT adjustment period applies to business property that does not qualify as capital goods. The input tax claimed must be adjusted if the actual use of the respective business property differs from the purposes reflected in the original input tax claim. In case business property is damaged, lost or stolen and these losses are not properly documented, the VAT amount should also be adjusted.

An unlimited VAT adjustment period applies to buildings, flats and business premises that do not qualify as capital goods prior to their first use.

In the Czech Republic, the capital goods adjustment applies also to input tax incurred on repairs of real estate exceeding CZK200,000 upon their supply. The adjustment period for repair services is 10 years.

Refunds. If the amount of VAT recoverable in a taxable period exceeds the amount of VAT payable, the taxable person has a VAT credit. A refund of the VAT credit is claimed by submitting the VAT return. The Czech tax authorities should generally make repayments within 30 days after the filing deadline for the return (unless an investigation by the tax authorities has started).

Pre-registration costs. A VAT taxable person can deduct VAT from received taxable purchases incurred before VAT registration:
- During the preceding 12 consecutive calendar months, if these purchases were used for economic activities and are included in the business assets on the registration date
- During the preceding 60 consecutive calendar months, provided the incurred input supply became part of long-term asset and it was completed and ready to launch for usual business use during the preceding 12 consecutive calendar months before the taxable person became VAT payer and this long-term asset is still part of the business assets on the registration date
- During the preceding six consecutive calendar months and used for exportation of goods outside the EU
- Provided the taxable person would be entitled to apply for VAT refund according to VAT Directive 2008/9/EC but could not apply for refund only due to requirement of minimum time period for VAT refund

Bad debts. A VAT payer can recover output tax declared and paid on supplies provided to customers who were VAT registered at the time the supply was made and became insolvent. This relief is subject to specific rules and conditions.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the Czech Republic.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Czech Republic is recoverable. The Czech VAT authorities refund VAT incurred by businesses that are neither established (by means of seat or fixed establishment) in the Czech Republic nor registered for VAT. Non-established businesses may claim Czech VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC.

The VAT refund procedure under EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in the Czech Republic during the refund period (excluding supplies covered by the reverse charge and supplies reported in OSS). *For full details see the EU chapter*.

Below are specific rules for the Czech Republic:
- A non-established taxable person that was not registered as a Czech VAT payer during the relevant refund period may request a refund of Czech VAT by filing an application through the electronic portal in its country of establishment (i.e., either in the Member State of its business seat or Member State of the fixed establishment, if the latter is the actual recipient of the supply).
- The application must include invoices or import documents (in accordance with thresholds mentioned in Article 10 of Council Directive 2008/9/EC).
- The application must be substantiated with statement of the applicant, that it did not make any taxable supply in the Czech Republic during the relevant period for refund (it must be the condition within the frame of filling in application in Member State of establishment).

- The application must include the amount of VAT claimed in CZK.
- An applicant must be registered for VAT purposes in the Member State of establishment during the relevant period for refund (it must be the condition within the frame of filling in application in Member State of establishment).

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the EU chapter*.

The Czech Republic applies the principle of reciprocity. That is, a non-established business may claim a refund if it is established in a country that refunds VAT to Czech VAT payers or in a country that does not apply VAT or similar consumption tax. There is no precise list of countries included in VAT refund scheme.

The VAT refund procedure under the EU 13th Directive may be used only if the business did not perform any taxable supplies in the Czech Republic during the refund period (excluding supplies covered by the reverse charge, import of goods and services connected to it, exempt transaction with no right to deduct).

The claim, to be submitted to Czech Republic tax authority, must contain the following:
- Official application for VAT refund
- Original invoices and other tax documents
- Tax statement that claimant is VAT registered in their home country; this document must be issued by relevant tax authority and cannot be older than one year; it must be translated into Czech language

The minimum amount of a yearly claim is CZK1,000. The minimum amount of a quarterly claim is CZK7,000. The deadline is 30 June of the following year.

The application must be submitted on a form prescribed by the Ministry of Finance (*Ministerstvo Financí*). The claim cannot be submitted electronically. The form must be sent to the following address of the Czech tax authorities:

Finanční účád pro hlavní mesto Praha
Štěpánská 619/28
111 21 Praha 1

Late payment interest. Interest is paid to both EU and non-EU, non-established businesses. Interest accrues from the day following the date on which the refund had to be paid until the day of refund. The interest rate for a late refund corresponds to the annual rate of interest rate set by the Czech National Bank (repo rate) for the first day of a calendar half-year in which a refund had to be paid, increased by 8%.

H. Invoicing

VAT invoices. A Czech VAT payer must generally provide a tax document for all taxable supplies and exempt supplies with credit made to another taxable person or nontaxable legal person. A Czech VAT payer must also issue tax documents for distance selling supplies that have a place of taxable supply in the Czech Republic (except for distance selling reported in OSS). The taxable person must provide tax documents for supplies of services, goods with installation and supplies of gas and electricity with a place of supply outside the Czech Republic. The tax documents must be issued no later than:
- 15 days after the tax point
  Or
- 15 days after the end of the calendar month in which the exempt supply with credit or out of scope supply took place

A VAT payer is obliged to make all possible efforts to deliver the tax document to the customer by means agreed between the parties (i.e., in paper or electronically) also within the period for issuance of invoice.

A VAT invoice is necessary to support a claim for input tax deduction or refund under EU Directive 2008/9/EC or the EU 13th Directive refund schemes. If a VAT payer is required to account for VAT on the private use of business assets, the VAT payer must issue "a document of use" similar to a VAT invoice.

A taxable person is not required to issue a tax document for a supply that is exempt-without-credit.

Credit notes. A VAT credit note is used to reduce the VAT originally charged on a supply. The value of the supply must be reduced, for example in the following circumstances:
- The supply is canceled (in full or in part).
- A supply is returned (in full or in part).
- A discount is provided after the tax point.
- The payment on which a VAT payer was required to charge VAT was subsequently used for purposes of another supply.
- The payment was returned as the supply did not take place.

The VAT base and VAT amount can generally be corrected within three years starting from the end of taxable period in which the tax point of the respective supply occurred. The limitation period stops during the court proceeding or arbiter proceeding, which may affect the amount of VAT base.

A VAT debit note is used to increase the value of the original supply if the price increases after the tax point.

The amount of VAT credited or debited should be separately itemized on the credit or debit note. The credit or debit note must satisfy all the following requirements:
- It must contain the reason for the correction.
- It must be cross-referenced to the original tax document. If the credited amount relates to several original supplies and if the VAT payer is not able to link the credit note to particular original invoices, a general reference to original invoices (or example, a period in which they were issued) should be sufficient. In such a case, VAT credited or debited may be stated on the document as a summary value.
- It must contain generally the same information as the original tax document.

A VAT payer is obliged to issue and to make all possible efforts to deliver the credit note or debit note to the customer by means agreed between the parties (i.e., in paper or electronically) within 15 days from the day when the obligation to issue the document arose.

Electronic invoicing. Electronic invoicing is allowed in the Czech Republic, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the Czech Republic. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the Czech Republic. The requirements related to electronic invoicing are the same as those for paper invoicing. *For the EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.*

Simplified VAT invoices. A VAT payer can issue a simplified VAT invoice, provided the total amount on the invoice does not exceed CZK 10,000. For certain supplies, the VAT law precludes

simplified VAT invoicing, e.g., distance selling of goods, goods subject to excise duty, supplies of goods or services where output tax should be declared by the recipient.

Self-billing. Self-billing is allowed in the Czech Republic. A supplier may authorize in writing, that their customer or a third party is approved to issue invoices on their behalf. If such an authorization is granted electronically, it should be signed by certified electronic signature. Authorization by any means (e.g., orally) other than in writing or electronically is not accepted in the Czech Republic.

Proof of exports and intra-Community supplies. Czech VAT is not chargeable on supplies of exported goods. To prove VAT exemption, the supplier should show that the goods were transported by them or by the customer and that they left territory of the EU. Exit from the EU can be proved either by export customs declaration or by other means. Release of goods into a specific customs regime is not a condition for VAT exemption, and the tax authorities, in addition to customs declaration, should accept also other proofs of exit of goods from EU.

Czech VAT is not chargeable on goods supplied to taxable persons in other EU Member States (*see the EU chapter*). For a sale to another EU Member State to qualify as an exempt, intra-community supply, the following conditions must be satisfied:

- The Czech VAT payer must prove that goods were delivered to another EU Member State by the VAT payer, the customer or a third party authorized by the Czech VAT payer or customer.
- The customer is VAT registered in the other EU Member State and indicated his VAT number to supplier.
- The acquisition of the goods must be subject to VAT in the other EU Member State.
- The supplier correctly set out information about this supply in his EC Sales List.

No special documentation applies in the Czech Republic for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. However, proper allocation of transportation to the relevant transaction is crucial in chain supplies.

Transportation documents (e.g., Convention on the Contract for the International Carriage of Goods by Road) confirmed by the customer and the transporter are suitable proof of the above. In certain cases, written statements of the customer or an authorized third party or other similar documentation may also be sufficient.

A supplier may also prove the transportation of goods by combination of documents listed in Article 45a of the EU Implementing Regulation 282/2011.

Foreign currency invoices. A Czech tax document may not be issued in a foreign currency only. If a foreign currency is used, for VAT purposes at least, the VAT amount must be converted to the domestic currency, which is the Czech koruna (CZK).

For VAT purposes, the exchange rate used to convert foreign currency to CZK is generally the exchange rate declared by the Czech National Bank or European Central Bank valid for the VAT payer on the date on which the VAT becomes chargeable.

A tax document may also be issued in electronic form, provided that the person for which the taxable supply or supply exempt from VAT with credit was affected, agrees with it.

Supplies to nontaxable persons. Generally, it is not mandatory to issue an invoice to non-VAT taxable customers, apart from nontaxable legal persons. There are some exceptions to this rule, for example, distance selling of goods and intra-EU supply of new means of transport.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In the Czech Republic, examples of what records must be held for VAT purposes include VAT records that contain all the information necessary for preparation of the VAT return, VAT ledger and EC Sales List. The VAT records should also contain information about supplies that are not subject to VAT and information about business assets. The VAT law does not specify the format of VAT records.

In the Czech Republic, VAT books and records can be kept outside the country. If the documents are kept outside the Czech Republic, the tax authorities should be informed about the address of storage in advance.

Record retention period. All VAT documents and VAT records (e.g., VAT invoices, proofs of intra-EU supplies, call-off stock records) should be retained for 10 years starting from the end of taxable period in which the taxable supply occurred.

Electronic archiving. Electronic archiving is allowed in the Czech Republic. This is allowed as long as the authenticity of origin, integrity of content and legibility of the documents is guaranteed.

I. Returns and payment

Periodic returns. Czech VAT returns are generally submitted for monthly periods. If the turnover of the taxable person for the preceding calendar year has not reached CZK10 million, the taxable person may opt for quarterly VAT returns. Newly registered VAT payers, unreliable VAT payers and VAT groups do not qualify as quarterly VAT return filers.

VAT returns must be filed within 25 days after the end of the tax period. So-called nil returns must be filed if no taxable transactions have taken place in the period. Non-established VAT payers are not obliged to file nil VAT return.

Periodic payments. Payment of the VAT liability must be credited to the bank account of the tax authorities within the same time period as the return submission, i.e., within 25 days after the end of the tax period. VAT liabilities must be paid in CZK. A taxable person should properly identify its payment by using a correct variable symbol (which is its Czech VAT number).

Electronic filing. Electronic filing is mandatory in the Czech Republic for all taxable persons. All VAT reports should be filed electronically in the prescribed xml format. There are several options how VAT payers may submit VAT filings. However, they are typically difficult to comply with by foreign taxpayers with no Czech representative.

It is also possible to file VAT reports electronically by uploading the data to a special application of the Ministry of Finance without the certified electronic signature. In such a case, the VAT payer should confirm its filing also in paper form within short deadline.

Payments on account. Payments on account are not required in the Czech Republic.

Special schemes. *Travel agents.* Special scheme for travel agents has to be applied by travel agents who act in their name when providing travel services. Under the special scheme, Czech VAT is paid from the margin of travel agents established in the Czech Republic. VAT charged by travel agents under the special scheme cannot be deducted by the customers. Significant changes to this regime were introduced in 2022, as follows:

- Taxable persons are not allowed to calculate their margin on period basis but must calculate margin for every single travel service.
- Taxable persons are obliged to declare the VAT also from received prepayments.

Secondhand goods, works of art, collector's items and antiques. The application of this special scheme is optional and can be applied by a taxable person who purchased the named goods from nontaxable persons, taxable persons that are not Czech VAT payers or from other taxable persons.

VAT is paid from the taxable person's margin. VAT charged by taxable persons under the special scheme cannot be deducted by the customers.

Investment gold. Supply of investment gold in the Czech Republic, intra-Community acquisition of investment gold or its importation are exempt from VAT without entitlement to input tax deduction, as well as services of arranging for these transactions. Taxable persons who produce investment gold or transform gold into investment gold can decide to charge VAT if such gold is subsequently supplied to another taxable person in the Czech Republic. In such case, the taxable person is entitled to deduct input tax incurred in connection with production or transformation of investment gold.

Annual returns. Annual returns are not required in the Czech Republic.

Supplementary filings. *Intrastat.* A Czech VAT payer or person identified for VAT that trades with other EU Member States must complete statistical reports, known as Intrastat, if the value of either the VAT payer's sales or purchases of goods exceeds certain thresholds. Separate reports are required for intra-Community acquisitions (i.e., Intrastat Imports) and for intra-Community supplies (i.e., Intrastat Exports).

The 2024 threshold for Intrastat Imports and Intrastat Exports is CZK15 million per calendar year.

From 1 January 2022, an Intrastat simplified declaration was introduced. Entities whose annual turnover of goods exported and/or imported is in the range between CZK15 million and 30 million and, at the same time there are no specific product types concerned, is allowed to submit a simplified declaration within the deadline for submitting the January declaration for the given year. However, the reporting entities still must follow up on whether the threshold of CZK30 million has been exceeded or the movement of selected types of goods concerned.

From 1 January 2022, both numerical and textual changes to the Common Customs Tariff have been made. In addition, from 1 January 2024, certain new tariff codes were introduced.

The Intrastat report period is monthly. Intrastat reports must be submitted to the competent customs authorities by the 10th working day of the month following the calendar month to which they relate if submitted in paper form, or by the 12th working day of the month following the calendar month to which they relate if submitted electronically. Submission in paper form is allowed in specific cases only.

EU Sales Lists. If a Czech VAT payer makes intra-Community supplies of goods or provides services to a taxable person established in another EU Member State in any tax period, it must submit an EU Sales List (ESL) to the Czech tax authorities together with the VAT payer's VAT return. Filing of the correct ESL is a material condition for the VAT exemption of supply of goods to another EU Member State. An identified person providing service with a place of supply in another EU Member State must also file an ESL. The filing of an ESL is also obligatory in case the supplier transfers its own goods under the call-off stock arrangement to another EU Member State. For this purpose, the ESL must contain special attachment detailing this.

Generally, an ESL must be filed monthly; quarterly filings are possible in limited cases. An ESL is not required for any period in which the taxable person has not made any intra-Community supplies or has not provided the services mentioned above.

VAT ledgers. VAT payers are obliged to submit the VAT ledgers to the tax authorities. The VAT ledgers include detailed data (e.g., tax base, tax rate, tax point, invoice number, business party VAT ID) about effected and received supplies, particularly the following:
- Domestic taxable supplies or receipt of advance payment
- Domestic acquisition of goods or services or provision of advance payment

- Transactions falling within the local reverse-charge regime
- Services received from persons not established in the Czech Republic and intra-Community acquisitions of goods
- Special scheme for investment gold

The system is designed to enable the tax authorities to cross-check the transactions reported by suppliers with the transactions reported by the customers in order to identify suspicious chain supplies and VAT fraud.

VAT ledgers must be submitted electronically by the 25th day of the month following the reporting period. For legal persons, the reporting period is always one calendar month without regard to the taxable period. For natural persons, the reporting period corresponds to the taxable period.

Correcting errors in previous returns. It is possible to file a corrective VAT return if the mistakes or omissions have been found after filing of the original return but still before the 25th day of the month following the reporting period. A corrective VAT return should include all data from the reporting period.

However, if a correction must be made after the deadline for filing has elapsed, it is necessary to file a supplementary VAT return containing only the differences in amounts between the original statement and the correction and reason for filing. The deadline for filing is by the end of the month following the month when the obligation to file became known. Penalties may be imposed for late filings and payments (see the *Penalties for late payment and filings* subsection below).

Supplementary VAT ledgers must be filed within a deadline of five working days after identification of an error. Otherwise, automatic penalties are imposed.

Digital tax administration. There are no transactional reporting requirements in the Czech Republic. The previous obligation to report electronic registration of sales revenues (ERS) in real time was abolished as of 1 January 2023

J. Penalties

Penalties for late registration. If a taxable person fails to register for VAT, it will be registered retrospectively. The tax authorities can impose a penalty for breaching non-monetary obligations. Moreover, the tax authorities will assess sanctions if VAT returns, and VAT ledgers are filed late or if payments of VAT liability are late.

Penalties for late payment and filings. Late filing of VAT returns results in a penalty of 0.05% of VAT liability of VAT overpayment for each day of the delay. The penalty is capped at 5% of the VAT liability of VAT overpayment or at CZK300,000 for each VAT return. The first five working days following the deadline are penalty free.

A penalty is charged at a flat rate of 20% of the additionally assessed VAT if the VAT liability is increased or the deduction of VAT is decreased based on the findings of the tax authorities.

The fine for failure to file a Czech VAT return electronically is now CZK1,000.

Default interest is charged for the late payment of VAT due on a VAT return, beginning with the fourth working day. The interest is calculated as a repo rate declared by the Czech National Bank (CNB) to be valid on the first day of the respective calendar half-year increased by 14 percentage points. Starting from 2021, the late payment interest rate is decreased to the CNB repo rate, plus 8 percentage points (the repo rate represents an interest rate at which the CNB purchases discounted bills from the Czech commercial banks). The default interest may be applied up to a maximum of five years.

For Intrastat, a penalty of up to CZK1 million may be imposed for late submission or for missing or inaccurate declarations.

The fine for failure to file an EC Sales List electronically is now CZK1,000.

Penalties in connection with the obligation to file the VAT ledgers are assessed automatically upon the breach of obligation and the range is from CZK1,000 to CZK500,000 (penalties may be waived if certain conditions are met).

Penalties for errors. There are no specific penalties in the Czech Republic for errors. The only consequences of the errors are penalized (as outlined above).

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details (i.e., the breach of the notification duty) or breach of duty to keep VAT-related records may result in a penalty of up to CZK500,000 (approx. EUR20,500). For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The Czech VAT Act does not provide for any specific penalties for fraud. If a business knew or should have known that the respective VAT will not be paid, the tax authorities may either reject input tax deduction from such input supplies, or the business may be held jointly liable for unpaid VAT using mechanism of VAT guarantee described above.

Personal liability for company officers. The statutory body (director) must act with care of a diligent manager. According to the Czech criminal law, both the company and its statutory body (director) may be held liable in case of intentional nonpayment or underpayment of tax obligations. The mere preparation for the tax evasion is also considered as criminal act.

Statute of limitations. The statute of limitations in the Czech Republic is three years. Generally, the tax authorities have three years to go back to assess tax, identify errors and impose penalties. The three-year limitation period starts from the day in which the deadline for filing a tax return elapsed.

The three-year limitation period is prolonged by 1 year if in the last 12 months before the expiry of the tax assessment period certain situations take place, for example, filing of a supplementary VAT return. In some situations, a new three-year limitation period is introduced, for example, in case the tax audit was initiated, or regular tax return was filed. In some cases, the limitation period is ceased, for example, in case the respective tax is being subject to court proceeding.

VAT should generally not be assessed after 10 years from the beginning of the limitation period (specific exceptions apply, e.g., in case of criminal charges).

Apart from the objective statute of limitation described above, there is also a subjective statute of limitation for filing a supplementary tax return. A supplementary tax return (where VAT is payable to the tax authorities) must be filed by the end of the month following the month in which the taxable person found out the fact decisive for the correction.

Democratic Republic of the Congo

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la Valeur Ajoutée (TVA)
Date introduced	20 August 2010
Trading bloc membership	Economic Community of Central African States (ECCAS) and Southern African Development Community (SADC)
Administered by	Tax Administration (Direction Générale des Impôts)
VAT rates	
Standard	16%
Reduced	8%
Other	Zero-rated (0%) and exempt
VAT number format	A1234567R
VAT return periods	Monthly
Thresholds	
Registration	CDF80 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions in the Democratic Republic of the Congo (DRC):
- Supply of goods and tangible assets to third parties
- Services provided to third parties
- Self-supply of goods
- Self-provision of services
- Imports of goods and services
- Export of goods and services

All operations carried out in the DRC are subject to VAT, even though the residence of the taxable person may be located outside of the DRC.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In the DRC, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in the DRC. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In the DRC, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

Exemption from registration. The VAT law in the DRC does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Taxable persons operating in the DRC are required to register with the tax authorities. Moreover, taxable persons with a minimum annual turnover of CDF80 million (approx. USD48,485) are required to obtain a VAT number. A taxable person with an annual turnover of less than CDF80 million (approx. USD48,485) can register for VAT in the DRC voluntarily. To register for VAT, the taxable person must send a request to the tax authorities accordingly.

Group registration. Group VAT registration is not allowed in the DRC.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in the DRC in the following circumstances:
- When they have a physical installation in the DRC, such as place of effective management, branches, factories, plants, workshops, agencies, stores, offices, laboratories, central buying or selling counters, warehouses, buildings rented out, a mine, oil or gas well, quarry, or any other place of exploration and extraction of natural resources, as well as any other any fixed or permanent installation of a productive nature
- In the absence of a material installation, when they exercise directly under their own corporate name an activity professional for a period of at least six months
  Or
- When they provide services, including consulting services, through employees or other personnel engaged by a company for this purpose, but only when the activities of this nature continue for a period or periods representing a total of more than six months within the limits for any period of 12 months

Non-established businesses. A "non-established business" is a taxable person that has no permanent establishment in the territory of the DRC. Non-established businesses must designate a resident representative based on a legalized or notarized letter. This resident representative is liable to declare and pay the VAT on behalf of the non-established business. If no tax representative is nominated, the VAT due should be assessed and paid by the customer (if the customer is a taxable person for VAT purposes).

Tax representatives. Non-established businesses are required to appoint a representative resident in the DRC. The non-established business may appoint only one representative for all its operations in the DRC. In the absence of a representative, the tax and the penalties relating to them are payable by the resident beneficiary of services on behalf of the non-established business.

Reverse charge. The reverse-charge mechanism is applicable whenever a non-established business fails to nominate a VAT representative. In such a case, the local taxable person (the customer) will be liable for VAT on the supply made by the non-established business. As part of the VAT reverse-charge mechanism, the VAT shall be declared as output and input tax in the same tax return. Therefore, there will be no cash impact for the customer, to the extent there is a full right of deduction.

Domestic reverse charge. There are no domestic reverse charges in the DRC.

Digital economy. Nonresidents providing electronically supplied services for business-to-consumer (B2C) supplies are only required to register and account for VAT if its supplies are greater than the registration threshold. If a nonresident's supplies exceed the registration threshold, it must appoint a representative in the DRC for accounting for and paying the VAT due and filing the subsequent VAT returns on their behalf.

Nonresidents providing electronically supplied services for business-to-business (B2B) supplies are only required to register if their supplies are greater than the registration threshold. The rules as outlined above on appointing a representative apply. However, if the nonresident does not appoint a representative in the DRC, the beneficiary of the services in the DRC (i.e., the customer) is required to self-account for the VAT due on the supply via the reverse-charge mechanism (see the subsection *Reverse-charge* above). This reverse-charge VAT should appear on the monthly VAT return of the beneficiary.

There are no other specific e-commerce rules for imported goods in the DRC.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in the DRC.

Registration procedures. A taxable person with an annual turnover of CDF80 million (approx. USD48,485) must within 15 days file a VAT registration form with the tax authorities. Each taxable person should be identified by a VAT number. In practice, the specific VAT number is not yet allocated to the taxable person, and the general tax ID is used currently instead.

The tax authorities consider the same general tax ID as the VAT number. However, the taxable person must send a letter to the tax authorities for the VAT registration and the tax authorities will then provide the taxable person with the acknowledgment receipt. The taxable person must apply for VAT registration by paper.

Deregistration. Deregistration from VAT in the DRC is mandatory for any taxable person ceasing to trade in the DRC. For the deregistration of a taxable person, it should provide the trade court with the decision made by the taxable person to cease the activity or declare the taxable person as dormant. With the acknowledgment receipt from the trade court while waiting for the deregistration, the taxable person will notify the tax authorities by providing them with a copy of the

acknowledgment receipt from the trade court. Until the final decision from the trade court is issued, the taxable person will be required to continue to submit a nil VAT return. Once the final decision of the deregistration is made by the trade court, the taxable person will provide the tax authorities with it to obtain the tax clearance. However, before issuing the tax clearance, the tax authorities need to ensure that the taxable person is debt free from the tax authorities. Thus, the taxable person's tax current account balance should be zero, i.e., nothing to pay to the tax authorities.

Changes to VAT registration details. The taxable person has the obligation to notify the tax authorities within 15 days when a change occurs to its VAT registration details.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 16%
- Reduced rate: 8%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exportation of goods and services (i.e., services rendered by a resident company to a foreign entity abroad)

Examples of goods and services taxable at 8%

- Dry fish
- Bovine meat
- Rice
- Powdered milk
- Brown sugar
- Water bottle
- Soap
- Matches

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Supply of secondhand movable property, supplied by persons who used the goods for the purposes of their business when those goods do not have the right to deduct the VAT upon their acquisition
- Sales and imports made by not-for-profit associations legally constituted when these operations are of a social nature, sporting, cultural, religious, educational or philanthropic purpose
- Sales and imports of official stamps or stamped papers
- Importing bank notes, associated costs in the production process of the bank notes equipment serving in the manufacture of monetary signs and their spare parts made exclusively by the Currency Issuing Institute
- Sales and imports of boats

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the DRC.

E. Time of supply

VAT is due when the payment has been received for the services provided (i.e., on a cash basis) and when goods have been supplied (i.e., on an invoice basis). The payment of the VAT to the tax authorities is due by the 15th day of the month following the transaction.

Deposits and prepayments. For deposits and prepayments, the VAT becomes due when the deposits and prepayments have been paid for the services provided (cash basis); and for the goods, VAT is due when goods have been supplied (invoice basis).

Continuous supplies of services. For installment payments or continuous payments with respect to continuous supplies of services, the chargeable event occurs when such installments or payments are made.

Goods sent on approval for sale or return. The time of supply for goods sent on approval for sale or return is when the goods are delivered to the customer.

Reverse-charge services. The time of supply for a reverse-charge service received by a DRC taxable person is the date of payment for the service.

Leased assets. The time of supply for leased assets is when payment is made.

Imported goods. The time of supply for imported goods is the submission of the declaration of goods with the customs authorities.

F. Recovery of VAT by taxable persons

The time limit for a taxable person to reclaim input tax in the DRC is by 31 December of the following year.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for certain business expenses.

The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply.

Examples of items for which input tax is nondeductible

- Expense on accommodation, catering, reception, shows, rental of passenger vehicles and transport of persons, excluding expenditure incurred, under their taxable activity, by tourism professionals, catering and entertainment
- Goods and services acquired by the enterprise but used by third parties, the directors or the personnel of the company, excluding work or protective clothing, equipment assigned to the collective satisfaction of staff needs, as well as free accommodation in the workplace of salaried staff, especially of the surveillance or the guard of these places
- Services of any kind, including rental, maintenance, repair, relating to products or goods excluded from right to deduction

Examples of items for which input tax is deductible (if related to a taxable business use)

- Raw materials, intermediate goods and consumables included in the composition of taxable products, or those not entering in the finished product are destroyed or lose their specific qualities in a single operation of manufacturing the same products
- Goods for resale in the context of a taxable operation
- Services entering into the cost price of the operations giving right to deduction

Partial exemption. If a taxable supply to, or an import of goods by, a taxable person is partly for a taxable use and partly for another use, the amount of the input tax allowed as a credit is the part of the input tax that relates to the taxable use. This scenario is known as "partial exemption," and as such an apportionment percentage will be applied to the taxable person's input tax.

The apportionment percentage is equal to the sum of revenues (revenue from the items for which the deduction of the VAT is allowed, which includes exports and related transactions) then divided by the total of revenues realized (all revenues included) during the current tax year.

A partially exempt business should calculate their apportionment to find the correct percentage of apportionment to be applied and regularize the VAT due by 31 March of the following year. In case of all items are VAT deductible and full VAT has been applied, no regularization should be made.

Approval from the tax authorities is not required to use the partial exemption standard method in the DRC. Special methods are not allowed in the DRC.

Capital goods. The input tax incurred on the acquisition of capital goods for a taxable purpose is deductible. There are no special time limits or rules for the recovery of input tax incurred on capital goods.

Refunds. If for the same month, the amount of input tax exceeds the amount of output tax of the same period, the taxable person has a right to the VAT refund, which is a tax credit to be carried forward to the next taxable period(s). The tax credit cannot be refunded to the taxable person.

Except for exporters, companies making heavy investments, mining and oil companies in phase of research or development and construction of the mining or petroleum project, those who cease activities and public enterprises in which the state owns all of the share capital and whose VAT has been invoiced and has been subject to withholding tax, may get the refund of their tax credit on VAT resulting from the acquisition of movable property and services.

Heavy investment means acquisition of new property, plant and equipment in which the value of the project is not less than CDF1 billion.

Pre-registration costs. Input tax incurred on pre-registration costs in the DRC is not recoverable.

Bad debts. The output tax accounted for on supplies that are subsequently canceled or remain unpaid may be recovered by imputation on the tax due for subsequent transactions.

For unpaid transactions, when the claim is actually and definitively unpaid, the rectification of the invoice consists in sending a duplicate of the invoice with regulatory indications with the mention that the amount of the invoice remained unpaid at the price excluding VAT and of the amount of the corresponding VAT that cannot be deducted.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the DRC.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the DRC is not recoverable.

H. Invoicing

VAT invoices. A VAT invoice must be issued for each transaction made and include all the mandatory information including the amount excluding VAT, the amount of VAT and the total including VAT.

Credit notes. For canceled transactions, the related invoice and VAT should be canceled. Therefore, a credit note should be raised to cancel the original invoice. The recovery of the VAT to be paid to the supplier is subordinated by the tax authorities and the sending to the customer of a new invoice or credit note canceling or replacing the original invoice. Thus, the original invoice must be crossed out and kept in the chronological order.

Electronic invoicing. Electronic invoicing is allowed in the DRC, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the DRC. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the DRC. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoices must contain all the same required information as a full VAT invoice (and as such, a paper invoice). If this is not complied with, the tax authorities will challenge the deductibility of the input tax on such an invoice for the customer.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in the DRC. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in the DRC. It is only allowed for the self-supply of goods or self-provision of services. In these cases, the VAT is due: at first use, for the self-supply of goods and at the date of the execution of services for the self-provision of services.

Proof of exports. VAT for exported goods is zero-rated. To obtain the zero rating, the following evidence must be provided:
- A copy of the bank document establishing proof of payment by the exporter's customer and a copy of the transport document
- Copies of the export declarations certified by the customs authorities

Foreign currency invoices. Invoices cannot be issued in a foreign currency in the DRC. All invoices must be issued in the domestic currency, which is the Congolese franc (CDF).

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in the DRC. As such, full VAT invoices are required. Note that when the suppliers issue invoices to customers even if the customers are not registered for VAT, the VAT should be charged on these invoices, unless the customers show an exemption certificate. This means that invoices issued to customers that are exempt from VAT should not be charged VAT (and should not be included on the invoice). Otherwise, all the invoices issued by the suppliers to customers, including the ones who are not registered for VAT, are subject to VAT.

Records. In the DRC, examples of what records must be held for VAT purposes include tax invoices, nominal/general ledger, trial balance, etc. In the DRC, VAT books and records must be held within the country.

Record retention period. All invoices or equivalent documents must be kept, according to the legislation in place, for at least 10 years.

There is a prescription period for the recovery of taxes and other duties due after 15 years from the filing of the declaration or the issuance of the notice of recovery.

Electronic archiving. Electronic archiving is allowed in the DRC. Records can be kept manually or electronically.

I. Returns and payment

Periodic returns. The VAT return is filed with the tax authorities on a monthly basis, by the 15th of the following month. The VAT return must be submitted with the proof of payment of the VAT.

Without proof of payment, the tax authorities will not receive the VAT return (unless it is a nil VAT return). In the case of a VAT refund, the refund will be reported as a VAT credit in the return for the next month. No refund is paid back directly to taxable person (apart from mining companies). In practice, even the mining companies don't receive the refund easily or readily.

Periodic payments. The VAT is paid no later than the 15th of the month following the delivery of the goods (invoice) for the goods and payment received for the services.

Electronic filing. Electronic filing is mandatory in the DRC for certain taxable person. Electronic filing is mandatory for all taxable persons that are registered with the Direction des Grandes Entreprises. For the remaining taxable persons that are registered with the Centre des Impôts and the Centre des Impôts synthétiques, they must file VAT returns manually.

Payments on account. Payments on account are not required in the DRC.

Special schemes. *Cash accounting.* Cash accounting is allowed in the DRC. For service providers, the VAT is due when they receive the cash. By the 15th of the following month, they should proceed with the payment of the VAT and join the proof of payment to the VAT return and file the return with the tax authorities.

Purchase invoice scheme. For purchasers of goods, the VAT is due when receiving the invoice for the goods.

Annual returns. Annual returns are not required in the DRC.

Supplementary filings. *Statement of deductions.* In the DRC a detailed statement of deductions is required to be filed alongside the monthly VAT return. Also, in March, taxable persons are required to file a confirmation of the annual pro rata. This is for taxable persons that are partially exempt. These need to calculate the apportionment to find the correct percentage to be applied and to regularize the VAT by 31 March of the following year. In case of all items are VAT deductible and full VAT has been applied, no regularization should be made.

Correcting errors in previous returns. To correct any errors or omissions from prior periodic filings, the taxable person must send a letter to the tax authorities to communicate the errors or omissions. These will then be corrected in the next VAT return, which should be filed by the 15th of the following month as normal.

Digital tax administration. There are no transactional reporting requirements in the DRC.

J. Penalties

Penalties for late registration. Failure to register for VAT with the DRC tax authorities within the required period is subject to a fine of CDF500,000.

Penalties for late payment and filings. The absence or late filling of VAT returns is subject to a penalty of 25%. In the case of discretionary taxation for lack of declaration, the penalty is equal to 50% of the amount of the tax due. In case of recidivism, the penalty will increase to 100% of the same amount.

In the case of a tax audit, the penalty equals 20% of the amount of tax due. In case of recidivism, the penalty will increase to 40% of the same amount.

Penalties for errors. When supplying goods or providing service without invoice, the taxable person will be liable for the penalties amounting to twice the VAT due. In case of recidivism, the taxable person will be liable for the penalties amounting to triple of the VAT due.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any abuse of VAT on an invoice or similar document is subject to a penalty equal to three times of the amount of the tax illegally invoiced.

The taxable person that issues a false invoice including VAT or falsifying an invoice presented as justification for a deduction is subject to the payment of a fine equal to three times of the tax due.

Any refund of credits from the VAT obtained on the basis of false invoices gives rise to an immediate reimbursement of the sums unduly received, with a fine equal to the same amount.

Any deduction made and not corresponding, in part or in whole, to an acquisition of goods or the provision of services is subject to a fine equal to the amount of duties unduly deducted.

The taxable person that fraudulently abuses the electronic filing system will be liable for the payment of the penalties amounting to CDF5 million (USD3,030) for the first time and triple in case of recidivism. However, because electronic filing has not been implemented in practice, the associated penalties have also not been implemented.

Personal liability for company officers. Company directors can be held personally liable for errors and omissions in VAT declarations and reporting. Penalties can be imposed as 25% of the VAT due and/or (2% x number of months of delay) x VAT due.

Statute of limitations. There is no specific statute of limitations in the DRC. The tax authorities can go back to review returns and identify errors and impose penalties at any time.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Merværdiafgift (Moms)
Date introduced	3 July 1967
Trading bloc membership	European Union (EU)
Administered by	Danish Tax Agency (www.skat.dk)
VAT rates	
Standard	25%
Other	Zero-rated (0%) and exempt
VAT number format	DK 12 34 56 78
VAT return periods	Monthly, quarterly and half-yearly

Thresholds	
Registration	
Established	DKK50,000 (approx. EUR6,700)
Non-established	No threshold
Distance selling	DKK75,000 (approx. EUR10,000)
Intra-Community acquisitions	DKK80,000 (approx. EUR10,700)
Electronically supplied services	DKK75,000 (approx. EUR10,000)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Denmark by a taxable person
- The intra-Community acquisition of goods from another EU Member State by a taxable person (*see the chapter on the EU*)
- Reverse-charge services received by a taxable person in Denmark
- The importation of goods from outside the EU, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

Quick Fixes have been implemented in Denmark since 1 January 2020. In general, the implementation follows the EU Directive; however, the Danish requirements regarding documentation for transport of goods to another Member State in connection with EU supplies have not been increased and are somewhat more lenient than the Quick Fixes EU Directive rules.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoy rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Denmark, the following services are subject to the use and enjoyment provisions:
- Transfers and assignments of copyrights, patents, licenses, trademarks and similar rights
- Advertising services
- Services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and the provision of information
- Obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in this list
- Banking, financial and insurance transactions, including reinsurance, with the exception of the hire of safes
- The supply of staff
- The letting of movable tangible property, with the exception of all means of transport
- The provision of access to a natural gas system situated within the territory of the Community or to any network connected to such a system, to the electricity system or to heating or cooling networks, or the transmission or distribution through these systems or networks, and the provision of other services directly linked thereto

- Telecommunications services (only for supplies from a Denmark supplier to non-EU taxable person or supplies from a Denmark supplier to any nontaxable person)
- Radio and television broadcast services (only for supplies from a Denmark supplier to non-EU taxable person or supplies from a Denmark supplier to any nontaxable person)

Transfer of a going concern. The Danish VAT Act stipulates that the transfer of a going concern (TOGC) is not a taxable transaction for VAT purposes. To qualify as a TOGC, the following conditions should be met:

- The transferred assets need to be a full or partial transfer of a business that can be run by itself (transfer of shares does not qualify, nor does stand-alone transfer of inventory)
- The transferring party will stop carrying out activities like those transferred
- If the seller is registered for VAT for the transferred business/activity, the receiving party must be or become registered for VAT in Denmark

Transactions between related parties. Denmark has rules for transactions between related parties. Related parties are:

- Parties closely related due to family or other personal relations
- Parties closely related due to legal, managerial or membership relations
- A party having economic interests in another party's company or property

If certain conditions are fulfilled, the tax authorities may fix the taxable amount at the open market value for the goods and services supplied.

If there is no proper market value for the goods and services or alike, the taxable amount must be the cost price (except for a normal markup), and the seller must take all cost elements into consideration.

The Danish tax authorities can adjust the taxable amount when:

- The payment for a VAT-taxable supply is lower than the cost price, and the buyer does not have full right to VAT deduction.
- The payment for a VAT-exempt supply is lower than the cost price, and the supplier has a limited right to VAT deduction (turnover split).
- The payment for a VAT-taxable supply is higher than the open market value, and the supplier has a limited right to VAT deduction (turnover split).

C. Who is liable

The term "taxable person" means any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions, or distance sales in the course of a business.

The VAT registration threshold is turnover of DKK50,000 a year for a business resident in Denmark. No registration threshold applies for a non-established business. Consequently, VAT registration is required as soon as a non-established business begins making supplies subject to VAT in Denmark.

Exemption from registration. If a business only makes supplies that are exempt from VAT, then it does not have to register for VAT. However, the business is often liable to register for salary duty. It is a duty, which some businesses must pay, when they deliver VAT exempt goods and services. For example, businesses that supply education, medical services, financial services, cultural services, etc., will have an obligation to register for salary duty. On the other hand, businesses that supply passenger transport to or from other countries or supplies made by writers, composers and performing artists are not obliged to register for salary duty.

If a business delivers supplies that are not exempt from VAT, the VAT law in Denmark does not contain any provision for exemption for registration.

Voluntary registration and small businesses. The VAT law in Denmark does not contain any provision for voluntary VAT registration for foreign entities, as there is no registration threshold for businesses established outside of Denmark. Therefore, all foreign entities that make taxable supplies are obliged to register for VAT unless the business is registered for VAT via the One-Stop Shop (OSS) and only makes supplies that are covered by the OSS. This also includes the Import One-Stop Shop (IOSS).

Foreign entities that supply goods or services in Denmark for which they are not obliged to settle the VAT (because the VAT must be settled by the buyer under the reverse-charge regime) may not opt to register for VAT in Denmark.

Danish entities that are not required to register for VAT because their turnover does not exceed the threshold may choose to voluntarily register.

Both Danish and foreign businesses that lease out real estate can register voluntarily for the letting of real estate, which would lead to the letting becoming subject to VAT rather than exempt.

In certain cases where the sale of real estate would be exempt, it is also possible to voluntarily register for the sale of real estate to a VAT-registered business. In this case the sale would still be exempt, but the VAT incurred may be deducted and transferred as a VAT adjustment obligation under certain conditions.

It is also possible for certain businesses to register voluntarily for sale of investment gold.

Group registration. Groups of companies or related entities may request registration as a single taxable person (VAT group). If a company with exempt activities (partly or fully) wishes to be part of a VAT group, the parent company must be included in the VAT group. In this case, all group members must be 100% owned by the parent company and established in Denmark.

There is no minimum time period required for the duration of a VAT group.

The effect of VAT grouping is that no VAT is charged on supplies between group members. However, if any member of the group has exempt activities, the group must deduct input tax on a pro rata basis.

All members of a VAT group are jointly and severally liable for VAT debts and penalties.

Holding companies. In Denmark, a pure holding company may be part of a VAT group but only with fully owned group companies (similar to companies with exempt activities).

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Denmark. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Danish VAT law).

It is possible for companies that have exempt activities to set up a cost-sharing group that can supply certain services to the members of the group under a VAT exemption. The services must be specific for the exempt activities of the members, the VAT exemption must not lead to distortion of competition, and only members whose activities are exempt under art. 132 of the EU VAT Directive can use the exemption. The payment from each member must exactly match the costs related to the services supplied to that member.

Fixed establishment. In Denmark there is no legal definition of when a fixed establishment will exist for VAT purposes. However, according to EU and local case law, a fixed establishment is assumed to have been established when the entity has the necessary presence of a sufficiently permanent character of the appropriate human and technical resources.

Non-established businesses. A non-established business must register for Danish VAT if it makes any of the following supplies:

- Goods that are located in Denmark at the time of supply
- Intra-Community acquisitions in Denmark
- Distance sales greater than the annual threshold (the registration may be under the OSS)
- Business-to-consumer (B2C) e-services, broadcasting and telecommunications to individuals with Danish residence (except if such EU sales do not exceed the threshold) (the registration may be under the OSS)
- Services that are not subject to the tax under the "reverse-charge" mechanism (for example, services related to real estate that are supplied to private persons) (the registration may in many cases be under the OSS). Most services supplied to taxable persons in Denmark are covered by the Danish reverse-charge regime

For details on how a non-established business registers for VAT in Denmark, see the subsection *Registration procedures* below.

Tax representatives. Businesses established in the following countries are not required to appoint a tax representative to register for Danish VAT:

Aland Islands	Faroe Islands	Iceland	United Kingdom (UK)
EU Member States	Greenland	Norway	

However, businesses established in the above countries may choose to appoint a tax representative to register for VAT. If a business established in a country, which is not an EU Member State, imports goods into Denmark, there will be an obligation to appoint a fiscal representative who is jointly and severally liable for any VAT or customs duty payments due (also applies to the non-EU countries mentioned above).

VAT registration for non-established taxable persons from the Aland Islands, EU Member States, the Faroe Islands, Greenland, Iceland, Norway and the UK without a fiscal representative will mean that the Danish tax authorities will contact the business directly at their address in their home country.

Businesses established in other countries must appoint a Danish resident (either a business or a natural person) as tax representative to register for VAT. The representative and the nonresident business are jointly and severally liable for VAT liabilities.

The Danish tax authorities may require a non-established taxable person to provide security equal to its expected VAT liability for a three-month period. This may occur if the tax authorities believe a risk exists that the non-established business may not pay its indirect tax obligations.

Reverse charge. If a non-established business supplies services to a taxable person in Denmark the taxable person may be required to account for the VAT due under reverse-charge accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax.

In case of digital services, telecom services or broadcasting services supplied in a B2B context, the place of supply is the place where the recipient is established. No Danish VAT should be charged, and reverse charge applies unless supplier and customer are established in Denmark.

In case of digital services, telecom services or broadcasting services supplied in a B2C context, Danish VAT is always due in case of supply to customers established in Denmark, disregarding whether the supplier is established inside or outside the EU (except for EU businesses whose B2C supplies do not exceed the threshold of EUR10,000).

The authorities can require banks, credit card companies and others handling transfer of payments to inform them of payments involving distance sales of goods made to Danish customers and electronic services supplied to nontaxable persons in Denmark.

Domestic reverse charge. The domestic reverse charge is applicable in Denmark for a limited number of supplies. The domestic reverse charge works the same way as the normal reverse charge, but domestically within country territory.

The mechanism applies to sales to taxable persons of metal scrap, mobile phones, computer chips, gaming devices, tablet-PCs, laptops, CO2 quotas, CO2 credits, and gas and electricity certificates. As of 1 January 2024, the domestic reverse charge also applies to suppliers of telecommunication services to resellers of these services.

For mobile phones, computer chips, gaming devices, tablet-PCs and laptops, the reverse-charge mechanism does not apply if the vendor's supply of products subject to domestic reverse charge (high-value goods) are made exclusively or predominantly to private consumers. If more than 50% of the sales of high-value goods are made to private consumers, the general rule applies, i.e., the Danish supplier must charge DK VAT on local sales.

The domestic reverse charge also applies to sales of investment gold to VAT registered businesses.

Finally, the reverse charge applies to sales of gas or electricity to a taxable person who is a reseller of the gas or electricity.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, Effective use and enjoyment subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

At the time of preparing this chapter, suppliers of streaming services to Danish residents should be aware that Denmark is expected to adopt a "cultural levy" with effect from 1 January 2024. The levy is expected to be 2% of Danish turnover, with a possible additional 3% payable for companies who invest less than 5% of their Danish turnover in Danish content. No further details have been released.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Denmark there are no additional specific local rules that apply.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services. The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Denmark, taxable persons established outside EU can choose Denmark as the Member State of Identification, i.e., where the taxable person chooses to register for the OSS (only relevant where a taxable person uses the non-Union scheme, as the dispatch country is the Member State of Identification for the Union scheme). It is a two-step registration process. The non-established business must first register in Denmark with an administrative business number and hereafter register electronically in the OSS.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the chapter on the EU.*

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In Denmark, taxable persons established outside the EU must register with an intermediary in Denmark if the Member State of Identification is appointed to be Denmark.

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Denmark, there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021 taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Denmark, online marketplaces and platforms established outside the EU must register in the country of dispatch. *For more details about the rules for online marketplaces, see the chapter on the EU.*

Vouchers. Denmark has implemented the EU Voucher Directive in the Danish VAT law with effect as of 1 July 2019. Prior to this implementation, no definition of the VAT treatment of vouchers was included in the Danish VAT law. Thus, any voucher issued on 1 July 2019 or later shall from a Danish VAT point of view be treated under the new definition of single-purpose vouchers (SPVs) and multi-purpose vouchers (MPVs) set out in the Danish VAT law. The wording of the Danish Amendment Act implementing the EU Voucher Directive is very similar to the wording in the EU Voucher Directive.

Since there is only the standard VAT rate of 25% in Denmark (except for a 0% VAT rate on newspapers), any voucher that can only be redeemed in Denmark would in general be qualified as an SPV for VAT purposes, unless the voucher can also be used for exempt goods or services (or newspapers). According to the guidelines made by the Danish Tax Agency in connection with the implementation of the EU Voucher Directive, any SPV must be treated as if the issuer supplied the goods and services (even if it is not so from a civil law point of view). The issuer must therefore pay the VAT when the voucher is transferred. It is the opinion of the Danish Tax Agency that it makes no difference if an SPV is issued in own name or if the issuer acts as provider of the voucher in its own name. The tax base for an SPV is the payment received.

For an MPV, VAT is not settled until the actual transfer of the underlying good or service to the bearer of the voucher. Thus, VAT is not due until the time of redemption, and no VAT is settled of the preceding transfers of an MPV. The VAT basis for an MPV is a starting point of the counter value paid for the voucher. If an MPV can be used multiple times, it is only the part of the voucher that is redeemed of which VAT should be calculated.

Registration procedures. For domestic businesses, the registration process is performed online and requires a digital signature (MitID) (which could be that of a Danish advisor, e.g., an auditor or a lawyer).

For foreign businesses, the registration application can be submitted either electronically or in hard copy. It is often made by paper, as a foreign business will normally not have a Danish digital signature. However, if made electronically, it can be done by an advisor using their digital signature. Foreign businesses must register for VAT by filling out the following form: https://virk.dk/myndigheder/stat/ERST/selvbetjening/Registration_of_Non-Danish_Company__Start_-_40112/.

For foreign businesses, the registration application must include documentation for the company registration number in the home country (normally certificate of incorporation and articles of association), documentation of VAT registration in the home country (if applicable) and a confirmation from the tax authorities in country of establishment that the company has no unpaid debts to the tax authorities. For both domestic and foreign businesses, the VAT registration application must be submitted at the latest eight days before taxable activities are started in Denmark. If the application is not submitted or it is submitted late, or the information provided is not correct or insufficient, a penalty might be issued.

When a VAT registration is required, the business should submit a request to register at least 8 days before the start of the activities leading to the requirement to register. It is, however, possible to register retroactively.

The registration process normally takes roughly 14 days but can take up to 2 months. A certificate with the Danish VAT number can be downloaded at the e-tax platform. The business can login into the e-tax platform using its digital signature (MitID) or a special code (TastSelv code) issued by the Danish Tax Agency.

Deregistration. A taxable person that ceases to be eligible for VAT registration must deregister within eight days. For Danish businesses with a Danish business identification number, the VAT number will be the same if taxable activities are resumed. For foreign businesses, it is not possible to receive the same VAT number if taxable activities are resumed.

Changes to VAT registration details. Businesses with a Danish VAT registration must notify the Danish Tax Agency when there are changes to their VAT registration details, such as name of company, address and type of business. The business should notify the authorities as soon as the change is known. It could trigger a new VAT registration for the business in case the business obtains a new company number, i.e., significant changes to the legal person. This could be the case if the business moves its establishment to another country.

Domestic businesses and non-established businesses with a Danish company number can notify the authorities about changes online. Non-established business without a Danish company number must submit a paper form to the authorities.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 25%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Newspapers
- Supplies to ships
- Supplies of gold to the Danish National Bank

Some supplies are classified as "exempt-with-credit," which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt-with-credit supplies include exports of goods and related services, intra-Community supplies of goods and intangible services supplied to either another taxable person established in the EU or a recipient outside the EU (*see the chapter on the EU*).

The term "exempt supplies" refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Medical services
- Education
- Financial services
- Insurance and reinsurance
- Supplies made by writers, composers and performing artists
- Cultural services
- Transport of passengers
- Investment gold
- Leasing of real estate

Option to tax for exempt supplies. It is possible to make a voluntary registration to tax letting and tenancy of real estate. The voluntary registration for letting of property must be at least two years. The two-year period starts when the first letting has commenced. In certain cases where the sale of real estate would be exempt, it may also be possible to obtain a voluntary registration for the sale to a taxable business.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. However, if one of the other events described below occurs before the time of the actual supply, the VAT will become due at the time of that event.

If the invoice is issued prior to the actual supply, VAT is due when issuing the invoice. If the invoice is issued shortly after the actual supply, the invoice date is generally accepted as the "tax point." If any prepayments are made earlier than the actual supply or before issuing the invoice, VAT is due at the time of the prepayment (see the *Deposits and prepayments* subsection below).

Deposits and prepayments. The time of supply for an advance payment is when the supplier receives the payment even if the supply has not been made. In this case, the VAT will be due for the prepaid amount at the time of prepayment. This also applies if an invoice is not issued at this point in time (in which case, however, the customer will not be able to deduct the VAT until they receive an invoice). A final time of supply occurs when the supply has been completed.

Continuous supplies of services. The time of supply of services where no final delivery has taken place, but payment has been made, is at the end of each VAT return period in which the payment covers. When, as part of a continuous supply of goods, the delivery is taking more than one month and has not concluded, delivery is considered to have taken place on the last day of the month. If delivery is taking more than one year and has not concluded and no payment has been made, delivery is considered to have taken place on the last day of the calendar year.

Goods sent on approval for sale or return. When goods are supplied in consignment/commission (sale or return), it is possible to choose between two different time of supply rules:

- The time of supply

  Or

- The time of the payment to the consignee

If the last possibility is chosen, the invoice must be issued at the time of payment.

If the goods are returned to the seller, the treatment that applies depends on which time of supply the seller and consignee have agreed upon. If they have chosen the time of supply, a credit note must be issued. If they have chosen the time of the payment to the consignee, no payment has taken place and the consignee can return the goods without further issues.

If the goods are not sold, the VAT treatment depends on the circumstances. It may be that no supply has taken place, or it may be that a supply for no consideration has taken place.

Denmark does not have a specific time of supply rule for any supplies sent on approval for sale or return that are not under the consignment/commission setup, as outlined above. As such, the normal time of supply rules apply.

Reverse-charge services. Certain services imported from outside Denmark by a taxable person are subject to the tax under the "reverse-charge" mechanism, which means that the recipient of the service must account for VAT. The time of supply for a reverse-charge service is the VAT period in which the service is supplied or the period in which the invoice is issued if the invoice is issued shortly after the supply.

Leased assets. There are no special time of supply rules in Denmark for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is the date of the customs clearance or the date on which the goods leave a duty suspension regime.

Intra-Community acquisitions. The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued.

Intra-Community supplies of goods. The time of supply for an intra-Community supply of goods is the 15th day of the month following the month in which the supply occurred. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued.

Distance sales. There are no special time of supply rules in Denmark for supplies of distance sales. As such, the general time of supply rules apply (as outlined above) and is when the goods are delivered. For distance sales supplies, where the supplier is established outside the EU and the goods are supplied via an online marketplace and platform, the time of supply changes to the time of payment. The same applies for all supplies of goods under the import scheme.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Denmark, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services.

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

The time limit for a taxable person to reclaim input tax in Denmark is three years. If input tax has not been reclaimed (by error) in previous periods, the VAT return for the period in question may be adjusted to include the input tax until three years after the filing deadline for the VAT period where the input tax should have been reported.

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

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

Examples of items for which input tax is nondeductible

- Business gifts with a value of more than DKK100
- Purchase, lease or hire of a passenger car
- Maintenance costs for a passenger car
- Employee meals and entertainment

Examples of items for which input tax is deductible (if related to a taxable business use)

- 100% of hotel accommodation, if strictly for business purposes
- 25% of restaurant services, if strictly for business purposes
- Books
- Long-term lease of cars used for a business (a proportion)
- Attendance at conferences, seminars and exhibitions
- 50% of home telephone bill (only applicable to landlines)
- Purchase and subscriptions connected with, e.g., mobile phones and laptops based on a split between business use and private use

Partial exemption. Input tax incurred that is directly related to making exempt supplies is not generally recoverable. Input tax wholly attributable to taxable supplies is recoverable in full. Only that portion of input tax attributable to exempt supplies is not recoverable. This situation is referred to as "partial exemption." Exempt with credit supplies are treated as taxable supplies for these purposes.

The amount of input tax that may be recovered is calculated in the following two stages:

- The first stage is the direct allocation of VAT to exempt and taxable supplies. Input tax directly allocable to exempt supplies is not deductible.
- The second stage is to prorate the remaining input tax that relates to both taxable and exempt supplies (for example, VAT incurred on business overhead) based on the percentage of total turnover that is taxable. The pro rata calculation must be performed each year, and the recovery percentage is rounded up to the next whole number. For example, a recovery percentage of 77.2% is rounded up to 78%.

Approval from the tax authorities is not required to use the partial exemption standard method in Denmark. From 2024, taxable persons will need to report the pro rata rate to the tax authorities.

Special methods are not allowed in Denmark, except for certain costs relating to real estate (where special methods are mandatory for certain types of costs).

For costs relating to both taxable activities and activities not related to taxable or exempt activities, deduction should be made based on an estimate of the use that entitles to VAT deduction.

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

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

- Land and buildings including additions and alterations: adjusted for a period of 10 years
- Repair, maintenance and renovation of land and buildings if annual cost exceeds DKK100,000: adjusted for a period of five years
- Items of machinery, equipment and furniture costing more than DKK100,000: adjusted for a period of five years
- Services that are comparable to physical capital goods, including software and rights, where such services have a purchase price exceeding DKK100,000: adjusted for a period of five years

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax (1/10 for land and buildings and 1/5 for other capital goods). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business increases or decreases compared with the year in which the capital goods were acquired.

Refunds. If the input tax exceeds the output tax in a specific filing period, the business registered for VAT in Denmark is in a VAT refundable position. The VAT refund is claimed via the submission of the VAT return and the VAT refund is usually transferred to the business within 21 days after the submission of the VAT return. All businesses registered for VAT in Denmark should register an "Easy Account" (a regular bank account) with the Digitalization Agency and all transfers of funds from the Danish authorities will be transferred to this account.

Pre-registration costs. Pre-registration costs are refundable if they relate to the taxable activities of the business. Whether or not the costs qualify for a refund must be individually assessed. Where the business is not registered from the start of the activities, there is a time limit of three years for obtaining a retroactive deduction (corresponding to the general statute of limitation for VAT).

Bad debts. To claim bad debt relief, the supplier must be able to demonstrate the loss by use of a court order. If a debtor is bankrupt, in liquidation, etc., or the debtor is dead, this is treated as the equivalent to a court order.

Regarding bad debts not related to bankruptcy and the like, it is sufficient that the supplier has made an effort to claim the amount through a debt collection agency or a lawyer or that the supplier itself has tried in vain to collect the amount. The debt must be considered lost and minimum internal chasing procedure must be performed in order to render it probable that the debt cannot be recovered. The chasing procedure must be reasonable compared to the size of the debt and the costs related to the collection.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Denmark.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Denmark is recoverable. The Danish VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Denmark. Non-established businesses may claim Danish VAT to the same extent as a VAT-registered business.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Denmark during the refund period (excluding supplies covered by the reverse charge). *For full details see the chapter on the EU.*

Find below specific rules for Denmark:
- Claims must be submitted in Danish, English, German or Swedish.
- The minimum claim for a period of less than a year is DKK3,000. For an annual claim, the minimum amount is DKK400.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th VAT Directive. *For full details see the chapter on the EU.*

Reciprocity is not applicable in Denmark. This means that the refund scheme is open to any country, as long as the non-EU business meet the specific rules (as outlined below).

The VAT refund procedure under the EU 13th Directive may be used only if the business was not established within the EU during the refund period. Furthermore, the business shall declare that no business activities triggering a VAT registration obligation in Denmark have been performed during the refund period. Find below specific rules for Denmark:
- The deadline for refund claims for non-EU businesses is 30 September of the year following the year in which the tax is incurred.
- The minimum claim period is three months, while the maximum period is one year. However, a claim for the remainder of a calendar year can be for less than three months. The minimum claim for a period of less than a year is DKK3,000. For an annual claim or a claim for a period for the remainder of a calendar year, the minimum amount is DKK400.
- The claimant shall provide documentation that business activities are performed in the non-EU jurisdiction of the business' establishment.
- Claims must be submitted in Danish, English, German or Swedish.
- Applications for refunds of Danish VAT should, for businesses established outside the EU, be sent to the following office:

  Skattestyrelsen
  Nykøbingvej 76
  Bygning 45
  DK-4990 Sakskøbing
  Denmark

- The Danish tax authorities are obliged to decide on the refund application no later than eight months after the application was submitted.

Late payment interest. In case of late VAT refund payments (to both EU and non-EU non-established businesses), according to the Directive n° 2008/9/EC, implemented in the Denmark VAT law, Denmark must pay late payment interest at a variable rate as from the date the refund should have been made. The rate is 8%, plus the lending rate fixed by the Danish National Bank on 1 January and 1 July each year. *At the time of preparing this chapter, the rate is 11.25% (effective 1 July 2023).*

H. Invoicing

VAT invoices. A Danish taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU Directive 2008/9/EC or the EU 13th Directive refund schemes (*see the chapter on the EU*).

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice and contain the same information.

Electronic invoicing. Electronic invoicing is mandatory in Denmark for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Denmark. This is in line with EU Directive 2010/55/EU (*see the chapter on the EU*). This is with effect from 2005. Technically this is based on non-VAT rules and require that invoices sent to public bodies are sent electronically in a specific format. If preferred, invoices can be issued normally for such supplies (i.e., by paper), but must then be uploaded electronically.

For B2B and B2C supplies, electronic invoicing is allowed in Denmark, but not mandatory. This is in line with EU Directive 2010/45/EU (*see the chapter on the EU*). A wider e-invoicing framework based on non-VAT rules will be implemented during 2024-2026 as part of the digital bookkeeping regulations being rolled out in Denmark.

The Danish business authorities will gradually implement general B2B e-invoicing requirements during 2024-2026. The implementation means that businesses will be required to possess the technical capability to issue and receive e-invoices using either the OIOUBL or the Peppol BIS formats, although the use of e-invoices will not be mandatory. This means that businesses must have the infrastructure and systems in place to send and receive electronic invoices, but they can continue to use traditional paper invoices or other methods if they prefer.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Denmark.

The requirements related to electronic invoicing are the same as those for paper invoicing.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A simplified invoice can be issued if the total sales value does not exceed DKK 3,000 ex VAT. The simplified invoices must contain the following data:
- Date of issue
- Sequential invoice number
- Supplier's VAT number
- Supplier's name and address
- Quantity and nature of the goods/services supplied
- Total payable amount, including VAT
- Payable VAT amount or the necessary information to calculate the VAT amount, e.g., by stating that the VAT amount is 20% of the total payable amount including VAT (equal to the Danish VAT rate of 25%)

Companies mainly or only selling to private consumers must issue a simplified invoice, unless they use a cash register system and provide a cash receipt to the customer. The cash receipt must contain the following data:
- Date of issue
- Supplier's VAT number or supplier's name and address
- Quantity and nature of the goods/services supplied
- Total payable amount including VAT
- Payable VAT amount or the necessary information to calculate the VAT amount, e.g., by stating that the VAT amount is 20% of the total payable amount including VAT

Self-billing. Self-billing is allowed in Denmark. It is possible to enter into an agreement where the customer issues the invoice to themselves on behalf of the supplier. The parties must enter into a written agreement to allow for self-billing. The agreement must include a description of the process, including how the supplier approves each invoice (may be by not opposing the invoice within a fixed number of days). The self-billing invoice must contain the same information as a regular invoice, plus the wording "*selvfakturering*" or "self-billing" and the customer's VAT registration number.

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (*see the chapter on the EU*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Denmark. Acceptable proof includes the following documentation:
- For an export, the seller must retain the signed customs documentation with a pro forma invoice and commercial evidence such as customer orders and contracts.
- For an intra-Community supply, the seller must indicate the customer's VAT identification number (from a different EU country) and must retain commercial documentation, such as purchase orders, transport documentation and evidence of both payment and receipt of goods.

No special documentation applies in Denmark for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

At the time of preparing this chapter, it was not expected that EU rules regarding maximum documentation requirements will lead to additional requirements in Denmark in the situation where the seller is responsible for transport.

Notice that there are special documentation requirements for intra-Community supplies, when (1) the buyer picks up the goods at the seller's place of business in Denmark (EXW) and (2) the buyer pays at the time of picking up the goods (no credit/deferred payment). In this case the seller must have a buyer statement confirming:
- The goods are sent or transported outside Denmark
- The destination of the goods
- Means of transport and registration number
- The goods are received at the delivery address

The buyer statement must be documented by other documents for the transportation, e.g., tickets from ferries, bridges or similar.

Foreign currency invoices. A Danish VAT invoice may be issued in the domestic currency, which is the Danish krone (DKK), or euros (EUR). If another currency is used, the amount of VAT must be converted into DKK, either by using the current daily exchange rate or the official monthly customs exchange rate published by the Danish tax authorities.

Supplies to nontaxable persons. Special rules apply to the place of supply for supplies of telecommunications, broadcasting and electronic services to nontaxable customers. Non-established businesses registered under the OSS scheme are exempt from the invoicing requirement when selling these services to Danish consumers.

Danish suppliers of these services are required to issue invoices to nontaxable customers.

Non-established businesses performing distance sales of goods to Danish consumers, registered via the OSS scheme, are exempt from issuing invoices.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Denmark, examples of records that must be held for VAT purposes include bookkeeping materials (bookkeeping, financial statements, any documents that form the basis of the bookkeeping, etc.) and tax invoices. VAT registered businesses must in general comply with the Danish Bookkeeping Act.

In Denmark, VAT books and records can be kept outside of the country. Electronically archived records may be stored outside of Denmark. However, paper files may only be stored outside Denmark temporarily (for the month when the document is issued and the following month – to allow

bookkeeping to take place outside of Denmark). Paper files can be stored in the Scandinavian countries if certain requirements are met.

Record retention period. VAT records must be kept for 5 years, and if the records concern immovable property covered by the capital goods scheme, they must be kept for 10 years.

The records should be kept in accordance with the Danish Bookkeeping Act. This means that they must be clear and transparent and make it possible for the tax authorities to audit that the VAT reporting is correct. The summarized information in the VAT return must be verifiable through the individual entries. From 2024, businesses will gradually be required to store invoices electronically, along with any supplementary records supporting these documents.

Taxable persons using the OSS schemes and the import scheme must keep the VAT records for 10 years.

Electronic archiving. Electronic archiving is allowed in Denmark, and a general requirement will be implemented during 2024-2026.

I. Returns and payment

Periodic returns. A Danish taxable person whose turnover exceeds DKK50 million must submit VAT returns on a monthly basis. A taxable person with a turnover of between DKK5 million and DKK50 million generally submits returns on a quarterly basis (monthly returns are optional). A taxable person with turnover of less than DKK5 million must submit returns on a half-yearly basis.

Monthly VAT returns are due by the 25th day of the month following the return period. Quarterly VAT returns are due by the first day of the third month following the end of the return period. Half-yearly VAT returns are due by the first day of the third month following the end of the return period.

A summer VAT relief scheme allows filing for the June period to be made by 17 August.

Periodic payments. Returns must be completed, and liabilities must be paid in Danish kroner (DKK).

Monthly VAT payments are due by the 25th day of the month following the return period. Quarterly VAT payments are due by the first day of the third month following the end of the return period. Half-yearly VAT payments are due by the first day of the third month following the end of the return period.

A summer VAT relief scheme allows payment for the June period to be made by 17 August.

Payment is made by transferring the payable amount to the bank account of the tax authorities with reference to the VAT registration number of the company. Note that payment should not be made earlier than five days prior to the deadline, as the tax authorities may refund the amount in this case. Payment may be made by a direct bank transfer, by direct debit or by credit card payment. Payment by cash or cheque is not allowed in Denmark.

Electronic filing. Electronic filing is mandatory in Denmark. It is compulsory for all taxable persons to submit VAT returns online, using the Danish tax authorities' website, www.skat.dk, through "E-tax for businesses" *(TastSelv)*.

Payments on account. Payments on account are not required in Denmark.

Special schemes. *Artists.* Artists (or their heirs) have a special scheme where the VAT on the first sale of the artist's own works may be calculated based on a reduced taxable amount of 20% of the regular taxable amount.

Dealers in secondhand goods, art, collectibles and antiques. Dealers in secondhand goods, art, collectibles and antiques may calculate the VAT payable based on the profit made on the sale (either calculated based on the individual sales or on the basis of the combined inventory of the dealer). For dealers in used cars, similar rules apply; however, the VAT payable must be calculated on the individual car. Due to the high Danish car registration tax, special rules apply for the calculation. In all cases, the rules are only applicable if the goods are purchased from a private individual or in circumstances where the goods were originally bought from a seller whose sale was exempt or also covered by the rules on secondhand goods.

Travel agents. Travel agents should calculate VAT on their supplies based on their profit on the travels sold.

Annual returns. Annual returns are not required in Denmark. However, as of 2024, businesses with partially exempt activities must file the annual corrections regarding VAT deduction (variations from the expected pro rata to the realized pro rata) along with their regular VAT return, which covers the sixth month following the end of their accounting year.

Supplementary filings. *Intrastat.* Danish taxable persons that trade with other EU countries must complete statistical reports, known as Intrastat, if the value of their sales or purchases exceeds certain thresholds. Separate reports cover intra-Community acquisitions (Intrastat Arrivals) and intra-Community supplies (Intrastat Dispatches). The threshold for Intrastat Arrivals in 2023 is DKK22 million. The threshold for Intrastat Dispatches in 2023 is DKK11 million. *At the time of preparing this chapter, the thresholds for 2024 have not been announced.* Intrastat declarations must be completed in DKK. The Intrastat return period is monthly. The submission deadline is the 10th working day of the month following the end of the Intrastat return period. For smaller businesses, an extended deadline applies. To qualify as a smaller business, acquisitions must be below DKK22 million, and dispatches must be below DKK16.5 million (2023 numbers). The deadline varies and will be informed to the businesses in question directly. They can also be found on the website of the Danish Statistics Agency: Intrastat – Statistics Denmark (dst.dk).

EU Sales Lists. If a Danish taxable person makes intra-Community supplies or renders services that are subject to reverse charge in another EU country in any return period, it must submit an EU Sales List (ESL). An ESL does not need to be submitted for a period in which no intra-Community supplies are made. ESLs must be completed in Danish kroner. ESLs return period is monthly and must be submitted by the 25th in the month following the return period. In some cases, businesses that have limited intra-Community supplies may obtain permission to submit ESLs on a quarterly basis.

Correcting errors in previous returns. Errors in previous returns should be corrected by filing corrective VAT returns. It is possible to correct past returns until three years after the date the individual VAT return was originally due.

Corrections must be made electronically (both for domestic and foreign businesses) by correcting the specific VAT return related to the error.

Under specific circumstances, it is possible to apply for extraordinary correction 10 years retrospectively. This could be the case where the practice of the Danish tax authorities is rejected by the Court of Justice of the European Union and the case before the CJEU is 10 years old or more. The Danish tax agency may also require the business to make corrections beyond the 3 years if they find that the business has filed incorrect returns due to gross negligence.

Digital tax administration. There are no transactional reporting requirements in Denmark.

J. Penalties

Penalties for late registration. There is no specific penalty in Denmark for the late registration of VAT. However, a penalty may be charged of up to twice the VAT amount due in the period during which the business should have been registered, if the authorities deem that this should be classified as gross negligence. Even where no penalties apply, the tax authorities will charge interest for late payment of VAT for previous periods when registering retroactively.

Penalties for late payment and filings. The penalty for the late submission of a VAT return is DKK65 per reminder for payment. If a business still does not submit its VAT return, the Danish tax authorities will submit a temporary VAT return on behalf of the business. An extra duty of DKK800 will apply for this. In addition, interest is levied for late payment of VAT. The interest rate for 2023 is 0.7% per month, calculated on a daily basis. This interest is not deductible for income tax purposes.

For Intrastat, if a report is late or missing, a fine of DKK550 is imposed. Continued failure to report will be sanctioned by the police and the legal courts.

If an ESL is late, a reminder penalty of DKK65 is imposed.

Penalties for errors. If the authorities find that an error was made by simple negligence, no penalty will normally apply if the business makes a self-disclosure to the authorities. This could include erroneously treating a supply as exempt when it should have been taxed, deducting input tax that was not deductible or miscalculating the deductible pro rata for partially exempt businesses. It should be mentioned that if the rules are very clear, it is the opinion of the tax authorities that it is not possible to regard an error as a result of simple negligence.

If an error is discovered during an audit and the error is excusable and/or common, the tax authorities will most likely simply issue a decision that the business must correct the error. If not, the authorities may issue a fine of up to two times the VAT wrongfully deducted or not reported.

As of 1 July 2023, new rules came into force regarding payment of additional VAT in connection with subsequent corrections of VAT returns. Interest will be charged on all corrections that lead to additional payment for the individual VAT period. The interest is calculated from the date of the payment deadline for the original VAT return. *At the time of preparing the chapter, the current interest rate is a monthly rate of 0.7%.* Generally, interest is levied on all errors that are post-declared, as outlined above, including erroneously treating a supply as exempt when it should have been taxed, or deducting input tax that was not deductible. It may also be relevant where a deduction has been made in a wrong period, as this will lead to additional payment for the period where the deduction was originally made. Interest is calculated monthly on a day-by-day basis as compound interest, meaning that interest on interest is paid. It is possible to request exemption from such interest, but it is expected that this will only be granted in very special cases.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. If a business by gross negligence or deliberately reports VAT incorrectly resulting in excess repayment of VAT or insufficient settling of VAT, the consequences will depend on several things. In the VAT rules, the penalty for fraud may be fines or prison for up to 18 months. In severe cases, the penalty code may be used, allowing for significantly longer prison sentences. In case of fraud, any involved tax advisors may also be subject to fines. This would require that the advisor has displayed gross negligence. In severe cases, it would be possible to prosecute the advisor under the penalty code, including sentencing the advisor to prison.

Personal liability for company officers. The VAT liabilities for a company with limited liability may only be collected from the company. However, if a company officer is found to have participated in activities to defraud the tax authorities by filing wrong returns, that person may be sued for damages. In addition, it is possible to bring criminal proceedings against that person, but this requires evidence of gross negligence or deliberate evasion on its part. In that case, both fines and prison sentencing may be applicable.

As of 1 July 2023, company officers of a company that has been discontinued may be held personally liable for taxes in cases where the individual is deemed to have contributed to incorrect reporting to the tax authorities that has led to insufficient reporting and /or payment of taxes.

Statute of limitations. The statute of limitations in Denmark is three years. This is for corrections both by the tax authorities and taxable persons, calculated from the filing deadline for the VAT return for the individual VAT period.

If the tax authorities find that the taxable person has demonstrated gross negligence, they may under certain conditions extend this period to up to 10 years (only applicable to the disadvantage of the taxable person). If case law (from Danish courts or the Court of Justice of the European Union) means that the Danish practice is amended, special rules apply that may allow for amendments going back up to 10 years (only applicable to the advantage of the taxable person).

Dominican Republic

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A. At a glance

Name of the tax	Tax on the Transfer of Industrialized Goods and Services
Local name	Impuesto sobre Transferencias de Bienes Industrializados y Servicios (ITBIS for its Spanish acronym)
Date introduced	16 May 1992
Trading bloc membership	Economic Partnership Agreement (EPA) with the European Union
Administered by	General Directorate of Internal Taxes (Dirección General de Impuestos Internos (DGII) (www.dgii.gov.do)
ITBIS rates	
Standard	18%
Reduced	16%
Other	Zero-rated (0%) and exempt
ITBIS number format	Tax identification number (known as the "RNC" number)
ITBIS return periods	Monthly
Thresholds	
Registration	None
Recovery of ITBIS by non-established businesses	No

B. Scope of the tax

ITBIS applies to the following transactions:
- Supply/transfer of industrialized goods
- Importation of industrialized goods
- Leasing and rendering of services

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for ITBIS in every jurisdiction where it has customers that are not taxable persons. In the Dominican Republic, no services are subject to the "use and enjoyment" provisions. However, a draft bill is expected to be approved in the near future to levy with ITBIS digital services provided by foreign suppliers. *At the time of preparing this chapter, there is no clear date for the approval of this regulation*.

Transfer of a going concern. Transfer of going concern rules do not apply in the Dominican Republic. As such, ITBIS applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In the Dominican Republic, for a transaction between related parties the value for ITBIS purposes is calculated at an arm's-length basis. Transactions between a resident person and a related party should be agreed according to the prices or amounts that would have been agreed by independent parties in comparable operations and under the same or similar circumstances (arm's-length principle).

C. Who is liable

The following are ITBIS taxable persons:
- Individuals or business entities, whether domestic or foreign, that habitually supply industrialized goods as part of their industrial or commercial activities
- Individuals or business entities engaged in the importation of goods subject to ITBIS
- Individual or business entities that render services subject to ITBIS

No turnover threshold applies to ITBIS registration.

Within 30 days after beginning taxable activities, the taxable person must notify the tax authorities of its activities. In addition, ITBIS taxable persons must issue tax valid invoices for their operations. An authorization for fiscal supporting numbers (*Números de Comprobantes Fiscales* or *NCF*) for tax valid invoices to be issued by the ITBIS taxable person should be requested from the tax authorities prior to the issuance of any tax valid invoice.

Exemption from registration. The ITBIS law in the Dominican Republic does not contain any provisions for exemption from registration for entities or individuals that make taxable supplies.

Voluntary registration and small businesses. The ITBIS law in the Dominican Republic does not contain any provision for voluntary ITBIS registration, as there is no registration threshold (i.e., all individuals or business entities that make taxable supplies or provide services (including exempted) are obliged to register for ITBIS purposes.

A taxable person may use a simplified tax procedure *(Régimen Simplificado de Tributación* or RST for its Spanish acronym) if it meets certain purchase or income criteria to qualify as a small or medium taxable person.

The RST based on purchases applies to a taxable person making annual purchases of DOP49.3 million (approx. USD872,000) or less and performs commercial activities related to retail sales to final consumers.

The RST based on income criteria applies to a small taxable person that satisfies all the following conditions:
- The taxable person is dedicated to the provision of services, production of goods or belongs to the agriculture sector.
- The taxable person has annual income of DOP10.7 million or less (approx. USD189,000).

The RST allows the taxable person to benefit from the following:
- No obligation to file monthly purchases and sales data through the data submission formats (606, 607, 608, among others) established by the Dominican tax administration (DTA)
- No advanced payments of income tax
- No payment of the asset tax
- Right to opt for automatic payment agreements for the payment of taxes
- Simplified annual tax returns forms for ITBIS and income tax

Group registration. Although the tax authorities do not apply group registration in practice, under the Dominican ITBIS provisions, the tax authorities may consider as unique taxable persons' entities, individuals, enterprises or a combination of them, if they supply or render ITBIS-taxable goods or services and if these activities are controlled by the same person or persons (individuals, entities or combinations). If an individual exercises control or administers several businesses or establishments, the ITBIS imposed is considered to be the ITBIS of such individual.

Members of an ITBIS group in Dominican Republic are not jointly and severally liable for ITBIS debts and penalties. Instead, the representative member is responsible for ITBIS debts before the tax authorities.

There is no minimum time period required for the duration of an ITBIS group.

Fixed establishment. In the Dominican Republic there is no legal definition of a fixed establishment for ITBIS purposes. However, there is permanent establishment (PE) definition for income tax purposes (which applies for ITBIS) establishing that a PE is a fixed place of business in which an individual, corporation or foreign entity performs all or part of its activities, including management sites, offices, branches, commercial agencies, factories, workshops, mines, petroleum or gas wells, quarries or any other type of extraction of natural resources, assembly projects (including monitoring activities), construction or supervision activities derived from the sale of plant or equipment when their cost exceeds 10% of the sales price of those goods, business advisory services, if and when these exceed six months in an annual period, and representatives or agents, whether dependent or independent, when the latter perform all or most of their activities on behalf of the company.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in the Dominican Republic. The Dominican Tax Law does not provide a mechanism for the withholding of the ITBIS from non-established businesses. Consequently, a non-established business must register to pay ITBIS to the tax authorities if it supplies goods or services in the Dominican Republic. Once registered with the local authorities, the entity will be considered domiciled for fiscal purposes and will have to comply with all tax duties and obligations as if it were a formal established entity. To register for ITBIS, a non-established business must register with the Chamber of Commerce and the tax authorities.

The Dominican tax regulations do not provide a reverse-charge or refund mechanism for these entities.

Tax representatives. At the moment of registering an entity as a taxable person, a tax representative must be appointed.

Reverse charge. The reverse-charge mechanism is not allowed in the Dominican Republic. Consequently, if a non-established business supplies goods or services in the Dominican Republic, it must register for ITBIS to pay the ITBIS to the tax authorities, due on the supply made.

Domestic reverse charge. Taxable persons that acquire goods or services from a non-registered local supplier may issue "purchase tax invoices" to support tax deduction, including ITBIS, from

said type of purchases. In this case, the acquirer of the goods or services must withhold 100% of the ITBIS for the transaction and pay it to the tax authorities.

Digital economy. There are no specific ITBIS rules in relation to the digital economy. In principle, the same ITBIS rules should apply to goods and services that are provided digitally; nonetheless, the rules are not that clear. In practice, a non-established business providing digital services would generally be required to register for ITBIS and charge ITBIS on its supplies where the services are physically performed or used in the Dominican Republic.

At the time of preparing this chapter, the rules for registration and accounting for ITBIS in practice for nonresident providers of electronically supplied services (for both business-to-business (B2B) and business-to-consumer (B2C) supplies) are not clear. As such, a bill for the application of ITBIS to digital services is being discussed by the Dominican government and is expected to be approved and put into place. However, at the time of preparing this chapter, there is no clear date for approval of this regulation.

There are no other specific e-commerce rules for imported goods in the Dominican Republic.

Online marketplaces and platforms. The general rules for online marketplaces and platforms are provided through Law No. 126-02 on Electronic Commerce, Digital Documents and Signatures and its Regulation of Application the Decree No. 335-03. However, from a tax perspective, no specific ITBIS rules are provided for such supplies through online marketplaces and platforms.

Registration procedures. Tax registration can be done online via the virtual office of the tax authority or physically. In the case of individuals, Form RC-01 must be filed before the tax authority with a copy of their tax ID or passport. In the case of legal entities, a previous procedure before the chamber of commerce must be carried out to register all corporate documentation (bylaws, shareholders' meeting minutes, subscription list) regarding their legal constitution. Moreover, legal entities must file Form RC-02 before the tax authority, along with the previously registered documentation, to request their incorporation to the Taxable persons' Registry (RNC for its Spanish acronym).

Deregistration. To deregister from the RNC, taxable persons must request from the tax authority an authorization for business termination and additionally submit within 60 days after its business termination a final income tax return. Legal entities must also provide corporate documentation approving the dissolution or liquidation of the entity (as applicable).

Changes to ITBIS registration details. In the case of changes to the registration details of an individual or entity (i.e., name of company, address, type of business) Forms RC-01 and RC-02, respectively, must be filed online or physically with the tax authority, along with a copy of the corporate documents that demonstrate or justify the changes made, for example, Mercantile Registry Certificate, shareholders' meeting minutes, etc. The tax authority will review the new information and modify the registration within 30 days. Based on the Dominican Republic tax code, notifications of these changes must be made within 10 days after the date these changes are made.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of ITBIS, the zero rate.

The ITBIS rates are:
- Standard rate: 18%
- Reduced rate: 16%
- Zero rate: 0%

The standard rate of ITBIS applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exportation of goods

Examples of goods and services taxable at 16%

- Yogurt and other dairy derivatives
- Coffee
- Butter, margarine and oils
- Powdered cacao (with or without sugar) and unfilled cacao bars
- Sugar

Examples of exempt supplies of goods and services

- Live animals
- Fresh, refrigerated or frozen meat
- Fish for popular consumption or reproduction
- Milk, eggs and honey
- Non-processed fruit for massive consumption
- Cocoa, chocolate and some grains and cereals
- Certain types of medicines
- Certain types of books and magazines
- Education services, including theater, ballet, opera and dance
- Health services
- Electricity, water and garbage collection services
- Financial services (including insurance)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the Dominican Republic.

E. Time of supply

The time when the taxable event is considered to take place and ITBIS becomes due is called the "tax point."

The basic time of supply of goods is the earlier of the following: (i) when the invoice or document that supports the transfer of the goods is issued or, (ii) the time of the delivery or the withdrawal of the goods.

The basic time of supply for services is the earlier of the following: (i) when the service is performed, (ii) when the invoice is issued, or (iii) when the price is paid in full or in part.

Deposits and prepayments. The time of supply for deposits and prepayments is when the price is paid in full or in part if it occurs before the issuance of the invoice or the provision of the service.

Continuous supplies of services. When there is a periodic payment/invoicing for ongoing services, the time of supply for the services is the earlier of when the invoice is issued or when the price is paid (in full or in part).

Goods sent on approval for sale or return. The time of supply for goods sent on approval for sale or return is when an invoice is issued by the receiver of the goods once it sells it to a third party. If the goods are returned to the original seller, no ITBIS should apply.

Reverse-charge services. Local legislation in the Dominican Republic does not contain any provision for ITBIS for reverse-charge services.

Leased assets. The time of supply for leased assets is when the lease payment is due according to contractual terms or when it is paid, whichever occurs first. Local legislation does not provide a special rule if the lease results in the transfer of ownership of the underlying assets. Nonetheless, the general time of supply rules should apply.

Imported goods. The time of supply for imported goods is when the goods are placed at the disposition of the importer.

F. Recovery of ITBIS by taxable persons

An ITBIS taxable person may deduct as input tax the advance taxes paid with respect to the following purchases:
- The purchase of domestic goods and services that are subject to ITBIS
- The importation of goods subject to ITBIS

The right to deduct advance taxes must be supported by proper documentation related to the local purchase or the importation of the goods.

There is no set time limit for a taxable person to reclaim input tax in the Dominican Republic. This mean that, effectively, the input tax (ITBIS credit) may be carried forward indefinitely until its complete recovery.

Nondeductible input tax. Taxable persons may deduct from their output tax the amounts that by concept of this tax have been paid in advance in the same period (input tax), if the following requirements are met:
- The input tax that is intended to be deducted corresponds to goods and services used to carry out activities subject to this tax, except in the case of exempt goods producers and exporters.
- The expense on which the ITBIS was incurred is deductible for the purposes of income tax.
- The input tax has been expressly transferred to the taxable person who intends to make the deduction.
- The input tax has not been considered as part of the cost or expense for the purposes of the allowable income tax deductions.
- The input tax does not come from acquisitions of goods that are part of Category 1 assets.
- The invoiced ITBIS is recorded separately in a fiscal invoice that meets the conditions established in the Dominican legislation.

When it is not possible to segregate whether the imports or acquisitions of local goods and services made by a taxable person have been used in taxed or exempt operations, the deduction of the taxes that have been charged will be made in the proportion corresponding to the amount of their taxed operations, considering the total of its operations in the period in question.

Examples of items for which input tax is nondeductible
- The purchase of ITBIS subject goods used for the sale of ITBIS exempt goods.
- The purchase of goods used in the construction of a building.

Examples of items for which input tax is deductible (if related to a taxable business use)
- Renting a car for a company employee for corporate use.
- Purchase of a mobile phone for a company employee for their professional activities.

Partial exemption. If it is not possible to determine whether the goods purchased or imported by a taxable person have been used in performing taxable or exempt activities, the ITBIS deduction is proportional. The deductible proportion is based on the value of the taxable person's taxable operations in the tax year compared with the value of its total operations for the tax year.

$$\text{ITBIS deduction} = 100 \times \frac{\text{Taxable operations}}{\text{Total operations}}$$

ITBIS not deductible according to this formula should be considered as a cost of production for the goods supplied or services provided.

Approval from the tax authorities is not required to use the partial exemption standard method in the Dominican Republic. When filing the ITBIS return, the taxable person notifies the tax authorities of the deduction made.

Special methods are not allowed in the Dominican Republic.

Capital goods. The Dominican Republic tax regulations do not establish a definition for capital goods for indirect tax purposes. There are no special input tax recovery rules for capital goods. As such, input tax recovery is subject to the normal rules (as outlined above).

Refunds. Exporters that have excess credits for advanced payments of taxes on the purchase of materials employed in the production of exported goods may request a refund for the advanced tax through an expedited process.

If an invoice is voided within 30 days after its issuance, a refund of the ITBIS may be requested in that period.

For other type of taxable persons, they must carry forward any input tax credit until they can deduct it with output tax. They still can claim a refund in case they consider that they have paid ITBIS in excess and prove they will not be able to deduct said credit with their regular operations, but it is an extended refund process.

Pre-registration costs. Input tax incurred on pre-registration costs in the Dominican Republic is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in the Dominican Republic.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the Dominican Republic.

G. Recovery of ITBIS by non-established businesses

Input tax incurred by non-established businesses that are not registered for ITBIS in the Dominican Republic is not recoverable.

H. Invoicing

ITBIS invoices. An ITBIS taxable person must provide invoices indicating the amount of ITBIS collected for the taxable supplies made. In addition, invoices must include a Fiscal Supporting Number (*Número de Comprobante Fiscal* or NCF for its Spanish acronym) and the Taxable person's Registration Number (RNC), among other requirements.

An invoice showing the NCF, RNC and the ITBIS amount separate from the total amount is generally necessary to support a claim for an input tax credit.

The invoice for every supply of goods or services rendered must show an NCF. The NCF is made up of an alphanumeric sequence granted by the tax authorities at the request of the taxable person.

The NCF is required to support deductions for income tax purposes or ITBIS credits.

Invoices with NCFs may be printed directly by taxable persons through their computer systems or by establishments duly authorized by the tax authorities.

Credit notes. An ITBIS credit note may be used to reduce the ITBIS charged and reclaimed on a supply of goods and services within the next 30 days of the issuance of the invoice or the supply of the goods.

Electronic invoicing. Electronic invoicing is mandatory in the Dominican Republic, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in the Dominican Republic.

Mandatory electronic invoicing came into effect on 16 May 2023 with the enactment of Law No. 32-23, which establishes the electronic invoicing tax system, including its characteristics, optimization results, contingencies, entry deadlines, and the fiscal facilities granted to taxable persons. The electronic invoicing law covers natural, legal persons and entities without legal personality domiciled in the Dominican Republic that carry out operations involving the transfer of goods, cession in use or provision and location of services in return for a fee or free of charge. Transactions for which tax invoices are not ordinarily provided are not subject to the provisions of this law.

All taxable persons are required to issue electronic tax invoices (e-CFs) depending on their size within certain deadlines after the effective date of the law (16 May 2023), as follows:
- Large national taxable persons: 12 months from the effective date of the law
- Large and medium local taxable persons: 24 months from the effective date of the law
- Small, micro and unclassified taxable persons: 36 months from the effective date of the law

The tax authorities will issue a list of the taxable persons that are obliged to adopt electronic invoicing per the implementation schedule referenced above.

In some cases, the tax authorities will grant tax credits to taxable persons that become electronic issuers during the voluntary period and, likewise, to taxable persons that comply with the implementation schedule.

Simplified ITBIS invoices. Simplified invoices are not contemplated in the Dominican Republic legislation. Nevertheless, Dominican legislation establishes a "consumer's invoice," which can be used to invoice the ultimate consumer of a good or service that will not be used as part of any subsequent commercial operation or activity.

The format is the same as an invoice, except for the customer's tax information, which is not included in the consumer's invoice. It is not possible to deduct ITBIS from a consumer's invoice under any circumstances, provided that this kind of invoice is not used for tax purposes.

Self-billing. Self-billing is allowed in the Dominican Republic. This is only in relation to minor expenses, purchases abroad and purchases to non-registered local suppliers, through the issuance of a special tax-valid invoice by the same taxable person. If ITBIS is applicable, the issuer is obliged to withhold the applicable ITBIS.

Proof of exports. Exported goods are zero-rated for ITBIS purposes. Under the ITBIS Law, a compensation and reimbursement procedure is provided for exporters. This procedure allows the compensation or reimbursement of the ITBIS charged with respect to goods to be used for exportation activities. Customs documentation that can be used as evidence to show that exports have left the country include single customs declaration, origin certificate, commercial invoice and shipping list/documents.

Foreign currency invoices. It is acceptable for invoices including NCF to be issued in a foreign currency, as well as the domestic currency, which is the Dominican pesos (DOP).

Supplies to nontaxable persons. Certain businesses could be exempted from issuing individual tax invoices for final consumers based on the volume of their operations (e.g., supermarkets, gas stations, retailers) by being allowed to group tax invoices to final consumers in a single tax invoice, per day. Approval from the tax authority is required for the application of this rule.

Records. In the Dominican Republic, examples of what records must be held for ITBIS purposes include tax returns, reports, documents, forms, invoices, proof of legitimate origin of goods, receipts, lists of prices, etc., related to events generating tax obligations, and in general, provide all requested clarifications. No special rules for record-keeping are provided for indirect tax purposes.

In the Dominican Republic, ITBIS books and records can be kept outside the country. Records may be held in or outside the Dominican Republic. However, records held outside the Dominican Republic must be readily available upon request by the tax authorities for review.

Record retention period. Conforming to the Dominican Republic tax code, accounting records need to be kept for 10 years.

Electronic archiving. Electronic archiving is allowed in the Dominican Republic. Records can be kept and archived electronically or physically (i.e., on paper). The Dominican Republic legislation does not establish a specific format for said documentation.

I. Returns and payment

Periodic returns. ITBIS returns are submitted monthly. ITBIS taxable persons must file the return by the first 20 days of the following month of the verification of the tax liability. A tax return must be filed, even if no ITBIS is due by the taxable person for the period.

Periodic payments. ITBIS taxable persons must pay the corresponding ITBIS amount through the Form IT-1 by the first 20 days of the following month of the verification of the tax liability. Tax due must be paid in Dominican pesos (DOP).

Withholding obligations for payment processors. Acquiring companies, payment aggregators and electronic payment institutions have been designated as ITBIS withholding agents by General Norm No. 06-23, which was issued by the tax authorities and came into effect on 3 October 2023. This requirement is applicable with respect to transactions carried out through credit cards, debit cards or any other electronic payment instrument.

If the affiliate is registered as a taxpayer with an active status with the tax authorities, a rate of 2% withholding tax (WHT) of the invoiced amount will apply. If the affiliate is not registered or has a status of suspended, deregistered, or registered without recurring tax obligations, a rate of 18% will apply when the operation exceeds the amount of DOP300,000. However, in cases where the transaction does not exceed this amount, a WHT of 2% will apply.

A report of the transactions and withholdings should be submitted on a weekly basis (every Friday) via the tax authorities' virtual office (*Oficina Virtual*), through Form 200 as well as through Form IT-3.

Electronic filing. Electronic filing is mandatory in the Dominican Republic for all taxable persons. ITBIS returns should be monthly submitted via the tax authorities' virtual office, through Form IT-1. The virtual office (*Oficina Virtual*) is an electronic means that allows taxable persons to make safe and timely inquiries and submit tax returns. It can be accessed through the tax authorities' website (https://dgii.gov.do/cicloContribuyente/accesoOFV/Paginas/default.aspx)

Payments on account. Payments on account are not required in the Dominican Republic.

Special schemes. No special schemes are available in the Dominican Republic.

Annual returns. Annual returns are not required in the Dominican Republic.

Supplementary filings. *Data formats.* Along with the ITBIS monthly return, taxable persons must submit data formats 606 (to report purchases made), 607 (to report sales made) and 608 (for invoice cancellation).

Correcting errors in previous returns. Amendments to tax returns from past fiscal periods may be made through the virtual office of the tax authorities. In the case of ITBIS returns, for taxable persons to be able to make the amendments, they must follow some specific requirements and comply with certain conditions, as outlined by the tax authorities.

Digital tax administration. There are no transactional reporting requirements in the Dominican Republic.

J. Penalties

Penalties for late registration. A taxable person that fails to register for ITBIS on a timely basis may not deduct input tax paid on the purchase of goods and services. The tax authorities may assess unpaid ITBIS, and penalties and interest are also assessed for late registration.

Penalties for late payment and filings. Following are the penalties for late payment of ITBIS or for noncompliance with tax obligations:
- Surcharges: charged at 10% of the unpaid tax for the first month or fraction of a month, and at 4% per month for each successive month or fraction of a month
- Interest: charged at 1.10% per month or fraction of a month. This amount is added to the surcharge

Additionally, failing to file the corresponding tax returns is considered a violation of formal duties, and as such, a tax infraction subject to a penalty of five to 30 minimum wages. In practice, such penalty is currently established at approx. USD500.

The failure to pay ITBIS owed to the DTA on time would also lead to surcharges and interests.

Penalties for errors. Failure to fulfill formal tax duties could result in a fine of five to 30 times the minimum salary. Among others, the following are violations:
- Failure to maintain accounting books or records required by law
- Providing false information when registering for ITBIS
- Not registering in the relevant tax registries
- Refusing to provide information to the tax authorities
- Failure to file tax returns for the calculation of tax payments (among others)

The late notification or failure to notify the tax authorities of changes to a taxable person's ITBIS registration details may result in a penalty of five to 30 minimum wages that can be applied by the tax authority. For further details see the subsection *Changes to ITBIS registration details* above.

Penalties for fraud. Tax evasion that does not constitute fraud occurs if, by any action or omission, a taxable person files an inaccurate tax return that results in a reduction in the tax payment to be made to the tax authorities. The penalty may consist of up to twice the unpaid amount plus interest and the closure of the business. If the amount of the unpaid tax cannot be determined, a fine ranging from 10 to 50 times the minimum salary (the minimum salary is approx. USD200) may be imposed. The tax evasion penalty may not be applied simultaneously with surcharges for late payment.

Tax fraud occurs when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of tax due. The consequences of tax fraud may include a penalty ranging from two to 10 times the amount of the evaded tax, closure of the business establishment or the cancellation of an operating license.

Personal liability for company officers. The tax liability is personal; however, presidents, vice presidents, directors, managers, administrators or representatives are jointly and severally responsible for the tax liability of taxable persons that are entities. Tax penalties may vary depending on the type of infraction, among which could be loss of privileges, closure of establishments, monetary fines, confiscation of property and imprisonment.

Statute of limitations. The statute of limitations in the Dominican Republic is three years. This starts from the day after the filing of the tax return and payment of the tax is due. The tax authorities may review, question and amend the transactions carried out and tax returns filed by taxable persons for a period of three years. Nonetheless, in certain circumstances the statute of limitations may be suspended or interrupted and therefore extended for a total of five years, if:

- The taxable person or person responsible did not file the corresponding tax return or filed it with false information.

  Or

- The tax authorities have given notice to the taxable person of an audit or verification.

Ecuador

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	31 December 1989
Trading bloc membership	Andean Community of Nations
Administered by	Ecuadorian Internal Revenue Service (IRS) (http://www.sri.gob.ec)
VAT rates	
Standard	12%
Reduced	8%
Other	Zero-rated (0%) and exempt
VAT number format	Nine-digit Tax ID

VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is levied on the following transactions:
- The supply of goods or rendering of services performed in Ecuador
- The importation of goods and services from outside Ecuador
- The supply of copyrights, industrial property and related rights (this includes intellectual property)
- The importation of digital services (refer to the subsection below on the *Digital economy*)

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Ecuador, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Ecuador, a TOGC is treated as outside the scope of VAT. Some of the principal characteristics of a transfer of a TOGC are the following (as stipulated by the Ecuadorian Commercial Code):
- It is required to perform the transactions through public deed.
- The transfer of a TOGC has to be signed by the parties and a public accountant.
- It is required to detail the type of assets to be transferred and the specific registry obligations to consider (i.e., real estate, vehicles, among others)

Transactions between related parties. In Ecuador, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the rules for income tax purposes are not applicable for VAT

C. Who is liable

A taxable person is an individual or business entity that, in the course of doing business in Ecuador, engages in the following actions:
- Transfers and/or imports of physical movable goods
- Performance and/or importation of services

No VAT registration threshold applies in Ecuador.

The definition of a taxable person also applies to a permanent establishment of a foreign business located in Ecuador.

Exemption from registration. The VAT law in Ecuador does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The Ecuadorian VAT law contains the option of voluntary registration for nonresident digital service providers in Ecuador only when the service is imported by tax residents or permanent establishments of nonresidents in Ecuador.

Group registration. Group VAT registration is not allowed in Ecuador.

Fixed establishment. In Ecuador there is no legal definition of a fixed establishment for VAT purposes. However, only taxpayers legally incorporated or domiciled under Ecuadorian legislation will be considered as responsible for VAT purposes.

Non-established businesses. If non-established businesses perform transactions on which VAT is levied, the resident customer (taxable person) must account for VAT via the reverse-charge mechanism (business-to-business (B2B) supply). A sales and purchase receipt must be issued by the local company and the VAT payable is levied from the local company.

A non-established business is not required to be registered for tax purposes in Ecuador unless its activities trigger a permanent establishment.

Non-established businesses have the choice to register for VAT in Ecuador if they provide digital services. The VAT registration procedure for digital services providers requires that they also provide the following documentation:
- Registration form signed by the legal representative
- Agreement of responsibility and use of electronic media signed by the legal representative
- Certificate of tax residence of the company
- Certificate of existence of the company providing the digital service
- Appointment of the legal representative of the company providing the digital service
- ID of the legal representative

Tax representatives. Foreign companies may select a resident person or legal entity to represent the taxable person to the tax authorities. This is not limited to VAT issues but must include all tax matters between the taxable person and tax authorities in Ecuador.

Reverse charge. A self-invoice is issued in case of self-consumption or donation, and for imported services. In case of self-consumption or donation, the price must be the market price or higher, and VAT is levied. The legal requirements applicable are the same as for a normal sales invoice.

For imported services, the local entities must issue a sales and purchase receipt in order to charge the VAT over the services billed from abroad. The VAT on import of goods is settled by the local customs authority. For imported digital services, where payment is made by credit or debit card, the local credit or debit card entities shall act as withholding agents for 100% of the VAT due on such supplies.

Domestic reverse charge. There are no domestic reverse charges in Ecuador.

Digital economy. There are no specific requirements for digital economy transactions other than general VAT regulations. Non-established businesses have the choice to register for VAT in Ecuador if they provide digital services.

For B2B transactions, the services provided by a nonresident business are generally subject to 12% VAT with respect to imported services. The customer is expected to self-assess and pay VAT, which may be used as a tax credit. For business-to-consumer (B2C) transactions, which are also subject to 12% VAT, the payment is subject to a 3.5% outflow tax (OT) and will be reduced from 1 January 2024 to 2%, which is the responsibility of the customer. The OT also applies in general to any payments that are made by the customer to the supplier (for B2B and B2C transactions). The outflow tax will be charged to the local customer bank/credit card account used to perform the payment. This charge does not affect the amount received by the non-established business.

Note that a non-established business is not required to be registered for tax purposes in Ecuador unless their activities trigger a permanent establishment. For further details, see the *Non-established businesses* subsection above. The Simplification and Progressive Taxation Act was published 31 December 2019 and effective since 1 January 2020. Nonetheless, regarding digital VAT tax reforms, the effective day was 16 September 2020. This means that digital services are treated as taxable transactions for VAT purposes and subject to the standard rate of VAT.

"Digital services" are defined as those provided and/or contracted through the internet or any adaptation or application of protocols, platforms or technology used by the internet or other network, through which similar services are provided that, by their nature, are automated and require minimal human intervention, regardless of the device used for downloading, viewing or use. For digital services consisting in delivery and shipping of tangible movable goods, the tax will be calculated on the commission paid in addition to the value of the good.

The payment of the VAT generated on digital services supply would be assumed by the "importer of the service" (i.e., the Ecuadorian resident).

Tax residents in Ecuador and permanent establishments of nonresidents, in the acquisition of imported digital services, for purposes of supporting costs and expenses for the calculation of income tax, as well as the VAT tax credit, must issue a liquidation of purchase of goods and provision of services. The settlement of goods and services must indicate the value of the imported digital service and the corresponding VAT.

When the digital service provider is not registered with the IRS and there is no intermediary in the payment process, the digital service importer has the quality of a taxable person, and in addition to issuing the liquidation of purchases of goods and provision of services, will retain 100% of the VAT generated.

When the digital service provider is not registered with the IRS and the payment is made through an intermediary, the account statement generated by the company issuing the credit or debit card will constitute the withholding receipt.

The digital services necessary for the development, preproduction, production, postproduction and distribution of national audiovisual content contracted by taxable entities whose economic activity is national, audiovisual production are exempt from VAT. To apply this exemption, in payments made through intermediaries (payment platforms, credit and/or debit cards or other electronic means of payment), the importer of the digital service, prior to payment, must present the respective declaration of VAT-exempt transactions to the intermediary to refrain liquidation and withholding of VAT.

When the payment is made directly, without the use of intermediaries, the importer of the digital service must issue sales and purchases receipts and directly apply the VAT exemption. To determine which digital services will benefit from this exemption, the competent authority, together with the IRS, will prepare and publish a registry.

Online marketplaces and platforms. See the detail above for rules on online marketplaces and platforms (considered a "digital service" by the VAT law definition).

Registration procedures. Private entities must file before the tax authority the following documents:

- Form RUC-01-A signed by the legal representative
- Public deed of the constitution of the company duly registered in the Commercial Registry
- Legal representative's appointment duly registered in the Commercial Registry
- General data sheet provided by the Superintendence of Companies
- Legal representative's ID or passport

To register for VAT, the business must register for a tax ID and this must be performed directly in the tax authority's offices. All documents must be originals and notarized copies. The legal representative must perform the registration directly or file a letter of authorization to the person in charge of this process. The estimated time for this procedure is three hours.

There are additional documents required for a non-established business providing electronically supplied services to customers in Ecuador. See the *Non-established businesses* subsection above for further detail.

Deregistration. If a person or legal entity ceases its commercial activities in Ecuadorian territory, then a request to cancel the Tax ID must be submitted to the tax authority in order to prevent penalties and new tax obligations.

This process can be done online with the correspondent username and password to use electronic media of the company before the IRS.

Changes to VAT registration details. A taxable person must update its tax ID through Form RUC-01-A if there are any changes to its VAT registration details, such as address, business name, among others.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 12%
- Reduced rate: 8%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Unprocessed food
- Dairy products
- Machinery such as tractors used in the agricultural sector
- Agricultural goods (such as certified seeds, plants and roots) and equipment
- Drugs and veterinary products
- Paper, newspapers, magazines, books and publishing services
- Exported goods and services
- Transport of persons and materials and air cargo transport
- Education
- Health services
- Public supply of electricity, drinking water and sewerage services
- Rent for housing purposes
- Financial securities exchanges
- Electric kitchens with induction systems for domestic use
- Solar panels and plants for wastewater treatment
- Electric vehicle chargers

Examples of goods and services taxable at 8%

- Tourism activities that can only be applied on certain dates in the year, which may correspond to public holidays or weekends, and the total period cannot exceed 12 days in one calendar year

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Sale of a business
- Mergers, spin-offs and conversions of companies
- Donations to charities
- Transfers of stock, shares and other negotiable instruments
- Real estate rental payments and related maintenance costs

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Ecuador.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply is when the goods are transferred or when the services are performed. The invoice for the transaction must be issued at the time of supply.

Deposits and prepayments. There are no special time of supply rules in Ecuador for deposits and prepayments. As such, the normal time of supply rules apply.

Continuous supplies of services. There are no special time of supply rules in Ecuador for continuous supplies of services. As such, the normal time of supply rules apply, and as such the tax is due when the goods are transferred, or the services provided. The time to issue the corresponding invoice and to levy the VAT is agreed between the parties if the services or the goods are delivered periodically. Nevertheless, the expense solely can be considered as deductible once the service is rendered or the goods are delivered.

Goods sent on approval for sale or return. For the supplies of goods sent on approval for sale or return, and the sale takes place, then the normal tax point is when the goods are sold. However, where the goods are sent for approval and no sale takes place, then no VAT needs to be accounted for. If the goods, having been sent to the customer on approval, and no sale takes place, but the goods are returned to the supplier, then no VAT is to be refunded (as none was accounted for when sending the goods for approval) and no credit note is required to be issued. A credit note is only required to be issued when a sale takes place and then the goods are returned to the supplier, and refund is required.

Reverse-charge services. If an Ecuadorian taxable person imports services, it must self-assess and determine the applicable VAT when the expense is recognized and recorded in the accounting books. The tax must be paid the next month from the date in which the self-assessment was issued. When paying for the services, the purchaser must withhold the VAT.

Leased assets. The time of supply of leased assets is every month against the invoice or every duly established period of time as agreed in the lease agreement.

Imported goods. The time of supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of VAT by taxable persons

Input tax may be recovered with respect to the following:

- Exportation of goods and services (some restrictions apply)
- Importation and local acquisition of goods and raw materials used in the production of exported goods
- The provision of goods or services to governmental entities (some restrictions apply)
- The activities of audiovisual, television and cinematographic productions (some restrictions apply)

The recovery may be achieved through the offsetting of VAT receivable against VAT payable or through a claim to the tax authorities.

If a taxable person registers a VAT amount for which a credit exists as an expense, the expense is not deductible for income tax purposes.

The time limit for a taxable person to reclaim input tax in Ecuador is five years. The use of the VAT credit paid on local purchases and imports of goods and services can be used for up to five years (if not this, VAT should be recorded as a nondeductible expense). The specific request for the reimbursement of VAT credit is not allowed.

If it is presumed that the resulting tax credit cannot be offset with the VAT incurred within the following six months, the taxable person may request a refund when it is originated by withholdings. Service exporters are required to receive payment from abroad in order to be granted the VAT refund, along with the requirement that the foreign payment is made through a local bank account with the account holder being the nonresident person.

Nondeductible input tax. In general, input tax is nondeductible when the expenses are not related to sales levied with standard-rated VAT (12%). In general, input tax incurred on personal expenses that are not directly related to the taxable economic activity cannot be recovered.

Examples of items for which input tax is nondeductible

- Food
- Clothing
- Housing

Examples of items for which input tax is deductible (if related to a taxable business use)

- Travel expenses
- Expenses related to the acquisition, use or ownership of vehicles, computers or other goods used in the exercise of the economic activity levied with 12% VAT

Partial exemption. Taxable persons that produce goods or supply services that are subject to 12% VAT may recover the full input tax paid, netting it with local acquisitions. The same treatment applies to VAT taxable persons that export goods and services. Input tax can be recovered with respect to imports of fixed assets and goods, raw materials and services necessary to produce and trade taxable goods and services.

Taxable persons that exclusively produce or sell goods or supply services that are subject to VAT at the zero rate (other than exports of goods or services) are not entitled to any input tax recovery.

VAT taxable persons that supply goods or render services that are subject to VAT at both rates (12% and 0%) may recover a proportion of input tax.

The recovery percentage is calculated using a pro rata method, using the ratio of the total value of supplies made at the standard rate plus exports to the total value of all supplies made. The following is the ratio:

$$\frac{\text{Supplies subject to a rate of 12\% + exports}}{\text{Total sales + exports}}$$

Approval from the tax authorities is not required to use the partial exemption standard method in Ecuador. However, use of the method could be reviewed during an assessment by the tax authorities. Special methods are not allowed in Ecuador.

Capital goods. There are no special input tax recovery rules for capital goods. For capital goods, the general input tax recovery rules apply, i.e., only the tax related to the taxable sales can be

deducted. If they are used for both taxable and exempt transactions, then the pro rata method should be applied.

Refunds. If the amount of input tax (credit VAT) recoverable in a month exceeds the amount of output tax (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period. As such, the recovery may be achieved through the offsetting of VAT receivable against VAT payable or through a claim to the tax authorities.

Pre-registration costs. For input tax incurred on pre-registration costs, the sales receipt must be issued in the name of the company, with its respective tax ID. However, usually these types of costs are not able to be recovered since there are no invoices or receipts issued in the name of the taxable person at the stage of pre-registration.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Ecuador.

Noneconomic activities. Input tax incurred upon purchases that are used for noneconomic activities is not recoverable in Ecuador.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Ecuador is not recoverable.

H. Invoicing

VAT invoices. In general, a VAT taxable person must issue an invoice for all taxable transactions performed, including exports. Such invoices are necessary to support a tax credit. A full VAT invoice is only required for supplies greater than USD50.

Credit notes. Credit notes are documents that are issued to cancel operations, accept returns and grant discounts or bonuses. The credit notes must record the denomination, series and number of the sales receipts to which they refer. The acquirer, or who in its name receives the credit note, must enter in its original and copy the name of the acquirer, its tax ID or passport ID, and date of receipt. Additionally, the credit notes must comply with the general requirements established for VAT invoices.

Electronic invoicing. Electronic invoicing is mandatory in Ecuador, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Ecuador.

It is allowed but not mandatory for certain small businesses under the simplified regime (RIMPE "popular business"). This includes special taxable persons, exporters, internet-based sellers, issuers and administrators of credit cards, financial institutions and entities that develop television and communication activities. Nevertheless, any taxable person can apply to the tax authority to issue electronic invoices.

"Special taxable persons" are defined as companies or individuals subject to a special tax regime that includes regulations that are not applicable to all taxable persons. A taxable person will be considered as a "special taxable person" if the Ecuadorian IRS decides it through an official resolution. The taxable person must be considered as "special" regarding the volume of its transactions and strategic interest for the IRS.

Within the simplified regime, for those classified as "popular business" (i.e., entities with annual gross revenues of up to USD20,000), they are not obliged to issue any type of invoice

(i.e., electronic or conventional), but are obligated to issue "sales notes", therefore, they are not subject to VAT. For individuals not obliged to keep accounting and popular business, it is expected the IRS to issue a resolution establishing the thresholds to start issuing electronic invoices.

Taxable persons must issue electronic invoices for the supply of the goods and services. The electronic invoices must be forwarded to the Ecuadorian IRS and the purchaser, when issued. The no compliance of the latter may cause the imposition of sanctions to the provider such as the closing of facilities.

To issue electronic invoices, the taxable person must comply with the following requirements:
1) Electronic signature
2) Software that generates electronic receipts
3) Internet connection
4) Access credentials to the online IRS system

Taxable persons are not obligated to request a previous authorization from the IRS to issue electronic invoices, as the IRS authorizes ex officio all taxable persons. With the authorization issued by the IRS ex officio, the following environments are enabled:
1) Testing environment: the taxable person can review the operation of the electronic invoice process, adjust the system and correct possible errors. The invoices issued in this environment do not have tax validity.
2) Production environment: the taxable person may begin issuing electronic invoices in this environment. All electronic receipts authorized in the Production Environment have tax validity.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Ecuador. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Ecuador. It applies to self-consumption or donation transactions and for imported services (see the *Reverse-charge services* subsection above, under *Section E. Time of Supply*). For self-consumption or donation, the legal requirements applicable are the same as for a normal sales invoice. For imported services, the local entities must issue a sales and purchase receipt in order to charge the VAT over the services billed from abroad.

Proof of exports. Ecuadorian VAT is not chargeable on supplies of exported goods or services. However, to qualify as zero-rated, exports must be supported by customs documents evidencing that the goods have left Ecuador. Specifically, the following four parameters must be met:
1) Provider of the services must be an Ecuadorian tax resident
2) User or beneficiary of the services must not be domiciled or be resident in Ecuador
3) Use or exploitation of the services by the user or beneficiary must take place fully abroad, although the rendering of the services is performed in the country
4) Payment for the services is not charged back as a cost or expense of local companies or individuals in Ecuador

Foreign currency invoices. Invoices related to supplies made in Ecuador must be issued in the domestic currency, which is the United States dollar (USD).

Supplies to nontaxable persons. A full VAT invoice is not required to be issued for supplies less than USD50.

Records. In Ecuador, examples of what records must be held for VAT purposes include sales receipts, supporting documents and withholding receipts. In Ecuador, VAT books and records must be held within the country.

Record retention period. Taxable persons must store tax records for at least seven years.

Electronic archiving. Electronic archiving is allowed in Ecuador. Electronic sales receipts must be archived digitally. However, all other records must be kept physically on paper.

I. Returns and payment

Periodic returns. VAT returns are generally submitted monthly. VAT returns are due between the 10th and the 28th day of the month following the end of the return period. To determine the filing deadline for a VAT taxable person, the tax administration uses the ninth number of its tax identification number (RUC). In case of special taxable persons, they must file their tax return up to the 11th day of each month. If this date coincides with a mandatory day of rest or national or local holiday, it will be moved to the business day following this date.

Taxable persons who perform only zero-rated (0%) VAT-rated sales and purchases must file a VAT return semiannually (i.e., every six months). The return is due between the 10th and the 28th day of July (for transactions performed between January and June) and January (transactions performed between July and December). The tax authority will determine which taxable persons must file their VAT returns semiannually through a general resolution that it will publish in the future. *At the time of preparing this chapter, no further details have been released on this.*

Periodic payments. VAT payment in full is due between the 10th and the 28th day of the month following the end of the return period. VAT shown in tax returns must be paid in US dollars. The payment must be paid online via the website of the IRS. This is an online platform for all taxable persons that have a tax ID in Ecuador. Through this platform, any taxable person can file its tax returns and pay any VAT due online. The online payment can be made automatically, by syncing the taxable person's bank account to the system, after signing a debit agreement. It is also possible to pay through the IRS website with both credit and debit cards.

Electronic filing. Electronic filing is mandatory in Ecuador for all taxable persons. All VAT returns must be electronically filed according to the schedule specified above and using the software provided by the tax authority, which can be downloaded from the tax authority website (www.sri.gob.ec).

Payments on account. Payments on account are not required in Ecuador.

Special schemes. *Small businesses*. Micro, small and medium-sized enterprises which have been granted more than one month to pay their taxes must file the VAT return within one month, and pay the tax owed to the tax authority within three months, as from the issuance of the invoice.

Annual returns. Annual returns are not required in Ecuador.

Supplementary filings. *Supporting transactional information.* Taxable persons must submit supplementary information on transactions made regarding purchases or acquisitions, sales or revenues, exports, voided receipts and withholdings. This information is denominated "*Anexo Transaccional*" and is filed electronically through the tax authority's digital applications.

Correcting errors in previous returns. A substitute VAT return can only be filed where more tax is due than originally paid, or changes to fiscal obligations or changes to control processes. The filing will vary depending on the obligation.

Digital tax administration. There are no transactional reporting requirements in Ecuador.

J. Penalties

Penalties for late registration. There is a specific penalty in Ecuador for the late tax ID registration (between USD30 to USD125, depending on the type of taxpayer).

Penalties for late payment and filings. Penalties for noncompliance with VAT obligations include fines of up to five times the amount lost by the tax authorities, closure of the business and imprisonment.

Penalties for errors. In case of errors that imply an additional VAT payment, interest applies. Other regulatory infractions may be subject to penalties up to USD1,500.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details (i.e., the general tax ID, which covers VAT, as well as all taxes) may result in a penalty from USD30 to USD125, depending on the type of taxable person. For further details, see subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax fraud is typified in the Organic Criminal Code and is punishable by deprivation of liberty from one to seven years.

Personal liability for company officers. The legal representative and company accountant are the only persons responsible for the information submitted to the IRS. However, note that the IRS is entitled to review the information proportionated by the taxable person.

Statute of limitations. The statute of limitations in Ecuador is four to six years. This is from the date of the tax return (but depends on the case).

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Al Dareeba Ala el Qema Al Modafa (م.ق.ض)
Date introduced	7 September 2016
Trading bloc membership	Greater Arab Free Trade Area (GAFTA) Pan-Arab Free Trade Area (PAFTA) African Continental Free Trade Area (AfCFTA) Common Market for Eastern and Southern Africa (COMESA)
Administered by	Egyptian Tax Authority (ETA)
VAT rates	
Standard	14%
Reduced	5%
Other	Zero-rated (0%), special table tax rates and exempt
VAT number format	123/456/789
VAT return periods	Monthly
Thresholds	
Registration threshold:	EGP500,000 annual turnover
Recovery of VAT by non-established businesses:	Yes

B. Scope of the tax

All local and imported goods and services are subject to VAT except those specifically exempted. Services are defined in the VAT law as "any work that is imported or performed locally that is not classified as goods."

The VAT law provides a table with tax rates that are applicable to certain goods and services (either instead of the general VAT rate or in addition to the general VAT rate):
- Goods and services subject to table tax rates only
- Goods and services subject to table tax rate in addition to the VAT rate

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Egypt the "effective use and enjoyment" definition is not mentioned in the Egyptian VAT law. However non-established businesses (i.e., suppliers of services) are required to register for VAT under the simple registration in that jurisdiction where it has customers that are not taxable persons but residents in Egypt (i.e., business-to-consumer [B2C] supplies).

Under the "simple/limited VAT registration" non-established businesses selling taxable goods or rendering taxable services to residents in Egypt (B2C supplies) but not registered with the tax authority will be required to have a simple/limited registration for VAT compliance purposes. The simple/limited registration will be required for non-established businesses as follows:
- Service providers are obligated to register under the simplified registration system and submit their VAT return on a monthly basis starting from June 2023.
- Suppliers selling goods are provided a grace period of two years starting from January 2023.

This will apply on all taxable goods and services.

For business-to-business (B2B) supplies the registered entity as a recipient of the service will be responsible party of remittance of local VAT using the reverse charge mechanism.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Egypt, a TOGC is treated as outside the scope of VAT where the following conditions are met:
- There must be a case of liquidation or ceasing of business to be out of the scope of VAT
- The acquiring company must be a VAT registrant

Transactions between related parties. In Egypt, for a transaction between related parties, the value for VAT purposes is calculated at open market value. The commodity value taken as the basis for the tax assessment shall be its price according to the market forces and transaction circumstances.

C. Who is liable

Any natural person or legal entity whose gross sales value reaches the registration threshold (EGP500,000) after the date of enforcement of the VAT law in any financial year or part of it, must register with the tax authority within 30 days from the date of exceeding the threshold. There is no registration threshold for the businesses that are providing services subject to schedule tax.

Exemption from registration. The VAT law in Egypt does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Voluntary registration is allowed in Egypt if the total value of a natural or juridical person's sales of goods and services that are subject to VAT has not reached the prescribed VAT registration threshold. A natural or juridical person may submit an application for registration with the competent tax authority using Form No. 1 – VAT, according to the following procedures and conditions:
- Its turnover in the 12 months prior to the submission of application should not be less than EGP150,000 and its paid-up capital should not be less than EGP50,000.
- It should have a permanent headquarters where it exercises the activity subject of registration.

- It should have a valid tax card.
- Should it be the case, a registered person may apply for deregistration only after the lapse of 24 months from the date of registration unless the registered person ceases the activity completely before that date and provides the tax authority with relevant evidence.

Group registration. Group VAT registration is allowed in Egypt. This is only allowed for branches. In addition to a separate VAT registration for each branch (once they have met the registration criteria), it is possible to register all the branches as one group. All the branches will be treated as one entity upon group registration. As such, this means that all members of a VAT group in Egypt are jointly and severally liable for VAT debts and penalties. There is no minimum time period required for the duration of a VAT group.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Egypt under certain circumstances. Also referred to as "permanent establishment," it is defined in the VAT and corporate tax law as premises through which the activity is practiced, including the following:

- The management headquarters
- The branch, office, factory or workshop
- The mine, oil field or gas well, quarry or any other place for extracting natural resources
- The building site, the construction or installation project

Non-established businesses. For supplies made by a nonresident to a resident nontaxable person (i.e., B2C supplies), the nonresident provider is required to register and account for VAT on such supplies. The nonresident must apply for registration under the simplified supplier registration system.

For supplies made by a nonresident to a resident taxable person (i.e., B2B supplies registered under the VAT law) and the service is necessary for the recipient's activity, the VAT is required to be self-accounted for by the customer. See the subsection *Reverse charge* below. However, if the business registered for VAT is receiving a service not necessary to its business, the recipient, whether a registered business, a governmental authority, a public authority or any other entity, is obligated to calculate the tax due and remit it to the tax authority within 30 days from the date of sale, unless the nonresident service provider is registered under the simplified registration system.

Tax representatives. Tax representatives are not required in Egypt.

Reverse charge. The VAT guidelines issued on 22 March 2023 to nonresidents and the Executive Regulation issued in January 2023 have widen the scope and detail for the reverse-charge methodology as below.

For B2B supplies, the Egyptian resident, VAT-registered taxpayer is obligated to self-account for VAT on supplies received as importer and supplier at the same time as long as the service is necessary for its business.

For B2C supplies, legal non-VAT-registered entities receiving or importing services from nonresidents are obligated to calculate the tax due on these services and remit it to the tax authority within 30 days from the date of rendering the service, unless the nonresident rendering the service is registered under the simplified registration system. A legal non-VAT-registered entity can fulfill its VAT obligations by submitting Form No. 111, which is specifically designed for this purpose.

Domestic reverse charge. There are no domestic reverse charges in Egypt.

Digital economy. Nonresident providers of electronically supplied services for B2C supplies are required to register and account for VAT in Egypt. This is done by registering under the simplified registration regime, see the *Non-established businesses* subsection above.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Egypt. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

VAT guidelines mention examples of services that could be considered as "electronically supplied services," which include the following:
- Supplies of digital content, such as e-books, movies, TV shows, music and online newspaper subscriptions evidenced
- Website design or publishing services
- Online supplies of games, apps, software and software maintenance
- Legal, accounting or consultancy services

There are no other specific e-commerce rules for imported goods in Egypt.

Online marketplaces and platforms. The online marketplaces/platforms are subject to VAT, where the tax is due upon selling the commodity or rendering the service by the supplier or online marketplace (which will issue an invoice) at all stages of circulation thereof, regardless of the method of selling or rendering or circulation, including the electronic means.

Registration procedures. A local taxable person must fill in a hard copy registration form, attaching copies of the entity's tax card, commercial register and import card. The originals should be provided for review upon request. The registration form may be submitted by the entity representative with a power of attorney. The documents required to be submitted with the VAT registration application are as follows:
- Tax card
- Commercial registration
- National ID or passport for foreigners
- Company's premises rental agreement
- Article of association
- Power of attorney for the representative

The VAT registration application must be made in person at the ETA.

For a nonresident taxable person, it should create an account on the Egyptian tax authority's website. The documents required to be submitted with a VAT registration application are as follows:
- Nationality (country of incorporation for a legal person)
- National tax identification number
- Tax residency country
- Registered address of the business
- Name of the contact person responsible for dealing with tax authorities
- Telephone number of the contact person
- Electronic address of the contact person
- Website URLs of nonresident suppliers

Deregistration. An entity wishing to deregister should submit a request in writing to the tax authority. This can be done through complete termination or liquidation of the activity related to a taxable commodity or service, or assignment of such activity to third parties (successors), along with documentation proving the submission of the tax registration document and the cancellation of the entity in the commercial register.

Changes to VAT registration details. A taxable person is obliged to notify the ETA where there is a change in its VAT registration details within 30 days as of the date of the change. The notification should be made using Form No. 6 – Registration.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 14%
- Reduced rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods and services

Examples of goods and services taxable at 5%

- Machinery and equipment used in manufacturing purposes. The payment of the tax due on such machinery and equipment will be suspended whether imported from abroad or purchased from the local market for factories and the same will be applicable for production units for use in industrial production. The same suspension will be applicable for imported machinery and equipment for trading purposes upon providing the documents that such machinery and equipment will be used in manufacturing purposes.
- Machinery and equipment used to provide services to the "service sector," which will be collected upon importation of such machinery or purchase from local market. However, if any of the above fails to prove the purpose of machinery usage or even its production units, 14% will be applicable on such machinery and equipment.

The VAT law has two types of tables attached, stating certain goods and services are subject to certain VAT rates, other than the general VAT rate (i.e., special rates). This list is known as "table tax."

Examples of goods and services subject to table tax

Special rates apply to a number of goods and services, as follows:
- Tobacco and tobacco products
- Petroleum products
- Food vegetable oils, fluid, solid, purified or refined or mixed – 5% (*)
- Animal and plants oils and fats for food, partially or entirely dehydrated, solid or purified anyway else, refined without any further processing – 5% (*)
- Crackers and flour products – 5% (*)
- Processed potatoes
- Fertilizers, agricultural pesticides
- Gypsum
- Contracting work and construction (supply and installation), except for those undertaken for the establishment, maintenance or restoration of places of worship – 5% (*)
- Soap industrial detergents for home use
- Air-conditioned means of transportation, such as buses and trains between the governorates
- Professional and consultancy services
- Media and program production – 5% (*)

(*) Rates provided as an illustrative example

Goods and services subject to the table rates and the VAT general rate (14%), with a right to deduct the input tax up to the application of VAT at the general rate:
- Soda water – 8%+14% (**)
- Nonalcoholic drinks – 8%+14% (**)
- Alcoholic drinks

- Beer (alcoholic and nonalcoholic)
- Aromatic preparations (skin or hair care) – 8%+14% (**)
- TVs larger than 32 inches, refrigerators larger than 16 feet
- Air conditioning and cooling devices and units and their independent units
- Golf carts and similar vehicles – 10%+14% (**)
- Passenger cars
- Communications services through cellular phone networks
- Rental or sales value of Commercial trademark – 1%.

(**) Rates provided as illustrative example

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

A a table lists 57 exempted goods and services (with no right to deduct input tax) including:
- Tea, sugar and coffee
- Banking services
- Medicines and active substances based on a decision issued by the Egyptian Medicines Authority
- Health care services
- Production, transfer, sale or distribution of electric current
- Education, training and research services
- Sale and rental of land and residential and nonresidential buildings
- Free services that broadcast through radio and television

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Egypt.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic tax point under Egyptian VAT law is the time when the transfer of the ownership of the goods or the rendering of service to the buyer takes place, including if the supplier is an importer.

The following are treated as the time of sale, whichever happens the earlier:
- Issuing the invoice
- Delivery of the goods or rendering the service
- Payment of the price for goods or the service charge, whether wholly or in part

Deposits and prepayment. A deposit or prepayment is considered to be the tax point if payment takes place before issuing the invoice or the delivery of goods or the rendering of services (as outlined above).

Continuous supplies of services. If services are supplied continuously, a tax point is created each time the vendor issues an invoice.

The following are considered to be services of a continuous nature:
- Communication and facsimile services
- Contracting services of construction and building
- Cleaning and guarding services
- Transport services of goods and materials

Goods sent on approval for sale or return. The time of supply for goods sent on approval for sale or return is the transfer of the ownership of goods or the services rendered from the supplier to the buyer, even if the supplier is the importer. According to the provisions of the VAT law, the

following is considered to be the transfer of ownership, and the time of supply is whichever is earliest:
- Issuing the invoice
- Delivery of the goods or rendering of the service
- Payment of the good's price or the service charge, whether wholly or partially or on credit, or by any other means of payment, in accordance with the different conditions of payment

If the goods are sold but are returned to the seller, the supplier upon originally calculating and paying across the VAT is entitled to deduct the VAT due on the value of its sales, the VAT previously paid or calculated in respect of its returned sales with the following terms and conditions:
- The supplier may only deduct the VAT that has already been paid on the returned goods.
- The returned goods should be in a resalable condition, with the respective information included in the regular books and records of the supplier, including confirmation that its value has been refunded to the customer including the VAT or adding it to its account in the supplier's books and records.
- The supplier must issue a dated addition/discount notice with a serial number including the data of both the supplier and customer.

Where the goods are not sold but are not returned, no VAT implications apply.

Reverse-charge services. There are no special time of supply rules in Egypt for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. According to the VAT law, a lease payment is considered as a payment for a service subject to the general rate of 14%, provided that the legal title of the asset does not pass to the lessee.

Imported goods. The VAT on imported goods is due on customs clearance.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT due on supplies made. Where input tax exceeds output tax in any period, the taxable person will receive a refund for the credit balance due.

Input tax includes VAT charged on goods and services supplied in Egypt, VAT paid on imports of goods including machines and equipment, and VAT self-assessed on the acquisition of reverse-charge services, provided it is related to selling taxable goods or rendering a taxable service.

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

In Egypt, VAT is accounted for on a monthly basis, and taxable persons have the right to recover input tax on a monthly basis.

The time limit for a taxable person to reclaim input tax in Egypt is five years. This time limit is from the date of the invoice.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). Input tax may also not be recovered on table tax. Input tax incurred in relation to exempt supplies also cannot be recovered.

Examples of items for which input tax is nondeductible

- Table tax whether on goods and services subject to this tax or inputs of goods and services subject to this tax

- Input tax included as part of the tax-deductible cost of an item for the purposes of the annual corporate income tax return; additionally in case there is adjustment in the VAT included in the cost elements to be as one of VAT accounts, it will be acceptable for recovery
- Exempted goods and services
- Input charged by simplified vendors

Examples of items for which input tax is deductible (if related to taxable business use)

When calculating the tax, the following should be deducted from the tax due on the sales value:
- Tax paid or accounted for returned goods (i.e., via a credit note)
- Tax charged on inputs, including the tax charged to the goods and services sold by the registrant through all distribution phases, according to the conditions and situations that will be provided by the executive regulations relating to the VAT law

Input tax is the VAT incurred or charged to the registrant upon purchasing or importing goods and services, including machinery and equipment, whether directly or indirectly related to the sale of goods and services subject to VAT.

Partial exemption. Input tax incurred on exempt supplies of goods or services is not allowed to be deducted by the taxable person.

If some of the sales of goods and services by the registered person are taxable, and some others are tax exempt or subject to the schedule tax during the tax period, deductions must be made in the following manner:
- The total tax on inputs relating to the sale of a commodity or provision of a service subject only to the tax is deducted, whether the sale is made during or after the tax period.
- The tax on inputs that are only used for sales that are tax exempt or that are subject only to the table tax cannot be deducted, whether the sale is made during or after the tax period.
- The tax on inputs that are used in the sales of which some are subject to the tax and some others are tax exempt or are subject only to the schedule tax are deducted based on the ratio of the taxable sales to the total sales.

Approval from the tax authorities is not required to use the partial exemption standard method in Egypt. Special methods are not allowed in Egypt.

Capital goods. The general input tax recovery rules apply to input tax incurred on capital goods purchased for trading purposes. However, some special rules apply for the recoverability of VAT incurred on capital goods, as follows:
- If the capital goods are subject to VAT at the general rate of 14%, the input tax can be deductible immediately upon issuing the first VAT return.
- If the capital goods that are subject to table tax (the table rates attached to the VAT law), the taxable person cannot deduct the input tax but can claim for input tax refund after six respective months (six respective VAT returns).
- If the capital goods are exempted from VAT, no input tax deduction or refund is allowed.

Refunds. VAT refund is allowed for both resident and nonresident VAT registrants.

A refund of VAT is permitted for resident VAT registrants in the following situations:
- The tax previously collected or charged to exported goods and services. This applies whether exported in its original state or included as a component in other goods and services. The refunded tax should not exceed the credit balance provided that the value of the exports will be paid to a bank under the supervision of the Central Bank of Egypt according to the rules it specifies or pursuant to any of the payment methods or other methods of settlements specified in

the Executive Regulations, provided that the value of exports is not less than the inputs value thereof.
- Tax is collected by mistake.
- A credit balance results after more than six consecutive periods have lapsed.

In all cases of applying for a refund, a certificate signed by a chartered accountant must be one of the documents signifying the right of the taxable person to deduct the tax or refund the same.

The ETA has amended the VAT refund process and clarified all steps to curb delays in applying for a VAT refund. The steps for applying for VAT refunds are as follows:
1) Submission of application and receipt of response to the application
2) Internal correspondence between the investigating tax departments and other relevant tax departments
3) Execution of local entries, documents and export certificates
4) Clarification for refunds in cash or by bank transfer
5) Clarification of the calculation of the production rate
6) Processing VAT refund applications

A refund of VAT is permitted for nonresident VAT registrants under the simplified vendor registration regime. Under this scheme, nonresident registrants can seek a refund of the input tax they have incurred in Egypt related to their taxable activities. The refund process involves submitting an application along with supporting documents. VAT refunds are typically issued within 45 days. Currently, refunds are provided in Egyptian pounds (EGP), but from December 2023, other currencies will also be available.

Pre-registration costs. Input tax incurred on purchases on pre-registration costs in Egypt is only recoverable if it was incurred before the issuance of the VAT law in 2016. This is because the guidance on this is outdated as the introduction of the VAT law was in 2016, and no additional guidance on this area has been released by the tax authorities.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Egypt.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Egypt.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Egypt is not recoverable.

H. Invoicing

VAT invoices. Invoices must be issued before or after the sale. Sales invoices must be serially numbered and include the VAT registration number, address and contact details of the supplier. Based on the instructions issued by the ETA, a taxable person must maintain the original invoices for approval by the ETA for inspection at a later date.

Credit notes. Credit notes are mainly required for sales returns and can be deducted within the following VAT returns. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Egypt for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Egypt. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Egypt.

Electronic invoicing rules and conditions are as follows:
- A company should obtain an electronic signature certificate from the Misr for Central Clearing, Depository and Registry (MCDR) or the Egypt Trust to digitally sign the documents and link it to a token. The signature certificate and token should be obtained after signing an agreement with one of the above-mentioned entities authorized by the tax authority in this regard and payment of a minimal fee.
- Registration is done by creating a taxpayer digital identity.
- The company should use one of the following acknowledged/approved coding system to link it with its internal coding system:
  – Global Standers Coding (GS1)
  – Global Product Classification (GPS) system/EGS, which is a coding system invented by the tax authority
- If a company has an enterprise resource planning (ERP) system, it should implement the necessary steps to integrate its ERP system with the e-invoicing system and test the e-invoicing system's functions on required scenarios. The ETA developed a new portal to be used by companies that do not have a system for issuing their invoices and can be used by a specific company issuing a minimal number of invoices per month (less than 200 invoices) after obtaining the tax authority's approval.

After the recent update to the electronic invoice system, the system is now applicable to all activities. In addition, it is also applicable to import and export operations, as the exporter cannot complete the export process without the electronic invoice, and it cannot obtain export grants without the electronic invoice.

As per Decree No. 188 of 2023, issued in April 2023, which amended Article 42 of the Executive Regulation of the Unified Tax Procedures Law, electronic invoices or electronic receipts should have certain requirements in addition to the data stipulated in Article 37 of the Unified Tax Procedures Law as follows:
- Code of the product or service determined by a decision of the head of the tax authority
- Using Central Bank exchange rates when issuing an invoice in foreign currency
- Identification of the buyer (i.e., company, person, foreigner) in the issued invoices or receipts
- Using the company's activity code and the branch code that issued the invoice or receipt
- The national number of the buyer, beneficiary or the passport number of the foreign person if they are not registered with the tax authority and if the value of the invoice or receipt exceeds an amount determined by a decision of the head of the tax authority
- Identification number Universal Unique Identifier (UUID)
- Quantity sold
- Type of tax/taxes or fee if any
- QR code

The electronic receipt must also include the following:
- Point of sale device serial number
- Payment method
- The reference identification number in the case of returned receipts and credit notes
- Payment/subscriber number in the case of a utility receipt

Specifically for the supply of professional services, an electronic receipt must also include:
- Name of the service provider and the tax registration number
- National ID of service provider
- Address of the main center/branch
- Registration number in the association

- Beneficiary name/national ID
- Supply of service date
- Type of service performed
- Value due
- Schedule tax due
- Service code number

In addition to the above, note that all taxable persons registered in Egypt are required to issue their invoices using the electronic invoicing system effective from the date assigned to their batch (the last batch was on 15 December 2022).

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Egypt. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Egypt.

Proof of exports. Exports are evidenced by the customs clearance certificate (Customs Form No. 13). This evidence is needed to support the seller to charge VAT at the zero-rate on the export sale.

Foreign currency invoices. As well as issuing invoices in the domestic currency (which is the Egyptian pound [EGP]), invoices can be issued in a foreign currency for supplies made between local entities. Foreign currency invoices are permitted for supplies made by non-established businesses. It is recommended to include the same information as given above for VAT invoices.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons. As such, full VAT invoices are required.

Records. A taxable person is required to maintain proper books and records to record its transactions. In Egypt, examples of what records must be held for VAT purposes include invoices, accounting books and records, and any related documents to the transactions.

In Egypt, VAT books and records can be kept outside the country. However, this only applies for electronic archiving, as records can then be kept locally in Egypt or abroad. Whereas hard copies must be kept locally in Egypt.

Record retention period. A taxable person must retain such records together with copies of the invoices for five years following the end of the fiscal year when the entries are made.

Electronic archiving. Electronic archiving is allowed in Egypt. Records can be kept and archived electronically.

I. Returns and payments

Periodic returns. VAT and table tax returns are generally submitted monthly. A monthly tax return for the VAT and table tax, or either one of them, should be filed within one month grace period, from the month end. Currently the VAT return and the table tax return are included in one VAT format, as all VAT registrants are entitled to submit such format monthly according to its business activity.

A VAT return should be filed even if no taxable sales of goods or services are achieved during the tax period. Non-submission of the VAT return within the due dates entitles the tax authority to make a deemed assessment. The tax authority will be liable to provide the basis of this deemed assessment.

Periodic payments. The payment should be filed within one month from the month end and be transferred to the tax authority's bank account through authorized banks.

An article has been added to the executive regulation of the unified tax law outlining that where the settlement of a service fee or goods sold was done so in a foreign currency, the VAT due on such sold goods or services provided should be in the same foreign currency after deducting the related input tax from the collected output tax in the foreign currency.

Electronic filing. Electronic filing is mandatory in Egypt for all taxable persons. VAT returns must be filed electronically online (https://eservice.incometax.gov.eg or https://www.eta.gov.eg)

Payments on account. Payments on account are not required in Egypt.

Special schemes. No special schemes are available in Egypt.

Annual returns. Annual returns are not required in Egypt.

Supplementary filings. No supplementary filings are required in Egypt.

Correcting errors in previous returns. Correction of errors can be done online through amended VAT returns unless the taxable person is under an ongoing evasion case or has received an inspection request. The difference in VAT due between the original VAT return and the amended VAT return will be subject to an additional tax. This additional tax is calculated at a rate of 1.5% of the tax value or the unpaid table tax, including the tax resulting from the return modification, for each month or a part thereof, as from the termination of the period fixed for settlement and up to the payment date.

Digital tax administration. There are no transactional reporting requirements in Egypt.

J. Penalties

Penalties for late registration. Where transactions have taken place before VAT registration and such transactions reach the stated threshold without the person in charge registering, the taxable person's errors will be treated as evasion. The taxable person is required to pay the VAT due, plus 1.5% of the VAT due for each month the registration is late, or part of it, plus 100% of the total due amount. Where the taxable person has not resolved or finalized the evasion status with the ETA, the responsible person (e.g., in-charge partner, manager or CEO) shall be penalized by imprisonment for a minimum of three years and a maximum of five years and a fine of a minimum of EGP5,000 and a maximum of EGP50,000, or one of these two penalties.

Penalties for late payment and filings. For late payment of VAT, an additional payment is due for each month or part of the month starting from the tax payment deadline until the date of payment, in addition to fines and penalties that will be determined according to the delayed period for the late payment and declaration.

Penalties for errors. In Egyptian VAT law, errors mean the difference in tax calculations resulting in a decrease in tax due. As such, the penalties for errors are the same as those for late payment and filings.

As per the unified tax law for the mandatory electronic invoicing, failure to comply may result in prosecution and fines ranging from EGP20,000 to EGP100,000. For further details, see the subsection *Electronic invoicing* above.

There are no specific penalties associated with the late notification or failure to notify the tax authority of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax evasion sanctions include the following: For the taxable person:
- Imprisonment: the in-charge partner, manager or CEO shall be the responsible for this fraud and the burden of proof is on the individuals that no fraud has occurred
- Penalty payment will be determined by the concerned department at the ETA

- Payment of the VAT, table tax and additional tax
- Prison duration to be doubled if repeated within three years

Tax evasion considers a person to be breaching honor and honesty.

For the tax advisor:
- Ceasing the accountant from practicing its profession for one year
- In case of repetition, penalties and sanctions are doubled.

Personal liability for company officers. In certain legal entity structures, company officers can be held personally for VAT errors. Penalties would be equal to the VAT/remaining VAT due.

Statute of limitations. The statute of limitations in Egypt is five or six years. It is six years in case of evasion. The tax authority can examine transactions up to five years from the date of transaction/invoice.

El Salvador

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto a la transferencia de bienes muebles y a la prestación de servicios (ITBMS)
Date introduced	31 July 1992
Trading bloc membership	European Union Central American Association Agreement General Treaty on Central American Economic Integration *At the time of preparing this chapter, El Salvador was in the process of entering a customs union with its Northern Triangle neighbors – Guatemala and Honduras.*
Administered by	Ministry of Treasury (http://www.mh.gob.sv)
VAT rates	
Standard	13%
Other	Zero-rated (0%) and exempt
VAT number format	Taxable person registry number (NRC) 7 digits (0-9)
VAT return periods	Monthly
Thresholds	
Registration	Annual turnover of approximately USD5,715 or fixed assets of approximately USD2,285
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

• The transfer of tangible goods or rendering of services physically taking place in El Salvador

- The purchase of imported services by a taxable person in El Salvador
- The importation of tangible, movable goods from outside El Salvador, regardless of the status of the importer
- Self-consumption of inventories by VAT taxable persons or transfers of tangible goods for promotional purposes
- The exportation of tangible, movable goods from El Salvador to another jurisdiction

Withholding VAT. Taxable persons classified as large taxable persons (defined as domiciled or non-domiciled in El Salvador, with annual net income of USD500,000 or more) by the tax authorities are obliged to apply a 1% VAT withholding upon the payments for the acquisition of goods and services from other taxable persons with different classification.

Taxable persons upon the supply of goods and services by which payments are received through debit/credit cards are liable to 2% VAT withholding. The issuers and/or administrators of the debit/credit cards are designated as withholding agents upon payment of debit/credit card sales. The payments on account constitute an advance payment of the VAT, which can be credited against the assessed tax at the end of the period.

Taxable persons classified as large taxable persons by the tax authorities are obliged to charge a 1% VAT perception upon the transfer of goods to form part of the current assets made to other taxable persons with different classification.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In El Salvador, no services are subject to the "use and enjoyment" provisions.

However, note that the VAT law establishes that for the purposes of the exportation of services and goods as taxable events, subject to VAT at a 0% rate, the concept of exportation should be understood as the definitive transfer of ownership of movable goods, intended for use and consumption abroad, and the provision of services carried out locally, to users who do not have domicile or residence in El Salvador, and intended to be used exclusively abroad. In the case of import of services as a taxable event, the VAT law provides that there shall be an importation of services when the activity that generates the services is carried out outside El Salvador and the services are provided to a client domiciled in the country that uses them in El Salvador. The importation of services is taxed at a 13% VAT rate, and the reverse-charge mechanism should apply. This means that the non-domiciled supplier should not register in El Salvador for VAT purposes, the local customer should comply with all VAT obligations.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In El Salvador, a TOGC is treated as outside the scope of VAT, of which there are no specific conditions. The VAT law establishes that in transfers of movable goods as a VAT-taxable event in the context of a TOGC, the taxable event should be considered as configured only with respect to the transfer of movable goods/inventory.

Transactions between related parties. In El Salvador, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, specific rules apply to all taxes, of which for transactions between related parties the value should be at the arm's-length principle, and consequently, establishes a fair market value. The tax authority is empowered to

adjust the value of a transaction for both VAT (and income tax) purposes when the tax resulting thereof was lower than the hypothetical tax that would have resulted from an arm's-length transaction. The following rules are provided by the Tax Code to determine a fair market value:

- A fair market value in local operations shall be understood as the sale price of the goods or services in businesses or establishments located in the country that are not related to the taxable person, and that transfer goods or provide services of the same kind.
- In the transfer of goods or provision of services abroad, the market value shall be the price used by other entities different from the taxable person and not related to it, in the transfer of goods or provision of services of the same kind from El Salvador to the same destination country abroad. In the case of imports, the market price will be the price that the goods or services of the same kind have in businesses or establishments not related to the taxable person, in the country where the goods or services were purchased, plus transportation costs or expenses, if applicable.
- To establish the market price when there are more than three providers of the goods or services, the price information of the three providers shall be sufficient for assessment purposes, and an average price will be used to this end.
- When in the national or international market there are less than three providers of said goods or services, the price information of existing providers, or of at least one of them, will be sufficient for assessment purposes. In the first case, the average price will be adopted and in the second, that of the only provider.
- In no case shall the taxable person or its related entities be included among the providers whose prices are used as the assessment basis of the fair market price; if this is done by the tax authorities due to a lack of visibility of the relation between related parties, the act should not be invalidated. If for any reason the fair market price cannot be determined, the tax authorities will establish it by using the price or consideration that the audited taxable person has received from non-related purchasers of goods or services, different from the ones to which the provision of goods or services at a lower or higher than fair market price was carried out.

C. Who is liable

Any individual or business that has an annual turnover greater than approximately USD5,715 or that owns fixed assets valued at approximately USD2,285 or more must register as a VAT taxable person. The requirement to register also applies to permanent establishments in El Salvador of foreign entities. In addition, entities and individuals must pay VAT when any of the taxable events occur.

Exemption from registration. Individuals qualified as "Excluded Subjects" should not register for VAT purposes in El Salvador. "Excluded Subjects" are individuals that have provided services or transferred goods (taxed and exempted) in the last 12 months for an amount of less than approximately USD5,719 and with total assets of less than USD2,287. If these thresholds are surpassed, such individuals should be considered taxable persons (i.e., VAT taxpayers) and register for VAT. For further information see the *Excluded subjects* subsection below, under *Special schemes, Section I. Returns and payment*.

Voluntary registration and small businesses. Individuals whose turnover is below the registration threshold may register voluntarily as VAT taxable persons. Apart from the registration requirements outlined below under the subsection *Non-established businesses*, they also have the option to register for VAT voluntarily, where they may want to do so to recover local input tax. No special regime exists for small taxable persons in El Salvador.

Group registration. Group VAT registration is not allowed in El Salvador.

Fixed establishment. In El Salvador there is no legal definition of a fixed establishment for VAT purposes. However, the Income Tax Code (ITC) rules on permanent establishment (PE) also

apply to VAT. The Salvadoran tax laws and regulations do not provide for a PE rule in the traditional sense (i.e., a business presence test applicable to non-domiciled entities that would allow local authorities to tax profits attributable to such PE as income of a domiciled entity). However, there is reference to the concept of PE in the ITC that states that entities are considered domiciled in the country for tax purposes where legal entities domiciled abroad, registered under the local commerce registry, which have branches, agencies or establishments that operate permanently within the country.

To this end, it is understood that the branches, offices or establishments operate permanently within the country whenever they maintain a fixed place of business, with infrastructure installations of their own or leased up, with personnel hired within the country and the taxable person carries out its economic activity therein in a material and perceptible manner in El Salvador.

Furthermore, the tax authorities provide guidance that a PE should be understood when a non-domiciled entity operates or carries out economic activities in El Salvador utilizing under any concept or title and in a continuous or habitual manner, facilities or fixed places of any kind in which all or part of the activity is carried out, or when acting in El Salvador through an authorized agent to contract in the name of and on behalf of the subject domiciled abroad, who habitually exercises said faculties. The following should be considered PEs: the headquarters of management, branches, agencies, offices, factories, workshops, warehouses, stores or other establishments, mines, quarries, oil or gas wells, agricultural explorations, forestry or livestock, any other place of extraction or exploitation of natural resources, and works or construction projects, installation, assembly and supervision.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in El Salvador. In principle, a non-established business must register for VAT if it transfers tangible goods or renders services in El Salvador on a regular basis. To register for VAT, a non-established business must provide the tax authorities with the following:

- A copy of its Articles of Incorporation, legalized by a Salvadoran consulate (or with an apostille), together with an official translation into Spanish
- Any other documentation required by the tax authorities, including registration of a tax representative

Tax representatives. Businesses that are established outside El Salvador must appoint a resident tax representative to register for Salvadoran VAT purposes. The tax representative is jointly and severally liable for VAT debts with the business that it represents. The liability is limited to the value of the property or assets to be administered, unless the representatives had acted with malice or gross negligence, in which case the tax representatives are severally liable with their own assets up to the amount of the total tax due.

Reverse charge. The Salvadoran VAT law establishes a reverse-charge mechanism for business-to-business (B2B) supplies. Under this mechanism, the customer must self-assess, withhold and pay the VAT due. The reverse-charge mechanism applies if the taxable activities (services performed or used within the country) are rendered by a non-established business. The consumer or resident taxable person may offset the VAT paid for the services with VAT debits under the general VAT rules.

Domestic reverse charge. There are no domestic reverse charges in El Salvador.

Digital economy. There are no specific indirect tax regulations regarding the digital economy.

Nonresident providers of electronically supplied services for both B2B and business-to-consumer (B2C) supplies are not required to register and account for VAT on supplies in El Salvador. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in El Salvador.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in El Salvador.

Registration procedures. The time limit for an individual or entity to register as a taxable person for VAT purposes is within 15 days following the initiation of operations. To register, the process to file Form F-210 must be completed in person. Individuals must also attach a copy of their unique identity document, and for non-established businesses, a copy of their passport or residence card.

Legal entities applying must attach the following documentation:
- Deed of incorporation, merger or other deed duly registered before the Commerce Registry
- Legal identification document (*Documento Único de Identidad* or a passport) of the entity's authorized legal representative, election credential or power of attorney (i.e., special, general, judicial or administrative)
- Proof of payment to the VAT Registry

If the entity wishes to register as an importer, it must make that clear in the request for registration. After reviewing the documents, if there are no observations from the tax authorities, the documents are normally promptly issued after the documentation is filed.

Deregistration. Whenever a taxable person ceases operations as a consequence of dissolution, liquidation or a merger, it should deregister before the tax authorities and request the cancellation of its Tax ID (*Número de Identificación Tributaria*) and Contributors' Registration Number (*Número de Registro de Contribuyente*); also, it must request the annulment of unused invoices, VAT invoices, with specification of its authorized serial number, explaining the motive for cancellation.

Changes to VAT registration details. Whenever there is a change in the taxable person's VAT registration details (i.e., name, type of business or any other information regarding the taxable person), such changes must be duly notified by filing Form F-210. Such form must be filed every time there is a change in the taxable person's information, and it must be filed within five business days following the date of the change. The notification must be made in person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 13%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exportation of goods and services
- Transfer of goods and services made to individuals or businesses authorized under the Free Trade Zone Law and the International Services Law (provided that the goods and services are necessary for the authorized activity)

The term "exempt" refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Health services offered by public institutions
- Rental of houses and apartments for noncommercial purposes
- Public land transport
- The importation by registered VAT taxable persons of machinery used as a fixed asset in the production of goods and services that are not exempt (if the assets are registered with the tax authorities 30 days in advance)
- Education provided by private or public institutions authorized by the Ministry of Education
- Certain financial services regarding interest payments made by domiciled and non-domiciled financial institutions (domiciled financial institutions must be authorized by the Superintendence of the Financial System, and the non-domiciled financial institutions must be authorized by the competent authority in their country of origin and qualified by the Central Bank of Reserve)
- Water services offered by public entities
- Personal insurance services and reinsurance

Option to tax for exempt supplies. The option to tax exempt supplies is not available in El Salvador.

E. Time of supply

The taxable event when VAT becomes due is called the "tax point."

For the supply of goods, the tax point is the earliest of the following events:
- The issuance of the invoice, receipt or other document related to the transaction
- Delivery of the goods
- Receipt of payment

For the supply of services, the tax point is the earliest of the following events:
- The issuance of the invoice, receipt or other document related to the transaction
- Provision of the service
- Receipt for payment (total or partial).

Deposits and prepayments. There are no special time of supply rules in El Salvador for deposits or prepayments. However, deposits and prepayments as a result of a transfer of goods and services are considered a taxable event and the VAT becomes due, as per the general time of supply rules.

Continuous supplies of services. For continuous supplies of services rendered in return for periodic payments, the tax event is the earlier of the issuance of the invoice or the due date established for the periodic payment, notwithstanding the date of payment for the service.

Goods sent on approval for sale or return. The taxable event for goods sent on approval and sold is the earlier of the issuance of the invoice or receipt of payment. There is no taxable event when goods sent on approval are returned to the seller.

Reverse-charge services. There are no special time of supply rules in El Salvador for the supply of reverse-charge services. As such, the general time of supply rules apply.

Leased assets. The taxable event for leased assets (movable goods) is the earlier of the issuance of the invoice or receipt payment.

Imported goods. The taxable event for imported goods is when the goods clear all customs formalities for importation (definite importation).

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT paid on the purchase of goods and services for business purposes. Input tax is generally credited against output tax, which is the VAT

charged on supplies made. Input tax includes VAT charged on goods and services supplied in El Salvador, VAT paid on imported goods and VAT self-assessed on reverse-charge services. In general, the input tax credit is allowed for ordinary business expenditure that is indispensable to the taxable person's taxable activity (i.e., the business activity that generates output tax).

There is no set time limit for a taxable person to reclaim input tax in El Salvador. This mean that effectively the input tax (VAT credit) may be carried forward indefinitely until its complete recovery. A valid tax document referred to as "proof of tax credit" or an "import declaration" must support every claim for an input tax credit. This documentation only needs to be available upon request from a tax audit but does not need to be presented at the moment of filing the VAT return.

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

Examples of items for which input tax is nondeductible

- Acquisition, importation or entry of supplies or food when it is not the taxable person's ordinary business
- Purchase, import, leasing, maintenance, improvement or repair of new and used vehicles that by their nature are not strictly necessary for carrying out the ordinary business activities of the taxable person
- Use of any type of services in hotels and the lease or sublease of real estate or the use of any other services that are not used in core business activities
- Purchase of airline tickets, except those strictly related to business trips
- Acquisition, importation or sale of clothing, jewelry or shoes, if this is not the taxable person's ordinary business, among others

Examples of items for which input tax is deductible (if related to a taxable business use)

- Acquisitions of movable, tangible goods destined to form part of the current assets
- Disbursements for the use of services in the ordinary course of business provided they are not intended for the construction or alteration of real estate property
- General expenses intended solely for the purpose of achieving the objects, business or activity of the taxable person

Partial exemption. If a taxable person makes both taxable and exempt transactions, it may not deduct the input tax incurred in full. It may deduct only the amount of input tax related to the goods and services used in taxable transactions and not the input tax that relates to exempt transactions. Where input tax is incurred that relates to both taxable and exempt supplies, the business must carry out a proportionality calculation to determine the amount of input tax recoverable. This situation is referred to as "partial exemption." The apportionment may be calculated based on the value of taxable transactions carried out compared with the total turnover. No approval or confirmation is required from the tax authority for using this apportionment method. The calculation is only based on total turnover and no other methods are available.

Approval from the tax authority is not required to use the partial exemption standard method in El Salvador. This is a mandatory method for taxable persons that carries out both taxable and exempt transactions, and it is established in Section 66 of the VAT law.

Special methods are not allowed in El Salvador.

Capital goods. Input tax generated on the acquisition of capital goods to form part of the current assets may be recovered by the taxable person. If the operations carried out during the month are partially taxable, exempt and/or not subject to VAT, the input tax credited against the output tax

will be determined proportionally to the taxable operations. If the input tax is higher than the output tax, the excess of the VAT credit may be carried forward to offset against output tax due in subsequent VAT periods. Currently there is no definition of capital goods in the Salvadoran legislation. The basis for the input tax calculation generally is the price or remuneration agreed in the supply of goods or services, or the customs value in imports and entries.

Refunds. If the amount of input tax recoverable in a particular month exceeds the amount of output tax payable, the taxable person obtains an input tax credit. The credit may be carried forward to offset against output tax due in subsequent VAT periods.

A cash refund or Public Treasury notes may be claimed only if the credit relates to export activities. An input tax credit related to export supplies may be carried forward to offset output tax in the following VAT period. If the credit cannot be fully offset against output tax within a tax period, the taxable person may request an offset of other tax liabilities, including input tax withheld, perceived or generated as a result of the import of goods, or a refund of the excess amount.

Pre-registration costs. Input tax incurred on pre-registration costs in El Salvador is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in El Salvador.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in El Salvador.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in El Salvador is not recoverable.

H. Invoicing

VAT invoices. A taxable person must generally provide VAT invoices for all taxable supplies made, including exports. However, for supplies made to other VAT taxable persons, a "proof of tax credit" document must be issued. A proof of tax credit document is required to support a claim for the input tax credit. Proof of tax credit documents must be issued in triplicate (with two copies provided to the customer of the goods or services). Invoices must include an official invoice number (NCF) and the taxable person's registration number (NRC), and it must show the VAT amount separately, among other requirements.

If the nature of a business makes it impractical for a taxable person to issue tax invoices, the tax authorities may authorize the use of cash registers and computerized systems to issue tickets (cash receipts) instead of invoices.

Credit notes. Price reductions, discounts or bonuses may be excluded from the VAT base if they are included in the proof of tax credit document or in credit and debit notes. A credit note must contain the same information as a tax credit document.

Electronic invoicing. Electronic invoicing is mandatory in El Salvador, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in El Salvador.

In August 2022, the Salvadoran Legislative Assembly approved a legal reform to the Tax Code that included provisions to enable electronic invoicing in El Salvador. The timeline to define a mandatory and general implementation of electronic invoicing for all taxpayers was delegated to the tax authorities. The implementation program designed by the tax authorities to define the

criteria to require taxpayers to implement electronic invoicing is not publicly available. In practice, tax authorities notify this to taxpayers via email. This said, electronic invoicing implementation remains voluntary for most taxpayers. Once electronic invoicing has been implemented by taxpayers, all operations, whether with the government, businesses or consumers, are subject to the documentation requirements set by the electronic invoicing regulations, and they are not allowed to issue physical documents with the exception of tickets/receipts issued by cash registers or computerized systems, which can be continued to be issue physically until 30 June 2024.

At the time of preparing this chapter, the timeline for the mandatory and general implementation of electronic invoicing has not been defined. Some taxpayers, mostly those classified as large taxpayers, have already been notified directly by the tax authorities of their obligation to issue electronic invoices. Therefore, electronic invoicing is mandatory only for certain taxpayers in El Salvador.

In general all taxpayers must continue issuing physical invoices to document their operations, unless they (i) voluntarily implemented electronic invoicing or (ii) they were directly required by the tax authorities to implement mandatory electronic invoicing.

Simplified VAT invoices. Individuals registered as VAT taxable persons whose supplies in the previous year are equal to or less than USD50,000, must issue and deliver in transactions with final consumers a simplified sales invoice, only with respect to taxable or exempt transfers of tangible assets or services, which total amount of the operation is less than or equal to USD12.

Self-billing. Self-billing is allowed in El Salvador. It only applies to the self-consumption of inventory by taxable persons. The VAT law considers self-supply a taxable event and defines it as when a taxable person consumes goods of their own inventory for their use or of their shareholders, executives or employees. It should be considered as such all goods missing in the inventory of which exit is not derived from chance or force majeure or from causes inherent to the operations or normal activities of the business. It should not be treated as self-consumption of those goods from inventory that are transferred to the company's fixed assets, as long as these are necessary for the business's activity. This is a VAT-taxable event and the input tax derived from it is not deductible. These operations must be documented through a final consumer invoice.

Proof of exports. For the exportation of goods to qualify for the zero rate, a definitive transfer of the goods that are to be used or consumed abroad must occur. Exports must be supported by customs documents that prove the goods have left El Salvador. Suitable evidence includes export invoices and bills of lading.

Foreign currency invoices. VAT invoices and tax credit documents must be issued in the domestic currency, which is the Salvadoran colón (SVC), the United States dollar (USD), or Bitcoin, if the place of supply is El Salvador. However, in practice, SVC have been removed from circulation and all transactions are made in USD.

Supplies to nontaxable persons. No VAT invoice is required to be issued for supplies to nontaxable persons, unless requested by the customer. If the customer is not registered for VAT, a final consumer invoice should be issued. The tax authorities may authorize the use of cash registers and computerized systems to issue tickets (cash receipts) instead of invoices.

Records. In El Salvador, examples of what records must be held for VAT purposes include:
- Purchase ledger book (Libro de Compras)
- Sales ledger book to final consumers *(Libro de Ventas a Consumidor Final)*
- Sales ledger book to taxable persons *(Libro de Ventas a Contribuyentes)*

The formal accounting documents must be complemented by the necessary auxiliary books and supported with the corresponding legal documentation that allows the tax authorities to clearly establish the taxable events, expenses, estimates and all the operations that allow to establish its

real tax situation. The referred sections also regulate that registries shall be made in chronological order, in Spanish and in a legal tender. The operations shall be registered as they are carried out, and only a delay of 10 business days for tax purposes is allowed.

In El Salvador, VAT books and records must be held within the country. Taxable persons have the option to hold their accounting records in the offices of the parent company or at the address registered with the tax authority.

Record retention period. Taxable persons must keep records for 10 years for the VAT documents and up to five years after the liquidation of the business.

*Electronic archiving. E*lectronic archiving is allowed in El Salvador. Electronic archiving of VAT documents may be done after four years from the issuance or reception of the documents, as long as the integrity of information is guaranteed, and the documents are available and accessible to the tax authorities when required. Also, the conversion process must be certified by an external auditor. This period may be shortened if the taxable person submits a request, and the tax authorities approve. Electronic invoices must be kept by taxable persons for a period of 10 years from the date of their issuance, which includes the graphic representation of the electronic invoice as well.

I. Returns and payment

Periodic returns. VAT returns are submitted monthly. Form F-07 must be submitted by the 10th working day of the month following the end of the return period. A return must be filed even if no VAT is due for the period.

In addition, Form F-930, the monthly VAT return of withholdings and collection of VAT, must be filed every month within the first 15 working days of the month following the end of the return period.

Periodic payments. Payment of VAT in full is due on the same date as the VAT return submission, i.e., by the 10th working day of the month following the end of the return period. By legal disposition, the tax due may be paid in SVC or USD. However, in practice, SVC has been removed from circulation and all transactions are made in USD.

Electronic filing. Electronic filing is allowed in El Salvador. Electronic filing is allowed provided that the taxable person has created a user ID on the tax authority's website and carried out the necessary procedure to use the portal (https://portaldgii.mh.gob.sv/ssc/home).

Payments on account. Payments on account are not required in El Salvador.

Special schemes. *Excluded subjects.* "Excluded Subjects" are individuals that have provided services or transferred goods (taxed and exempted) in the last 12 months for an amount of less than approximately USD5,719 and with total assets of less than USD2,287. Taxable persons that acquire goods or services from these individuals should document these operations with invoices for excluded subjects.

If these thresholds are surpassed, such individuals should be considered taxable persons (i.e., VAT taxpayers) and register for VAT.

If a taxable person ceases to operate and no longer makes taxable supplies, it can proceed to deregister for VAT. If the taxable person starts operating again it should register for VAT.

Annual returns. Annual returns are not required in El Salvador.

Supplementary filings. No supplementary filings are required in El Salvador.

Correcting errors in previous returns. In case of errors or omissions, the VAT return can be rectified online, on the same platform of the tax administration used to file the monthly VAT return. Taxable persons have a maximum of two years after the expiration of the term to file the return, to modify and rectify any amounts on such return.

The VAT debit may only be modified within three months of the delivery of the goods or the receipt of payment of the services.

Digital tax administration. There are no transactional reporting requirements in El Salvador.

J. Penalties

Penalties for late registration. In the event of late registration, a penalty of three minimum legal wages would be applicable. This penalty applies regardless of whether interest and penalties are assessed for unpaid VAT.

Penalties that are calculated on the monthly minimum legal wage are based on the commerce and services sector (approximately USD365).

Penalties for late payment and filing. Late payment and filing are penalized as follows:
- Filed with no more than a month of delay: 5% of the unpaid tax
- Filed with more than a month but less than two months of delay: 10% of the unpaid tax
- Filed with more than two months but less than three months of delay: 15% of the unpaid tax
- Filed with more than three months of delay: 20% of the unpaid tax

If no unpaid tax is reported, the penalty will be equal to one monthly minimum wage (approximately USD365). However, no penalty for late filing should be less than two monthly minimum wages (approximately USD730).

A 75% penalty reduction is available if a voluntary filing and payment is done. A 30% penalty reduction is available if the filing and payment is voluntary, and the tax authorities have identified the noncompliance issue.

Penalties for errors. Filing a modified return to correct an incorrect payable tax is penalized with 40% of the unpaid taxes, which should not be less than one monthly minimum wage (approximately USD365).

Filing the return with incorrect data is penalized with a 10% on the difference of the payable tax assessed by the taxable person and the payable tax determined by the tax authorities, which should not be less than two monthly minimum wages (approximately USD730).

Filing the return with missing, incomplete or incorrect information related to general information of the taxable person is penalized with two monthly minimum wages (approximately USD730).

Filing the return with missing, incomplete or incorrect information related to VAT documentation is penalized with four monthly minimum wages (approximately USD1,461)

All penalties are subject to a potential reduction according to the rules explained above.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty equivalent to two monthly minimum wages (approximately USD730) according to Section 235 c) of the Tax Code. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Criminal tax avoidance penalties are based on the amount of the evasion or attempted evasion. If the amount of unpaid taxes ranges from approximately USD11,430 to USD34,285, the penalty is imprisonment for four to six years. If the amount of unpaid taxes exceeds approximately USD34,285, the penalty is six to eight years of imprisonment.

In the case of VAT taxable persons that are obligated to apply a proportionality method on the input tax credit (i.e., partial exemption), the amount of the evasion will be determined on a 12-month basis period and the penalty is imprisonment for four to six years if the unpaid VAT ranges from approximately USD34,285 to USD57,140. If the amount of unpaid taxes exceeds approximately USD57,140, the penalty is six to eight years of imprisonment. The rules and penalties apply when the taxable person has input tax credit in one or more tax periods that affects other periods in which a tax avoidance was detected.

If the unpaid taxes plus the corresponding penalties are paid to the tax authorities, no criminal fraud penalties are imposed.

Penalties for tax evasion under the Salvadoran Criminal Code include imprisonment for a period of four to eight years.

The Salvadoran Tax Code regulates penalties for unintentional or intentional tax avoidance. If tax avoidance is considered unintentional, the penalty is 25% of the unpaid tax. For intentional tax avoidance that results in an underpayment of tax that is below the criminal amount, the penalty is 50% of the unpaid tax.

Personal liability for company officers. According to Section 43 of the Tax Code, the sole administrator or legal representatives of legal entities during the period that includes their management, may be held personally liable for events that lead to tax evasion. The liability of these representatives should be limited to the equity or value of the assets that they administered, unless such representatives acted with intent, fault or gross negligence. In that case, they should be considered as jointly liable and will respond with their own assets up to the total amount of the tax owed.

Statute of limitations. The statute of limitations in El Salvador is three years. The statute of limitations for the tax authority to review tax returns and the compliance of tax obligations is three years from the deadline to file the tax return and five years when no return was filed.

The tax debt cannot be reduced after three months following the delivery of the goods or the provision of the services.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto sobre Valor Añadido (IVA)
Date introduced	28 October 2004
Trading bloc membership	Central African Economic and Monetary Community (CEMAC)
Administered by	Ministry of Finances, Economy and Planification
VAT rates	
Standard	15%
Reduced	6%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (3 digits/1 digit)
VAT return periods	Monthly
Thresholds	
Registration	None
Deregistration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

The following transactions are subject to VAT in Equatorial Guinea (EG):
- Goods sold or assigned for valuable consideration
- Services provided
- Self-consumed goods and services
- Imports
- Other operations done by individuals or legal entities in their sphere of professional, individual or business activities, including extraction industries of all kinds

When these operations are performed in EG, they are subject to VAT, unless they are included in the list of exemptions, even though the domicile of the individual or legal address of the debtor corporation is located outside the territorial borders of EG.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In EG, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in EG. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In EG, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

All individuals and legal entities habitually or occasionally and independently performing the economic activities of production, trade or rendering services, as well as all operations connected to the said activities, including extractive, farming and liberal professional or similar activities, are subject to VAT in EG.

Moreover, any individual or legal entity, reflecting VAT in an invoice or any other document, for the fact of having invoiced it, is required to declare and pay the said VAT.

Exemption from registration. The VAT law in EG does not contain any provision for exemption from registration.

Voluntary registration and small businesses. There is no specific registration for VAT in EG. Resident businesses (those that carry out operations or provide remunerated services in EG for more than three months within a calendar year or six months within two consecutive calendar years) are required to register with the tax administration in order to receive a tax identification number for all their tax obligations.

Group registration. Group VAT registration is not allowed in EG.

Fixed establishment. In EG there is no legal definition of a fixed establishment for VAT purposes. However, the tax law provides criteria used by the tax authorities for those relating to the notion of tax residence in EG (which applies to VAT). To this end, the tax law generally provides that any person established in EG for more than three months per year or more than six months out of a total of two consecutive years and carries out activities or provides remunerated activities in EG.

For resident legal entities, the tax authorities consider permanent establishments to be establishments that meet the following conditions:
- Is constituted in accordance with Equatoguinean laws
- Has its registered office in EG
- Has its effective seat of management in EG

According to the tax law, VAT is an indirect and general contribution that applies in cascade, is based on consumption, and affects both the usual and occasional turnover of companies, professionals and individuals.

Non-established businesses. Non-established businesses are not required to register for VAT in EG. A WHT of 15% is accounted for on payments made by resident companies on behalf of non-resident companies.

Non-established businesses can voluntarily register for VAT in EG and if done so, must appoint an authorized and solvent agent with the EG tax authorities, resident of Equatorial Guinea, who will be jointly and severally liable with it for the payment of VAT. However, there is no mechanism to collect input tax incurred by non-established businesses in EG.

Tax representatives. A non-established (nonresident) taxable person must appoint near the EG tax administration an authorized and solvent agent, resident in EG, who will be jointly and severally liable with it for the payment of VAT.

In the event a taxable person fails to appoint an agent, then both VAT, as well as any fines that may be payable, will be paid by the client on behalf of the party with no permanent place of business in EG.

Reverse charge. When the supplier of services is nonresident in EG and cannot collect and remit the VAT, the customer (who must be VAT-registered in EG) established in EG should account for the VAT via the reverse-charge mechanism.

Domestic reverse charge. There are no domestic reverse charges in EG.

Digital economy. There are no special rules related to supplies made within the digital economy in EG.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT. Instead, the customer must self-account for VAT via the reverse-charge mechanism (see the subsection *Reverse-charge* above).

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are not required to register and account for VAT. As such, no VAT is accounted for on the supply.

There are no other specific e-commerce rules for imported goods in EG.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in EG.

Registration procedures. There is no specific registration for VAT in EG. The registration with the Ministry of Finances is sufficient for all tax obligations.

For such purposes, each legal entity engaged in economic activity, no matter what the nature or output, and who is classified as a taxable person, is obliged to submit to the tax administration its registration. The deadline to submit the registration request (by paper format) to the tax administration in person, is two days following the commencement of the activities in EG.

The documentation to be provided to the tax administration for registration purposes is the following:

- Name or company name
- Name and surnames of its legal representative
- Seed capital and increases, if any, used in its businesses
- Copy of the bylaws and articles of incorporation in which the purpose and capital stock are stated, names and interests of the partners or shareholders
- Principal place of business; district, town or village
- Activities of the company
- Reason for registration

Upon registration, a tax identification number will be issued, which is used for all taxes and not specific to VAT.

Deregistration. The deregistration at the EG Ministry of Finances is applicable for all tax obligations. The deregistration request should be filed to the Ministry of Finances within 45 days following the end of the activity. In addition to the documentation listed above for the registration, for deregistration the taxable person should also provide the notarial deed of dissolution or liquidation of a company and the reason for deregistration. After the filing of the said documents, the tax administration usually sends to the taxable person a tax audit notification including all the necessary documentation to be provided. The deregistration certificate is issued by the tax administration at the end of the inspection and the payment of the additional debt, if any.

Changes to VAT registration details. The taxable person should notify the tax administration in writing about any change in its VAT registration details (e.g., company name, address). There is no deadline provided by the law, but it is advisable to send the notification during the month the said change occurs.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15%
- Reduced rate: 6%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate, reduced rate, or an exemption.

Examples of goods and services taxable at 0%

- Insulin and its salts
- Quinine and its salts
- Antibiotics
- Pharmaceutical products
- Fertilizers
- Dental wax
- X-ray plates, tapes and films
- Insecticides
- Rubber hygiene and pharmacy items (including surgical gloves)
- School books in flexible protective covers
- Glass for eyeglasses
- Medical-surgical sterilizers for laboratories
- Wheelchairs and other vehicles for the physically challenged
- Spares for wheelchair and other vehicles for the physically challenged
- Corrective lenses
- Medical surgical devices
- Dental chairs
- Other medical and surgical furnishings
- Other agricultural supplies

Examples of goods and services taxable at 6%

- Meats and poultry
- Milk and cream that are not concentrates and not containing sugar or other sweeteners
- Milk and cream concentrated or sweetened
- Bread

- Rice
- Prepared foods for children
- Books and schoolbooks

The term "exempt" refers to supplies of goods and services that are not liable to tax and don't qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Raw agricultural, livestock, fishing and hunting products sold directly to the end consumer by the owner
- Sale of products resulting from soil and subsoil extraction activities
- Operations transmitting real estate between individuals that do not qualify as real estate developers and that are subject to asset transfer tax
- Interest generated by foreign loans
- Interest generated by deposits of nonprofessional clients in credit or financial establishments
- Travelers with small imports when the value of the goods does not exceed XAF500,000
- Banking, insurance and reinsurance operations, which are subject to a specific tax
- Operations transferring real estate, and real estate rights and mutations of goodwill that are subject to the asset transfer tax or other equivalent taxes
- Medical services, including transportation of accident victims and sick people, and medical assistance to individuals provided by public hospitals and health centers or similar agencies, and medical assistance provided by members of the medical and paramedic corps
- Staple commodities, as well as their supplies, the supplies of livestock and fishing products used by producers, so long as said products are exempt
- Services provided in the field of school or university teaching by public and private establishments or similar agencies
- Importation and sale of school or university books
- Sale of newspapers and periodicals, not including income received from advertising
- Rental of unfurnished houses
- Operations relating to the international traffic of:
  - Ships or vessels used in industrial or commercial activities on the high seas
  - Salvage or rescue ships
  - Airplanes and ships used in international transit operations and related services, in accordance with the provisions of article 158 and following of the EMCCA Customs Code
- Social, educational, sports, cultural, philanthropic, or religious services or operations provided to their members by nonprofit benevolent and charitable agencies, so long as said operations can be directly related to the collective defense of the moral or material interests of their members. However, these are taxable when they are in a situation of competition with the private sector
- Importation of equipment goods
- Amounts deposited by the Public Treasury into the Central Bank in its capacity of issuing bank, as well as proceeds of the operations of said currency issuing bank
- Suspensive Customs systems to defer or suspend taxation can be accorded to mining, oil and timber companies. Nonetheless, the right to said systems must be sole and limited exclusively to investment goods strictly necessary to practice the activity in the implementation, prospecting or research phases

Option to tax for exempt supplies. The option to tax exempt supplies is not available in EG.

E. Time of supply

The VAT time of supply (or tax point) is defined as the as the event in which the necessary legal conditions are fulfilled leading to the enforceability of the tax. Enforceability is defined as the right of the Public Treasury to demand that the taxable person pay the tax by a specific date.

For goods, the general rule is that the tax point is when the right to dispose of the goods as owner is transferred. If the sale contract stipulates that the supplier retains ownership of the goods, the tax is due at the time of the physical transfer of the goods from the supplier to the buyer.

For services, the tax point is the date when payment is received. In principle, if the consideration for a supply of services is paid in instalments, VAT is due on the receipt of each instalment. For transfers of real estate, the tax point is at the date of transfer.

Deposits and prepayments. The collection of advance payments (prepayments) for supplies of goods does not give rise to VAT (except in the case of continuous supplies of goods). The tax due point for advance payments for services occurs on collection of the payment.

Continuous supplies of services. For the continuous supplies of services, the tax point is when payment is received.

Goods sent on approval for sale or return. There are no special time of supply rules in EG for goods sent on approval for sale or return. As such, the normal time of supply rules apply.

Reverse-charge services. The tax point for reverse-charge services is at the time that the tax is incurred.

Leased assets. For leased assets, the tax point is when the interest or payment is due.

Imported goods. For imported goods, the tax point is the time of the declaration of the goods into EG.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred in relation to the acquisition of goods and services necessary for the business.

Invoices must show the tax identification number of the parties, the invoice number, the transaction date, the price and the applicable VAT.

Moreover, any natural or legal person that charges VAT on its invoice shall be bound to declare and remit the corresponding tax.

Following these provisions, VAT charged is in practice remitted when there is a balance further to the application of VAT deduction mechanism.

The time limit for a taxable person to reclaim input tax in EG is two years. The right to a deduction can be exercised until the end of the second fiscal year following that of the chargeability.

Nondeductible input tax. Taxable persons that do not have in their possession the invoices or the respective import declarations naming them the actual recipient have no right to deduct VAT. Moreover, VAT is not be deductible on exempt transactions.

Examples of items for which input tax is nondeductible

- Self-consumption and subsidies for equipment exempt from VAT
- Payment of damages that are a compensation of a transaction subject to VAT
- Private vehicles used for nonbusiness purposes

Examples of items for which input tax is deductible (if related to a taxable business use)

- VAT stated on purchase invoices issued by the providers, whenever these latter are legally authorized to charge VAT
- VAT paid at the time of import

- VAT levied on goods equipment, excluding private vehicles, as well as their spare parts and their respective repair expenses
- Consumables used for business purposes such as paper, ink, computers, furniture, etc.

Partial exemption. Taxable persons that make both taxable and exempt supplies are authorized to deduct the VAT levied on goods and services acquired by applying a prorated amount of the deduction. This prorated amount is calculated based on the fraction of the turnover relating to operations that are deductible.

The above fraction is the ratio of:
- Amount of respective income for transactions subject to the VAT, as the numerator
- Total amount of income of any kind obtained by taxable person, as the denominator

Approval from the tax authorities is not required to use the partial exemption standard method in EG. Special methods are not allowed in EG.

However, the prorated deduction calculation is carried out during the filing of the corporate income tax (CIT) return or tax inspections, which are done on a yearly basis. The prorated figure will be set per fiscal year and not on a monthly basis. The prorated figure established at the end of the fiscal year is then valid for monthly returns for the following fiscal year.

Capital goods. There are no special input tax recovery rules for purchases of capital goods. Normal input tax deductibility rules apply (see above). Note that the importation of certain capital goods are exempt from VAT.

Refunds. When the amount of VAT deductible for one month exceeds that of VAT due, the surplus constitutes a tax credit to be compensated with the VAT due for the following period. The deduction right can be exercised until the end of the second fiscal year after that of enforceability.

Pre-registration costs. Input tax incurred on pre-registration costs in EG is not recoverable.

Bad debts. Output tax incurred on bad debts can be recovered in EG; however, it is not regulated by the VAT law. But based on the CEMAC regulation n°07/011 (dated 19 December 2011), such bad debts may be able to be deducted in EG. For unpaid transactions, when the debt is really and definitively irrecoverable, the rectification of the invoice can be done by sending a duplicate of the initial invoice with sufficient regulatory information, including "invoice remained unpaid for the sum of X price excluding VAT and for the sum of X corresponding VAT that may be deducted."

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in EG.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in EG is not recoverable.

H. Invoicing

VAT invoices. Each taxable person is required to issue and deliver invoices for goods delivered or services provided to its clients, whether they are registered taxable persons or not, as well as down payments received for said operations and that give rise to the enforceability of the tax.

In case goods or services are acquired without an invoice, the party acquiring those will be jointly and severally liable for the respective tax on said operations, except when it reports this circumstance to the tax administration.

Credit notes. VAT credit notes might be issued by a supplier to a customer to reflect a reduction in, or discount applied to, the price originally invoiced, or the cancellation of the invoice related to the goods or services supplied.

A credit note must be cross-referenced to the original invoice and contain the references of the invoices that are amended or canceled.

Electronic invoicing. Electronic invoicing is allowed in EG, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in EG. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in EG.

To be valid, an electronic invoice must contain all the compulsory information, same as normal full VAT invoices (i.e., paper invoices). However, in practice, it is recommended to issue paper invoices, as electronic invoicing is not officially authorized by the tax administration.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in EG. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in EG.

Proof of exports. Zero VAT rate is applied to exports. However, the corresponding export return should be certified by the customs services. This certified document might be used as evidence that the goods were exported from EG.

Foreign currency invoices. The domestic currency in Equatorial Guinea is the Central African CFA franc (XAF). However, the local legislation does not prohibit transaction in foreign currency. Transactions may be realized in one of the currencies of the two parties or in any other currency accepted by both parties to the transaction. Regarding the cash payment, this should only be made in XAF.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in EG. As such, full VAT invoices are required.

Records. In EG, examples of what records must be held for VAT purposes include the following accounting registries, apart from the accounting books (journal, ledger, general balance of accounts, inventory book) required by the OHADA (acronym for the French *Organisation pour l'harmonisation en Afrique du droit des affaires*, which translates into English as "Organization for the Harmonization of Corporate Law in Africa") accounting regulation:

- A registry book of all invoices issued separated into those belonging to operations that are subject, exempt, not subject and self-consumption
- A registry book of invoices received
- A registry book of investment goods
- A book with current accounts of clients and suppliers

In EG, VAT books and records must be held within the country. All accounting documents (including invoices) must be kept in EG and be available at any time during a tax inspection.

Record retention period. Taxable persons should keep all accounting items showing income and expenses for five years following the respective supplies.

The abovementioned accounting books must allow a precise determination of the following for each settlement period:

- Total amount of VAT that the taxable person has charged to its customers
- Total amount of VAT that suppliers have passed on to the tax administration during the same settlement period and that taxing imported goods

Electronic archiving. Electronic archiving is allowed in EG. Accounting documents can be archived in electronic format. However, these documents should be available for tax audit at the request of the tax administration.

I. Returns and payment

Periodic returns. VAT returns should be made on a monthly basis, within the first 15 days following when payment was received for supplies.

The taxable basis is the turnover obtained during the previous month. In case the taxable person does not perform any transaction during the month, they are required to file a mandatory nil return.

All invoices corresponding to the concerned month should be annexed to the return before the filing in order to avoid the rejection of the said return.

If a taxable person is partially exempt (makes both taxable and exempt supplies), they can file a separate annual return for regularization purposes for the prorated amount it has claimed as input tax during the calendar year.

Periodic payments. The VAT payment should be made immediately after the corresponding declaration (i.e., 15th of the month following the recovery of the amount). However, in practice, the tax administration allows that the VAT returns should be filed by the 15th of the month following the transaction and the corresponding payment by the end of the same month. For example, July 2024 VAT return should be filed by 15 August 2024, and the corresponding payment should be proceeded by 31 August 2024.

The banks can only transfer the money into the bank account of the Public Treasury if the settlement note signed by the tax administration is joined to the wire transfer order.

VAT is normally paid on a monthly basis. However, at the end of the calendar year, all taxable persons must carry out a VAT payment reconciliation. Any outstanding output tax must be paid to the tax authorities. Any outstanding input tax can be requested from the tax authorities. The request should be addressed to the General Director of Tax and Contributions for the amounts equal or less than XAF500,000. For the amount higher than XAF500,000, the request should be addressed to the Ministry of Finances, Economy and Planification.

Electronic filing. Electronic filing is not allowed in EG. The original return form, purchased at the tax administration at XAF2,000 (approx. EUR3.50 per copy), should be filled, signed, stamped and submitted to the tax administration for the issuance of the corresponding settlement note. This settlement note allows taxable persons to proceed to the VAT payment near the bank, then confirm the said payment at the Public Treasury and the General Direction of Tax and Contributions.

Payments on account. Payments on account are not required in EG.

Special schemes. No special schemes are available in EG.

Annual returns. Annual returns are not required in EG.

Supplementary filings. No supplementary filings are required in EG.

Correcting errors in previous returns. At any time, the tax administration will correct material factual and arithmetic mistakes, by operation of law or at the request of the interested party, so long as a year has not gone by since the act subject to the correction was announced. Such corrections must be done in person and in writing. No specific penalties apply if the errors are corrected voluntarily.

Digital tax administration. There are no transactional reporting requirements in EG.

J. Penalties

Penalties for late registration. In the case of late registration, the taxable person will be punished with a fine from half to the full amount of the tax due with a minimum of XAF150,000, per month or fraction of month.

Penalties for late payment and filings. Penalties for late filing and payment of VAT amount to 60% of the amount due.

Penalties for errors. The EG tax administration allows a taxable person to amend their tax returns in case of error. Thus, in case of insufficient reporting or any error in the VAT return, a taxable person might file an additional return requesting an additional settlement note or the amendment of the return previously filed depending on the case.

In case the amendment is made within the deadline to file the return (i.e., by 15th of the month), no penalties will be due. Otherwise, the 60% penalties mentioned above will be applied.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. VAT penalties may increase to 100% of the amount due in case of fraud.

Personal liability for company officers. In the case of violations committed by entities, their administrators that did not carry out the necessary actions that were their responsibility for compliance of the violated tax liabilities or accepted the noncompliance by their subordinates or adopted agreements that made these violations possible will be ancillary liable of the tax violations and of the total amount of the tax debt.

Statute of limitations. The statute of limitations in EG is five years. This is the period that the tax authorities can go back to review returns, identify errors and impose penalties.

Taxable persons can correct errors or omission in the VAT return before the tax administration carries out its annual tax audits.

Estonia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Käibemaks (KM)
Date introduced	1 January 1991
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.fin.ee) Estonian Tax and Customs Board (http://www.emta.ee)
VAT rates	
Standard	22% *(with effect from 1 January 2024)*
Reduced	5%, 9%, 13% *(with effect from 1 January 2025)*
Other	Zero-rated (0%) and exempt
VAT number format	EE123456789
VAT return periods	Monthly
Thresholds	
Registration	
Established	EUR40,000
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	None
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- Supply of goods or services made in Estonia by a taxable person
- Supply of services with a place of supply not in Estonia (that is, services are provided through a seat or fixed establishment located in Estonia to a person who is registered as a taxable person or taxable person with limited liability in the EU or who is a person from a non-EU country engaged in business)

- Reverse-charge services received by a taxable person in Estonia (that is, services for which the recipient is liable to pay the VAT)
- The intra-Community acquisitions of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- The importation of goods into Estonia (except for VAT exempt imports), regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

As of 1 January 2020, VAT Quick Fixes were implemented into the Estonian law regarding the Council Directive (EU) 2018/1910. There are no variances from the EU law into the local Estonian law.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Estonia, only telecommunications, broadcasting and electronic services are subject to the "used and enjoyed" provisions.

Transfer of a going concern. In Estonia, a transfer of a going concern (TOGC) is not a taxable transaction, where the transfer of an enterprise or a part thereof falls within the meaning of the Law of Obligations Act and the interpretation of various legal cases. However, this means that there is no clear guidance from the tax authorities on the TOGC rules and as such, each transfer is determined on a case-by-case basis.

Transactions between related parties. In Estonia, there are no specific rules for the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is an individual or a business entity (including a public entity and municipality) that makes taxable supplies of goods or services in the course of a business in Estonia. This rule also applies to a branch or fixed establishment of a foreign business entity.

The VAT registration threshold is annual supplies in excess of EUR40,000, counted from the beginning of a calendar year. A non-established business without a fixed establishment in Estonia that makes a taxable supply must register for VAT in Estonia if the place of supply is Estonia and if the supply is not taxed by the Estonian taxable person (purchaser). The registration obligation arises from the time of the supply, regardless of the threshold of EUR40,000. A business that is liable to register for VAT in Estonia must notify the VAT authorities of its VAT registration liability within three days.

Exemption from registration. The VAT registration obligation does not arise if all the taxable supplies of the person are zero-rated supplies, except unless it is an intra-Community supply of goods and the supply of services of which the place of supply is not in Estonia and the services are provided to a taxable person or a taxable person with limited liability as registered by the other Member State.

Voluntary registration and small businesses. A business established in Estonia of which the supplies do not exceed the registration threshold may voluntarily register for VAT.

The tax authorities have the right not to register persons who are unable to prove that they are performing business activities or are about to begin business activities in Estonia.

Group registration. A parent company and its subsidiaries may apply to register as a VAT group. Other persons may apply to register as a VAT group if these persons are economically and organizationally related and if more than 50% of the shares, holding company or votes of each company to be registered as a VAT group are owned by one and the same person or if the persons are related on the basis of a franchise contract. One single VAT registration number is provided to all members of the VAT group.

The effect of grouping is that no VAT is charged on supplies between group members if the person that acquired the goods or services as a result of the transaction uses them entirely for the purposes of that person's taxable supplies.

All members of a VAT group in Estonia are jointly and severally liable for VAT debts and penalties.

There is no minimum time period required for the duration of a VAT group. A VAT group can only disband once the Estonian Tax and Customs Board makes a decision on the deletion of the VAT group, within 30 days as of the receipt of the application.

Holding companies. In Estonia, a pure holding company cannot be a member of a VAT group.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Estonia. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Estonian VAT law).

According to Estonian VAT law, VAT shall not be imposed on the supply of services provided by an independent association of persons to their members, provided that the following conditions are met:

- The service is directly necessary for the main activity of the member, which is exempt from tax or is not subject to value added tax.
- The fee paid for the service does not exceed the costs incurred upon the provision of the service and the tax exemption of the service does not affect competition significantly.

Fixed establishment. There is no definition of a fixed establishment (FE) in Estonian VAT law. In practice, the tax authority only applies the permanent establishment (PE) rules. They equate the PE and FE rules. A permanent establishment means a business entity through which the permanent economic activity of a nonresident is carried out in Estonia.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Estonia. A non-established business is not required to register for Estonian VAT if all of its supplies are covered by the reverse-charge procedure (under which the recipient of the supply must self-assess VAT). A non-established business that has a fixed establishment in Estonia must register for VAT under the same conditions as Estonian business. A fixed establishment or resident legal person must be registered for VAT if it makes taxable supplies in Estonia totaling more than EUR40,000 from the beginning of the calendar year.

Tax representatives. The appointment of a tax representative is required for non-EU entities that are not established in Estonia. EU entities that are not established in Estonia may appoint a tax representative. A tax representative may not be used by a third-country taxable person that provides electronically supplied services and has opted for a special arrangement. A tax representative must be a legal entity established in Estonia or a branch of a foreign entity registered in Estonia and must be accepted by the tax authorities.

Effective 1 January 2022, a non-EU business that does not have a permanent establishment in Estonia is not obliged to appoint a fiscal representative when registering as a taxable person in Estonia, with whose country of residence the EU has concluded a mutual assistance contract concerning administrative cooperation, the fight against fraud and the recovery of claims relating to the VAT. Currently, the only non-EU country with which such a contract has been concluded is Norway.

At the time of preparing this chapter, according to the draft act on amendments to the VAT Act and the Taxation Act, effective 1 January 2024, third-country persons engaged in business who do not have a seat or a permanent business establishment in the EU and with whose country of residence the EU has concluded a mutual assistance agreement, which in its scope corresponds to the provisions of Council Directive 2010/24/EU and Council Regulation (EU) No. 904/2010, will be able to apply the One-Stop Shop (IOSS) arrangement. Essentially, the scopes of mutual assistance agreements that are a condition for registration as a person implementing IOSS arrangement and registration as a taxable person in Estonia are differentiated as a result of the amendment, which will allow UK taxable persons to register themselves in Estonia as VAT-liable person without appointing a tax representative. This amendment is pending final approvals in the Parliament, but it is expected to pass.

Reverse charge. In general, the reverse-charge mechanism is applicable, and the Estonian VAT taxable person is obliged to charge VAT upon the acquisition of goods or the receipt of services from a foreign taxable person who is not registered for VAT purposes in Estonia and does not have a fixed establishment in Estonia. The VAT charged can be deducted as an input tax credit on the declaration if the goods or services are used for the taxable business.

Domestic reverse charge. The domestic reverse-charge VAT applies to supplies of immovable tangible property (which are optionally taxed), waste (scrap) metal, certain metal products and gold if both parties to the transaction are taxable persons and the transaction is considered a taxable supply.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B*, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Estonia, upon registration, it is required to attend the procedure in person, i.e., the person seeking registration cannot email or send the registration form by post or fax. However, it is possible to use either an authorized person or a tax representative for the procedure.

To register as a VAT-liable person, an application for registration (form KR), an application for registration as a nonresident taxpayer (form R2), power of attorney and trade register extract of the company are submitted to the Estonian Tax and Customs Board by email (to kmkr@emta.ee). Forms KR and R2 must be signed by an authorized person, i.e., the person on the trade register extract or authorized person in which case the document based on which the authorization has been granted is needed. Power of attorney grants the right to file/receive VAT registration documentation and conclude agreement to use the e-tax reporting portal on behalf of the company. Power of attorney must be certified by notary and apostille or legalized.

The fiscal representative of a nonresident is a person to whom a corresponding activity license has been issued by the tax authority and whom a nonresident may authorize to represent them for the performance of the obligations arising in Estonia.

All the rights and obligations of a nonresident extend also to the fiscal representative. The fiscal representative is required to ensure that the nonresident's monetary and non-monetary obligations arising from tax legislation are performed within the set term and in full.

The appointment of a fiscal representative does not change the obligations of the nonresident, as they are still liable for fulfilling their tax obligations in Estonia.

A nonresident of a third country engaged in business with no permanent establishment in Estonia must appoint, upon registration as a taxable person, a fiscal representative, who has been approved by the tax authority. In addition, the nonresident must also notify the tax authority of the fact by ending a copy of a contract concluded with the chosen fiscal representative by email (to emta@emta.ee).

The tax authority shall register a person as a taxable person by entering the data concerning the person in the register of taxable persons as on the date on which the registration obligation arose, within five working days as of the receipt of the application. Upon registration, the tax authority shall issue one VAT identification number for all purposes and for all taxable persons. The structure of the number is always EE and 9 digits (e.g., EE012345678).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return.

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

An Estonian legal person (taxable person) can submit the application for registration online in the e-services environment of the online portal (e-MTA) by choosing "Registers and inquiries," – "Registration," then – "Registering as a user of special schemes for e-commerce and services (OSS/IOSS)." To submit an application, the fiscal representative (i.e., the person with the right to represent a legal person) must grant the necessary access permission to other representative parties (i.e., third-party compliance providers). The access permission for using the service of the special schemes OSS/IOSS is included in the following packages of e-MTA access permissions:

- Packages for legal person's representative and sole proprietor's representative, and the accountant's package include the access permission "Managing applications for and declarations of special schemes for e-commerce and services (OSS/IOSS)," which allows full use of the service.
- Package for viewing the data of legal person and package for viewing the data of sole proprietor include the access permission "Viewing applications for and declarations of special schemes for e-commerce and services (OSS/IOSS)," which allows use of the service without the right to amend data.

When a taxable person begins to add the application, the selection with two possible types of application shall be open:

- Union scheme (OSS, goods and services)
- Non-union scheme (IOSS, services, EU number)

The users of the MOSS special scheme, registered in Estonia, who wish to continue to apply the dilated special scheme (OSS), have no obligation to submit a new application for registration. Their valid applications are automatically carried over. A person who becomes a deemed supplier from 1 July 2021 (e-shop, electronic interface or other electronic trading place) shall fill in the field "Electronic interface" in the application (make a checkmark in this field). By default, this field is not filled in.

As a rule, the special scheme shall be applied from the first day of the quarter following the quarter when the taxpayer submitted the application to the tax authority for the implementation of the special scheme. For example, if the application was submitted on 5 July, the special scheme shall be applied automatically from 1 October.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt VAT.

An Estonian legal person (taxable person) can submit the application for registration online in the e-services environment of the online portal (e-MTA) by choosing "Registers and inquiries," – "Registration," then – "Registering as a user of special schemes for e-commerce and services (OSS/IOSS)." To submit an application, the fiscal representative (i.e., the person with the right to represent a legal person) must grant the necessary access permission to other representative parties (i.e., third-party compliance providers).

When a taxable person begins to add the application, the selection with three possible types of application shall be open:

- Application for import scheme (IOSS, goods, IM number)

- Application of an intermediary (IOSS, goods, IN number)
- Application of a taxable person intermediated (IOSS, goods, IM number, the intermediary shall submit the application in the name of the person intermediated).

The taxable persons who are engaged in distance selling of goods, imported from third countries to end users whose place of residence is in the EU, can use the IOSS special scheme.

The special scheme shall be applied from the day when the user of the special scheme receives the registration number for the IOSS special scheme.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Estonia, upon the implementation of this special scheme, the end user pays VAT to the person who presents goods in customs (usually to the provider of the postal service, to the express company or to the customs agency) – therefore, in contradistinction to the IOSS special scheme, the end user does not pay VAT in e-shop at the moment of the sales transaction.

This special scheme can apply to a business that:
- Presents in customs the import declaration of the goods on behalf of the actual purchaser as indirect representative
- Is the holder of the goods
- Transports the goods to the consignee whose place of residence is in Estonia

This special scheme is targeted, first of all, to postal operators and providers of express services who usually declare the import of goods with a small value on behalf of the consignee and are the holders of the goods within the meaning of the Customs Code (holder of the goods is the person who is the owner of the goods or who has a similar right of disposal over the goods as the owner; or who has physical control over the goods).

Upon the implementation of this special scheme, the imported goods are always taxable at the standard VAT rate (20% in Estonia).

A business applying this special scheme that presents the goods in customs pays VAT collected from the end users to the tax authority once a month. VAT shall be paid by the 16th day of the month following the month when VAT was collected. *For more details about the special scheme for postal services and couriers, see the chapter on the EU.*

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not

exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Estonia, if the intrinsic value of the goods, imported from a third country and resold to the end user whose place of residence is in the EU, exceeds EUR150 or if the actual seller of the goods is a person located in the EU – in such case the e-shop is not responsible for the taxation of the goods with VAT.

The obligation to register in Estonia for VAT liability (and also the right to get back from the tax authority the amount of VAT paid upon the import of goods) shall arise for a third-country business whose company has a registered office in a third country and who has no permanent establishment in the EU if:

- It transfers through the e-shop, owned by any other business, to the end user its goods that are located in Estonia, and this e-shop, according to new rules, is treated as the purchaser and reseller of the goods (although the transfer of the goods to e-shop is the supply taxable at 0% VAT rate in such case).
- It owns the e-shop itself, sells as deemed supplier through its e-shop to the end user the goods located in Estonia of the other third-country business and has not registered for the OSS special scheme.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. The VAT Act in Estonia differentiates a single-purpose voucher (SPV) and a multi-purpose voucher (MPV). The voucher is an SPV if the voucher-related place of supply of the goods or services and the amount of VAT due are known at the time of the issue of the voucher. A VAT obligation on the transfer of an SPV arises on the date when the full or partial payment for the voucher has been received. The voucher is an MPV if, at the time of the issue, the place of supply of the transferred goods or provision of service or the collectible VAT is not known. For an MPV, the VAT obligation arises on the date when the goods have been handed over or services have been provided.

Registration procedures. Taxable persons must submit an application for registration (form KR) to the Tax and Customs Board at a service bureau of the Tax and Customs Board, online via the self-service environment e-Tax Board or by email. The application can be submitted in PDF format by email (to kmkr@emta.ee), completed in Estonian, digitally signed, and submitted by a legal representative (who has to identify themselves) or an authorized person (authorization required) or a notary or via e-maksuamet/e-toll (e-Tax Board/e-Customs). To submit the application for registration as a person liable to VAT in the e-Tax/e-Customs, the user has to have the power (authorization) "KMKR avalduste esitamine" (submission of VAT applications) given by a legal representative of a taxable person.

Non-established businesses must register in person, i.e., the person seeking registration cannot email or send the registration form by post, fax or through the e-Tax/e-Customs. However, an authorized person may act for the taxable person. The authorization must be digitally signed or proved by notary and apostilled (apostille is not needed for specific countries).

The tax authority shall register a person as a taxable person within five working days as of the receipt of the application or additional documentary (if required).

Deregistration. A taxable person that ceases to be eligible for VAT registration must deregister. That is, it must notify the VAT authorities that it must cease to be registered. A taxable person may also request deregistration if its taxable turnover drops below the annual registration

threshold. However, deregistration is not compulsory in these circumstances. Tax authorities can remove a taxable person, that is not performing business activities, from the VAT register.

Changes to VAT registration details. The Estonian Company Registration Portal is an environment that allows companies to amend registry data. The portal allows electronic submitting of changing the company name and address. The Company Registration Portal entry is automatically sent to the Tax and Customs Board.

The Company Registration Portal can be used for notifying the registrar about changes in the primary field of activities by only self-employed persons and general and limited partnerships who are not required to submit annual reports to the registrar. Business associations can submit their field of activities and changes thereof only with their annual reports.

Non-established businesses must submit application for nonresident taxable person on changes in register entries concerning the termination of activities, liquidation of the permanent establishment and changes in other information (form R4) by post, fax or through the e-Tax/e-Customs. However, an authorized person may act for the taxable person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 22% *(with effect from 1 January 2024)*
- Reduced rates: 5%, 9%, 13% *(with effect from 1 January 2025)*
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Effective 1 January 2024, the standard rate of VAT in Estonia is 22% instead of the current 20%. Until 31 December 2025, a taxable person has the right to continue applying the 20% VAT rate on turnover from contracts concluded before 1 May 2023, provided that the contract stipulates the use of the 20% VAT rate and does not allow for the possibility of revising this rate when the tax rate changes. A taxable person implementing special arrangements for cash accounting for VAT has the right to declare and pay VAT at the rate of 20% if turnover occurs in 2024 for goods sent or made available or services provided in 2023, for which an invoice with a VAT rate of 20% has been submitted in 2023, but the payment is received in 2024.

Examples of goods and services taxable at 0%

- Exports of goods
- Listed exported services
- Intra-Community supplies of goods
- Seagoing vessels, equipment, spare parts and fuel for seagoing vessels
- Aircraft operating on international routes, equipment, spare parts and fuel for named aircraft
- Goods supplied and services provided to international military headquarters located in Estonia if the tax incentives are laid down in an international agreement, or for the performance of the duties to the armed forces of a NATO Member State participating in the common defense effort, except Estonia, and the civilian staff accompanying them
- A transport service for the conveyance of goods out of the customs territory of the EU or to a third country that is part of the customs territory of the EU (effective 1 July 2022, where the services are supplied directly to the consignor or consignee)
- A transport service for the import of goods (effective 1 July 2022, where the services are supplied directly to the consignor or consignee)

- Transport service for the conveyance of non-EU goods into the customs territory of the EU, where the goods are placed under a customs warehousing procedure, a free zone, an inward processing procedure, a transit procedure or a temporary admission procedure with total relief from import duties or under temporary storage (effective 1 July 2022, where the services are supplied directly to the consignor or consignee)
- Organization of transport services referred to in the preceding points and ancillary services relating to such conveyance of goods (effective 1 July 2022, where the services are supplied directly to the consignor or consignee)

Examples of goods and services taxable at 5%

- Periodicals and e-periodicals *(with effect until 31 December 2024)*

Effective 1 January 2025, the current reduced VAT rate of 5% applicable to press publications will increase to 9%. A taxable person implementing special arrangements for cash accounting for VAT has the right to declare and pay VAT at the reduced VAT rate of 5% until 2026 if turnover is generated from the provision of press publications, both on a physical and digital medium in 2025, but the goods were sent or made available or the service has already been provided and an invoice issued for it before 1 January 2025. Publications containing mainly advertising or private advertisements or mainly with erotic or pornographic content or video or music content are excluded from the scope of the reduced rate.

Examples of goods and services taxable at 9%

- Medical equipment and products for handicapped people
- Books and e-books (excluding textbooks and workbooks related to the national curriculum)
- Accommodation and accommodation services with breakfast, excluding any goods or services accompanying such services *(with effect until 31 December 2024)*
- Periodicals and e-periodicals *(with effect from 1 January 2025)*

Effective 1 January 2025, the reduced VAT rate of 9% will no longer apply to accommodation services and VAT on accommodation services will be calculated using a new reduced rate of 13%. A taxable person implementing special arrangements for cash accounting for VAT has the right to declare and pay VAT at the reduced VAT rate if turnover is generated from the provision of accommodation services in 2025, but the service has already been provided and an invoice issued for it before 1 January 2025. As the VAT rate will increase to 13% from 1 January 2025, the first VAT return on which the turnover is declared with a 13% tax rate is submitted on 20 February 2025.

Examples of goods and services taxable at 13%

- Accommodation and accommodation services with breakfast, excluding any goods or services accompanying such services *(with effect from 1 January 2025)*

The term “exempt supplies” refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Health care services
- Real estate transactions
- Financial services
- Insurance and reinsurance services
- Insurance mediation
- Educational services (only noncommercial basic education)
- Lotteries and gaming
- Postal services
- Learning materials related to education

Option to tax exempt supplies. A taxable person may opt to apply VAT to certain transactions that would otherwise be exempt from VAT if the taxable person has correctly and promptly notified the tax authority in writing. The tax authority must have been notified during the same tax period as the taxed supply or in an earlier period. The option to tax must be applied continuously for at least two years.

The following supplies are eligible for the option to tax:
- The leasing or letting of immovable property (or parts thereof), except private dwellings
- Immovable property and parts thereof, except private dwellings
- Investment gold under certain conditions
- Financial services, including the following:
  - The supply of securities
  - Deposit transactions for the receipt of deposits and other repayable funds from the public
  - Borrowing and lending operations, including consumer credit, mortgage credit, leasing transactions, settlement, cash transfer and other money transmission transactions
  - Issuance and administration of noncash means of payment (for example, electronic payment instruments, traveller's checks and bills of exchange)
  - Guarantees and commitments and other transactions creating binding obligations to persons
  - Transactions carried out for their own account or for the account of clients in traded securities provided in the Securities Market Act and in foreign exchange and other money market instruments, including transactions in checks, exchange instruments, certificates of deposit and other such instruments
  - Transactions and acts related to the issuance and sale of securities
  - Money brokerage and management of investment funds

Other financial transactions that are not exempt from VAT, as well as factoring, are taxable at a rate of 0% or 20%, depending on the status of the customer.

The transfers of greenhouse gas emission allowances are treated as securities and thus excluded together with any related transactions from the list of exempt from VAT supplies and they are subject to VAT at a rate of 20%.

The supply of insurance services, including insurance services provided by insurance brokers and insurance agents and reinsurance, are exempt services with no option to tax.

The VAT Act provides a new definition of "building land," which is an unimproved immovable that is planned for building or for which a building notice has been submitted or the intended purpose of the cadastral unit of which is over 50% residential land or commercial land or these jointly. Any land that is destined for building is subject to VAT.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods and services is the earliest of the following events:
- The delivery of goods
- The performance of services
- Receipt of full or partial payment

Deposits and prepayments. The time of supply for deposits and prepayments is deemed to be the date on which full or partial payment is received for the goods or services or, in the case of the receipt of services, full or partial payment is made.

Continuous supplies of services. If the provision of services continues for longer than a period of taxation, the services are deemed to have been provided and received during the taxable period in which the provision of the services terminates. In the case of the provision of regular services to the same purchaser, the time at which the services are provided and received is deemed to be

the taxable period overlapping with the end of the period of time for which an invoice is submitted or during which payment for services received is to be made as agreed, but not later than after 12 calendar months. Upon the regular provision of service, in the case of which a tax liability arises for the recipient of the service, within a longer period of time than one year, the supply of the service shall be deemed to have been rendered as of the commencement of the provision of the service on 31 December of each calendar year if the services have not been paid for and the provision of the services has not been completed within the period.

Goods sent on approval for sale or return. There are no special time of supply rules in Estonia for the supply of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The time of supply for supplies of reverse-charge services is the earliest of the following events:
- When the Estonian buyer receives the service
- When the Estonian buyer makes a payment

Leased assets. In case of operational leases, the time of supply rule for services applies (as outlined above). In the case of capital leases, the time of supply rule for goods rules applies (as outlined above).

Imported goods. The time of supply for imports is when the goods clear customs.

Intra-Community acquisitions. The intra-Community acquisition of goods takes place on the 15th day of the month following the month in which the goods are dispatched or made available or on the date on which an invoice is issued for the goods if the invoice is issued prior to the 15th day of the month following the month in which the goods are dispatched or made available to the purchaser. This is different in the case of a transaction that was originally not treated as intra-Community turnover, but then the grounds for a transaction cease to exist and the transaction shall be deemed to constitute an intra-Community supply of goods. In such cases, the intra-Community acquisition of goods shall be deemed to have been affected on the date on which those grounds ceased to exist.

Intra-Community supplies of goods. An intra-Community supply takes place on the 15th day of the month following the month in which the goods obtained via an intra-Community acquisition and are dispatched or made available or on the date on which an invoice is issued for the goods if the invoice is issued prior to the 15th day of the month following the month in which the goods are dispatched or made available to the purchaser. This is different in the case of a transaction that was originally not treated as intra-Community turnover, but then the grounds for a transaction cease to exist and the transaction shall be deemed to constitute an intra-Community supply of goods. Then intra-Community supply of goods shall be deemed to have been created on the date on which the grounds ceased to exist.

Distance sales. There are no special time of supply rules in Estonia for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

Call-off-stock. As of 1 January 2020, a call-off-stock definition will be implemented into the Estonian law regarding the Council Directive (EU) 2018/1910. Under the new definition, call-off-stocks is considered as goods that are delivered to a stock in another Member State for the purpose of transferring the goods to another Member State's taxable person. The transport of call-off-stock to another Member State is no longer deemed an intra-Community supply if the goods are transferred within 12 months after the arrival to another Member State's taxable person, if the new acquirer is found during the 12 months or if the goods are returned to Estonia.

Chain transactions. From 1 January 2020, a chain transaction will be considered as intra-Community supply in case goods are transferred to a taxable person of another Member State and if

the same goods are transferred successively. The goods must be transferred directly from the first transferor to the final acquirer in another Member State.

If the goods are delivered to another Member State by the reseller upon notifying the transferor of its VAT registration number in the Member State of departure (same as the transferor), then the supply of goods between the transferor and reseller is a domestic supply of goods and the transaction by the reseller is regarded as the intra-Community supply. If the reseller is registered as a taxable person in the other Member State, the supply of goods between the transferor and reseller is intra-Community supply.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax (which is VAT charged on supplies of goods and services) where it is used for business purposes. Input tax is generally recovered as an offset against output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied in Estonia, VAT paid or payable on imported goods and VAT self-assessed for reverse-charge services and/or goods received from outside Estonia.

The time limit for a taxable person to reclaim input tax in Estonia is three years. However, 60 days is the time period during which the tax authorities can check the corrected VAT return.

A valid tax invoice or customs document must generally support a claim for input tax. Invoice or customs documents are not needed if the reverse-charge mechanism is applied, and other evidence is presented.

Input tax is deductible if an invoice has been issued and the goods or services have been supplied or if full or partial payment is made.

For imported goods, input tax is deducted on the basis of a customs declaration.

An invoice may be issued on paper or, subject to acceptance by the acquirer of goods or the recipient of services, by electronic means.

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

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

Examples of items for which input tax is nondeductible

- Business and employee entertainment
- Business use of home telephone
- For company cars only 50% input deduction is allowed

Examples of items for which input tax is deductible (if related to a taxable business use)

- Hotel accommodation for a business trip
- Business gifts valued at less than EUR10
- Parking
- Mobile phones
- Travel expenses – company cars (passenger cars purchased, hired or leased and related maintenance costs, including fuel and repair):
  - Full (100%) deduction if exclusively used for business purposes on a continuous basis for at least two years. In this case, within two years, the company car is used also for non-business purposes, 50% of the input tax deducted, except from maintenance costs, shall be paid back

to the tax authority. When the purpose of use of the company car changes, the taxable person must apply the tax treatment for partly business use of the car continuously for at least one year.
– If personal use of such a car is carried out, input tax up to 50% can be deducted and such status must be maintained for a year, i.e., full business use can be claimed only after a year.

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If an Estonian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as "partial exemption."

In Estonia, the amount of input tax that a partially exempt business recovers may be calculated using either of the following methods:
• General pro rata
• A two-stage method, which includes a direct attribution of input tax

The general pro rata method is based on the percentage of taxable and total supplies in the preceding calendar year. The recovery percentage is used provisionally during the current year and is adjusted at the end of the year based on the actual value of taxable and total supplies made.

The two-stage calculation consists of the following stages:
• The first stage identifies input tax that may be allocated directly to both taxable and exempt supplies. Input tax allocated directly to taxable supplies is deductible, whereas input tax directly related to exempt supplies is not deductible.
• The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation is performed using the general pro rata method based on the value of supplies made.

A partial deduction is based on the proportion of taxable supplies for which input tax deduction is allowed, made during a calendar year in Estonia and abroad, compared with the total amount of supplies made by the person during a calendar year in Estonia and abroad.

Approval from the tax authorities is not required to use the partial exemption standard methods (i.e., either the general pro rata or the two-stage method, as outlined above).

Special methods are allowed in Estonia, but only with written permission from the tax authorities.

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

In Estonia, the capital goods adjustment applies to immovable property for a period of 10 years and to other fixed assets for a period of 5 years. The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

A capital goods adjustment is also required if a taxable person transfers immovable property used for less than 10 years and if the supply is exempt from VAT. In these circumstances, the taxable person must recalculate its entitlement to input tax paid on acquisition of the immovable property and for related goods and services. A taxable person may opt to charge VAT on the sale or leasing of immovable property (the option may not be applied to the sale or lease of living space). If the transfer is subject to tax, no capital goods adjustment is required.

In Estonia, the capital goods adjustment also applies to immaterial fixed assets, for example, software development expenses.

Refunds. If the amount of input tax that is deductible for a VAT period exceeds the amount of output tax that is chargeable in the same period, the taxable person has a VAT credit. The taxable person may choose to use the VAT credit to offset other tax obligations or penalties, or it may request a refund. Refunds are made within 60 days after the due date for payment. However, this period may be extended for up to 120 days if the tax authorities have just reasons to check the circumstances of the VAT refund application further.

Pre-registration costs. If a taxable person has, prior to the person's date of registration as a taxable person, acquired goods, except for fixed assets, intended for transfer or for the manufacture of goods to be transferred, the taxable person shall have the right to deduct the input tax on such goods in the taxable period during which the goods were transferred as taxable supply.

A taxable person that has received services prior to the person's date of registration as a taxable person shall have the right to deduct the input tax on such services in the taxable period during which such services were provided as taxable supply.

The input tax on fixed assets acquired before registration of a person as a taxable person may be deducted if the person has not used the fixed assets prior to the registration.

Bad debts. Effective 1 January 2022, output tax accounted for on supplies that do not get paid by the recipient (i.e., a bad debt) can be recovered in Estonia. The supplier can claim relief from VAT on bad debts incurred, provided that all the following conditions are met:

- The VAT invoice, which is wholly or partially unpaid, has been issued by the taxable person for the goods supplied or services provided.
- The VAT amount calculated on this supply has been declared in the respective monthly VAT return.
- The debt claim has not been alienated.
- At least 12 months (this will not be applicable if the claim exceeds EUR30,000, when there must be also a court settlement that has entered into force), but not more than three years, has elapsed from the due date of payment of that VAT invoice.
- The claim has been written off in the accounting of the taxable person, as it was unable to collect that claim, regardless of its efforts to make the utmost for collecting that claim, or the costs for recovering that claim will exceed the estimated income to be accrued.
- If the claim exceeds EUR30,000, then such claim must be proved with the court settlement that has entered into force.
- The recipient of the goods supplied, or services provided, is not a related person in the meaning of the Income Tax Act.
- At the month of write-off of the claim, the taxable person has informed in writing the recipient of the goods or services about the write-off of the claim in its accounting and has specified therein the VAT amount related to the written-off claim.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Estonia. If in the accounts of the taxable person it is not possible to separate input tax paid on goods or services used for business-related purposes from input tax paid on goods or services used for noneconomic activities, i.e., purposes not business related, the taxable person must request that the tax authority determines the amount deductible.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Estonia is recoverable. The Estonian tax authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Estonia. Non-established businesses may claim Estonian

VAT to the same extent as VAT-registered businesses. VAT is refunded if the following conditions are satisfied:
- The taxable person is required to pay VAT as a business in its country of residence.
- An Estonian taxable person may deduct VAT under the same circumstances on the import of goods, the acquisition of goods or the receipt of services.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Estonia during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Estonia:
- The application must be submitted electronically through the tax authorities of the country of residence to the Estonian tax authorities by 30 September of the year following the period of refund.
- VAT paid in Estonia is refunded to an EU taxable person on the basis of an electronic refund application submitted to the Estonian tax authorities by tax authorities of the other EU Member State.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

Estonia applies the principle of reciprocity; that is, the country where the claimant is established must also provide VAT refunds to Estonian businesses. Estonian VAT is only refunded on the condition of reciprocity to taxable persons of Norway, Iceland, Israel, Switzerland and the UK.

Find below specific rules for Estonia:
- A non-established business from a non-EU state may request a refund of VAT by filing the application form KMT
- The application may be completed in Estonian or in English
- It may be submitted by the non-established business or by an authorized representative to the following address:

  Estonian Tax and Customs Board
  Lõõtsa 8a
  15176 Tallinn
  Estonia

- The application for a refund of tax must be accompanied by the following documents:
  - Original invoices to support the claim for VAT refund
  - For an authorized representative, a power of attorney
  - A certificate issued within the preceding 12 months by the tax authorities in the country where the claimant is established, indicating that the claimant was a taxable person when it made the purchases
- For non-EU taxable persons, the following conditions must be met:
  - The amount requested must be at least EUR320 for the year
  - The country where the applicant business is resident must refund VAT to Estonian residents under the same conditions
- The VAT authorities refund VAT claimed within six months after the date on which the application is filed
- The minimum claim amount is EUR320 and there is no maximum claim amount
- The deadline to submit the refund is 30 September

Note that effective 1 January 2022, persons from non-EU countries are entitled to a refund of input tax relating to the OSS special scheme supply, whether or not Estonian taxable persons in

their country of establishment are entitled to a refund of VAT and whether they are liable to VAT in the country where they are established.

Late payment interest. In Estonia, the tax authorities may be liable for late payment interest of 0.06% per day (for both EU and non-EU non-established businesses) if the refund is not processed in a timely manner.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. Invoices are not automatically required for retail transactions unless requested by the customer. A VAT invoice is required to support a claim for input tax deduction.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply if the taxable value changes (for example, when goods are returned goods, or a discount is granted). The credit note must refer to the original VAT invoice for the supply that is being amended.

Electronic invoicing. Electronic invoicing is mandatory in Estonia for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Estonia. This is in line with EU Directive 2014/55/EU *(see the chapter on the EU)*. This has been in effect from 1 January 2019.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Estonia. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Estonia. The requirements related to electronic invoicing are the same as those for paper invoicing.

In general, an electronic invoice may be issued subject to acceptance by the acquirer of goods or the recipient of services. At the request of the tax authority, the tax authority must be granted access to electronically stored invoices.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A simplified invoice may be issued upon the provision of transport services for passengers and invoices printed by automated machines (parking meters and automated petrol stations). The total amount in the simplified invoice may not exceed EUR160 exclusive of VAT.

Self-billing. Self-billing is allowed in Estonia. A self-billed invoice may be issued on the condition that there is a written agreement between the two parties that contains the procedure for the acceptance. The self-billing invoice must make reference to "self-billing."

Proof of exports and intra-Community supplies. Estonian VAT is not chargeable on exports of goods (i.e., zero-rated). An export supply must be accompanied by evidence confirming that the goods have left Estonia (e.g., the customs export declaration, the seller's invoice, proof of payment). Documents that certify the provision of zero-rated services include a written service agreement or written letter of intent, the purchase invoice and proof of payment.

An intra-Community supply of goods must be evidenced by documents confirming the transfer of the goods and the transport of the goods to another Member State. As of 2020, a taxable person must declare and submit a report on its intra-Community Sales Listing for the zero-rate to be applicable (see the subsection below *Supplementary filings*). It is also required that the VAT registration number of the acquirer in the other Member State is indicated. See the subsection on the *Quick Fixes* above.

No special documentation applies in Estonia for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. If an invoice is issued in a foreign currency, the amount of VAT must be converted to the domestic currency, which is the euro (EUR), using the official exchange rate quoted by the European Central Bank (ECB) on the date of the transaction.

Supplies to nontaxable persons. It is not required to issue an invoice to nontaxable persons if the transfer of goods or provision of services is for personal use, except in the case of distance selling, the transfer of a new means of transport or treating goods transferred to third-country nontaxable persons as exports.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Estonia, examples of records that must be held for VAT purposes include copies of invoices issued by or on behalf of that taxable person and invoices for goods acquired or services received by or on behalf of the person, in a chronological order and in the original form. An accounting source document is a certificate that content and format shall, if necessary, allow a competent and independent party demonstrating the circumstances and veracity of the occurrence of a business transaction. Invoices are an example of an accounting source document.

In Estonia, VAT books and records can be kept outside of the country. The place and manner at which invoices are preserved may be chosen by the taxable person on the condition that the invoices or information could be made immediately available at the request of the tax authority. Records can be kept in or outside of Estonia. There is no repatriation period set in Estonian taxation regulations, thus the taxable person should be able by any time provide by request of tax authority, provide all required accounting source documents, invoices.

Record retention period. The retention period of records is at least seven years as of 1 January of the year following the preparation or receipt of the document or, in the case of files or dossiers, the making of the last entry therein. Customs declarations certifying the import of goods shall be preserved for seven years as of the beginning of the calendar year, following customs formalities. The record retention period is 10 years from 31 December of the year of transaction for the person implementing special arrangements on an electronic communications service and electronically supplied service.

Electronic archiving. Electronic archiving is allowed in Estonia. Estonian tax authorities maintain the electronic storage of the VAT declarations.

I. Returns and payment

Periodic returns. Estonian taxable persons must file VAT returns monthly. Returns must be filed by the 20th day of the month following the end of the tax period.

Invoices must be disclosed in the VAT return appendix in the following cases, which must be fulfilled simultaneously:
- Invoices on which the transferor of the goods or provider of services has marked the supply taxable at the 20% and 9% VAT rates.
- Invoices with a total amount (without VAT) that makes up at least EUR1,000 for one transaction partner during the taxation period. The transaction partner-based threshold shall be calculated separately for purchase and sale invoices.

Periodic payments. Payment of VAT in full is required on the same date as the VAT return submission deadline, i.e., the 20th day of the month following the end of the tax period. All VAT liabilities must be paid in euros. VAT can be paid to tax authorities by bank transfer, by bank link or

credit card using the tax authority's electronic self-service environment "E-Tax Board" or in person by card payment terminals or cash in service bureaus and customs offices. "Bank link" is an e-commerce payment method in the Baltic States that allows the consumer to log on to their internet bank account and confirm a prefilled payment. A bank link can be used in E-Tax Board by the customers of SEB Bank, Swedbank, Luminor Bank, LHV Pank and Coop Pank.

Electronic filing. Electronic filing is allowed in Estonia, but not mandatory. VAT returns can be submitted electronically using the tax authority's electronic self-service environment "E-Tax Board." Electronic filing becomes obligatory for persons who have been VAT liable for at least 12 months. A taxable person can continue submitting paper forms after the tax authority approves a formal application.

However, digital reporting is the preferred method for filing VAT returns in Estonia. The Estonian Tax and Customs Board has developed the electronic tax filing system called e-Tax portal for taxable persons to submit tax declarations by inserting and uploading data to e-Tax portal.

Payments on account. Payments on account are not required in Estonia.

Special schemes. *Travel agents.* VAT applies to the margin between the total amount paid by the customer and the total cost (inclusive of VAT) of travel agent's acquired goods and received services.

Secondhand goods, original works of art, collectors' items and antiques. VAT applies on the difference between the sales and purchase price of the goods that has been reduced by the VAT contained therein. The special scheme is applicable only if the goods are purchased for the purposes of resale. Effective 1 January 2022, the option is available to calculate the taxable amount to be declared for the resale of the secondhand goods during the whole taxable period on the basis of the difference between the selling price and the purchase price of the secondhand goods that are subject to the special arrangement. Therefore, the taxable person applying the special arrangement is not required to determine the taxable amount separately for each item. Instead, the taxable amount may be determined on the basis of all the sales and purchase transactions during the entire taxable period. Such a calculation of the taxable amount is justified in cases where normal accounting is too complex. The consent of the tax authority is required to use this basis.

Immovables, scrap metal, precious metal and metal products. A transferor may transfer the goods exclusive of VAT to an acquirer that calculates and pays the amount of VAT under the domestic reverse charge.

Cash accounting. All taxable persons of which the annual turnover does not exceed EUR200,000 can opt for cash-basis VAT accounting instead of accrual-basis accounting. Effective 1 July 2022, the right to deduct input tax arises at the time when the tax becomes chargeable. Therefore, according to which a taxable person has the right to deduct input tax on the purchase of goods or services from a taxable person applying the special arrangement for cash accounting for VAT in accordance with the payment for the goods or services, in the extent of the amount of input tax calculated on the amount paid.

Annual returns. Annual returns are not required in Estonia.

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

In Estonia, Intrastat declarations are required only from taxable persons of which the total annual value of trade from and to EU countries exceeds the statistical threshold in the year preceding the accounting period.

For 2023, the threshold for Intrastat Arrivals is EUR400,000, and the threshold for Intrastat Dispatches is EUR270,000. *At the time of preparing this chapter, the thresholds for 2024 are not known.*

Intrastat Arrival and Intrastat Dispatch reports are filed monthly and must be submitted by the 14th day of the month following the reporting period. If a person that is required to submit an Intrastat report has carried out no intra-Community trade in a previous taxable period, a "zero" Intrastat report must be filed.

EU Sales Lists. An Estonian taxable person who has made intra-Community supplies of goods or services during a tax period, or who has transferred goods as a reseller in a triangular transaction during a tax period, must submit a report on its intra-Community supplies of goods and services (Form VD) together with the VAT return to the tax authority by the 20th day of the month following the end of the tax period.

If no intra-Community supplies were made in the relevant period, no report is required.

If the ownership of a new means of transport is transferred to a person in another EU country and if the means of transport will be transported to that EU country, a copy of the sales invoice must be submitted together with the report.

Special reporting obligations for payment service providers. According to the draft act on amendments to the VAT Act and the Taxation Act, starting from 1 January 2024, payment service providers will be required to store data on cross-border payments by payee and transmit this data quarterly to the tax authority. The amendments transpose Council Directive (EU) 2020/284 into the Estonian VAT Act and aim to detect cross-border VAT fraud and improve competitive conditions in e-commerce.

A threshold is provided to cover only those cross-border payments that can be related to economic activity. If the total number of cross-border payments per payee exceeds 25 per quarter, the payment service provider is obliged to store data on the payee and the payments, which must be submitted regularly to the tax authority.

The payment service provider is obliged to store the data electronically for three calendar years from the end of the calendar year in which the payment was made. Information must be submitted to the tax authority for each quarter by the end of the month following the quarter, i.e., on 30 April, 31 July, 31 October and 31 January, in the e-service environment of the tax authority. If the number of cross-border payments to the same recipient does not exceed 25 and the obligation to provide information does not arise, the payment service provider must confirm this separately in the e-service environment of the tax authority.

The payer's payment service provider is not obliged to store or transmit data on cross-border payments if at least one of the payee's payment service providers is located in an EU member state (for example, Estonia).

At the time of preparing this chapter, although the draft act on the matter has currently not been approved by the Parliament (passed second reading 25 October 2023 and is due for the final third reading), it will most likely be passed and will enter into force on 1 January 2024.

Correcting errors in previous returns. If some data has remained undeclared by an oversight in a previous VAT return or is incompletely or incorrectly filled in, there is a possibility to make

amendments to the VAT return. Amendments to the VAT return can be made online by using the E-Tax Board or by paper, to the service bureaus. This option can only be used where the taxable person has been registered for VAT for less than 12 months or if fewer than 5 invoices are included in the annex to the VAT return.

Digital tax administration. There are no transactional reporting requirements in Estonia.

J. Penalties

Penalties for late registration. Penalties and interest are assessed for late registration for VAT and delay in remitting the VAT payable to the tax authority. Failure to register with a tax authority is punishable by a fine of up to EUR3,200.

Penalties for late payment and filings. Interest at a rate of 0.06% per day is charged on amounts of VAT underpaid or paid late. Penalty for not submitting monthly tax returns is punishable by a fine of up to EUR1,300 if the initial warning by the tax authorities is ignored and an additional EUR2,000 if the second warning is ignored. In addition, the penalties are subject to income tax at a rate of 20/80 as nonbusiness-related expenses.

The tax authorities suspended the calculation of interest on tax arrears for the COVID-19 period with retroactive effect as from 1 March until 25 May 2020. After the COVID-19 period, the default interest rate has been lowered from the usual 0.06% per day to 0.03% per day until 31 December 2021.

Penalties for errors. Penalties and interest can be assessed for errors discovered after the tax audit conducted by the tax authority. In addition, a person may be fined up to EUR3,200.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. This is because the Company Registration Portal entry is automatically sent to Tax and Customs Board. For further details, see the subsection *Changes to VAT registration details above.*

Penalties for fraud. Intentional submission of false information to decrease VAT obligation or increase claim for refund is punishable by a fine of up to EUR32,000.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Estonia. Specific penalty details are outlined below:

- The failure to submit information or submission of incorrect information to tax authorities for the purpose of reduction of an obligation to pay a tax or obligation to withhold or increase a claim for refund, if a tax liability or obligation to withhold is thereby concealed or a claim for return is unfoundedly increased by an amount corresponding to or exceeding major damage, is punishable by a pecuniary punishment or up to five years' imprisonment. Major damage is damage or extent of offense that exceeds EUR40,000.
- The same act, if a tax liability or obligation to withhold is thereby concealed or a claim for refund is unfoundedly increased by an amount corresponding to particularly great damage, is punishable by one to seven years' imprisonment. Particularly great damage is damage or extent of offense that exceeds EUR400,000. In addition, the court may impose extended confiscation of assets or property acquired by the criminal offense.
- For a criminal offense, the court may impose a pecuniary punishment of 30 to 500 daily rates. The court shall calculate the daily rate of a pecuniary punishment on the basis of the average daily income of the offender.

Statute of limitations. The statute of limitations in Estonia is three years. The limitation period for an assessment of tax is three years. In the event of deliberate nonpayment/intentional failure

to pay or withhold a tax, including the incurred/creation of tax arrears in the case of the criminal offense committed by the person, the limitation period for an assessment of tax is five years. The limitation period begins to run on the due date for submission of the tax return that was not submitted or that contained information on the basis of which the tax amount was calculated incorrectly. The time limit for taxable persons to voluntarily correct errors in previous VAT returns is also usually three years.

Eswatini

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Direct all queries regarding Eswatini to the person listed below in the Gaborone, Botswana office.

Indirect tax contact

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 April 2012
Trading bloc membership	Southern African Customs Union (SACU) Southern African Development Community (SADC) African Continental Free Trade Area (AfCFTA)
Administered by	Eswatini Revenue Service (ERS)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	Taxable person identification number (TIN) (xxx-xxx-xxx)
VAT return periods	Monthly Quarterly
Thresholds	
Registration	SZL500,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is collected on "taxable supplies" of goods and services consumed in Eswatini (i.e., domestic supplies), as well as on importation of goods and services into Eswatini.

There are other transactions by a taxable person that are treated as taxable supplies, and these include goods taken for own use, goods given away as gifts and hire purchase leases.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Eswatini, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from VAT under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as exempt from VAT. In Eswatini, a TOGC is treated as exempt from VAT where both the transferee and transferor are registered persons.

Transactions between related parties. In Eswatini, for a transaction between related parties the value for VAT purposes is calculated at the fair market value.

C. Who is liable

Anyone who is making taxable supplies and meets the registration threshold (SZL500,000) is liable to register for VAT in Eswatini. The registration threshold only applies for domestic supplies. For importation of goods, everyone is charged VAT, and there is no requirement to register, as the VAT is collected directly by the Eswatini Revenue Service (ERS).

Exemption from registration. The VAT law in Eswatini does not contain any provision for exemption from registration.

Voluntary registration and small businesses. At the Commissioner-Generals's discretion with regard to the following:
- Taxable person needs to have a fixed place of business
- Taxable person to evidence ability to maintain proper accounting and record keeping
- Taxable person must be providing taxable supplies as defined

Any other person that wishes to register, but doesn't meet the registration threshold, may apply to the Commissioner-General, showing that they have a physical place of business in Eswatini and that they are making taxable supplies in Eswatini. The registration is approved at the Commissioner-General's discretion.

Group of individuals (not businesses), especially associations and clubs, can be registered for VAT under a single VAT registration at the discretion of the Commissioner-General.

Group registration. Group VAT registration is not allowed in Eswatini.

Fixed establishment. In Eswatini there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. Non-established businesses can register for VAT in Eswatini through a resident agent with a resident public officer. A non-established business is only required to register for VAT in Eswatini once it exceeds the registration threshold.

Tax representatives. Tax representatives are allowed, but not compulsory. However, the supply of the service by the agent on behalf of the principal is deemed to be supply by the principal.

Reverse charge. The reverse charge applies in Eswatini for business-to-business (B2B) supplies of services from a non-established service provider. VAT is due on the supply of imported services, where the importer of the services self-accounts for VAT. It only applies where the importer of the services does not have a requirement to register for VAT in Eswatini, because it does not exceed the registration threshold or it only makes exempt supplies in Eswatini. The importer of the services is not required to register, but required to pay the VAT due, 30 days from the date of receipt of the invoice from the foreign supplier. It must complete a special form to the tax authorities for the payment due.

Where the importer of the services is registered for VAT in Eswatini, and they are making fully taxable supplies, they are not required to account for VAT on the imported services from the non-established business.

Domestic reverse charge. There are no domestic reverse charges in Eswatini.

Digital economy. There are no special VAT rules in Eswatini for supplies within the digital economy. Normal VAT rules apply. There is, however, in the VAT law a special place of supply rule for electronically supplied services, which covers the provision of websites, software, images, distance trading, etc. The place of supply for such services is deemed to be where the recipient uses/obtains advantage of the service, i.e., in Eswatini.

Nonresidents providing electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for VAT in Eswatini, only if such supplies exceed the registration threshold. Otherwise, there is no requirement to register and account for VAT on such supplies.

Nonresidents providing electronically supplied services for B2B supplies are not required to register and account for VAT in Eswatini. Instead, the customer is required to self-account for the VAT due via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in Eswatini.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Eswatini.

Registration procedures. Businesses must apply for VAT registration by completing and submitting a taxable person identification number (TIN) and an RG01(a) registration form, and attach (where/if applicable) the following:
- Certified copy of a Certificate of Incorporation (for companies only)
- Certified copy of Form J (for companies only)
- Certified copy of Power of Attorney (where applicable)
- Certified copy of personal identity document (of the Public Officer)
- Certified copy of partnership deed (if the business is a partnership)
- Deed of trust (where applicable)
- Deed of sale (if it is a takeover)
- Constitution (only for NGOs and welfare organizations)
- Certified copy of Trading License

The TIN registration form may be collected from the nearest ERS office or downloaded from the ERS website. The ERS will review the application and inform the taxable person of the outcome within 30 days. Where necessary, the ERS may conduct inspection of taxable person businesses. When registered, a taxable person will be issued a registration certificate with TIN to be quoted in all correspondences with the ERS.

VAT registration can be done online or manually, i.e., physically submitting an application form at the tax authorities.

Deregistration. A taxable person is required to complete and submit the VAT deregistration form and indicate the reason for applying for deregistration. The form can be submitted to the nearest ERS office. Deregistration for VAT is on a voluntary basis, but normally arises from a tax audit. The Commissioner-General can deregister a business if it is determined that a business is no longer meeting the registration requirements, i.e., not meeting the registration threshold.

Changes to VAT registration details. Any changes to a taxable person's VAT registration details must be communicated to the tax authorities in writing within 14 days of the changes. Such changes include:
- Any changes to the business physical location, contact details and bank details
- Change in the circumstances that made one qualify for registration
- Changes in the business activities

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
• Standard rate: 15%
• Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

• Goods or services exported
• International transportation of goods or passengers or connected goods or services
• Maize meal, maize, beans, milk, brown bread, samp, rice, fresh fruit and vegetables and fresh eggs, vegetable oil (except olive oil), paraffin and animal feeds
• Farming input such as fertilizers, seeds (excluding flower seeds) and pesticides
• Prescription drugs and medicines
• School textbooks
• Petrol, diesel and liquid gas

The term "exempt" refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

• Financial and insurance services (both long and short term)
• Postage stamps
• Land and buildings not used for commercial and industrial purposes
• Lease or letting of residential immovable property
• Education, burial, cremation, medical, dental, nursing and social welfare services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Eswatini.

E. Time of supply

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

The tax point for services is the earlier of when the invoice is issued or payment is received. The basic tax point for goods is the earlier of when the goods are delivered, the issuance of the invoice or when payment is received.

If no invoice and no receipt of income is received, then there is no VAT liability.

Deposits and prepayments. The time of supply for deposits and prepayments is the receipt of the deposit/prepayment.

Continuous supplies of services. The time of supply for continuous supplies of services is the earlier of receipt of the payment for service being consumed or the issuing of an invoice.

Goods sent on approval for sale or return. The time of supply for goods sent on approval for sale or return is the earlier of the date of change of ownership, receipt of payment or issuing of invoice.

Reverse-charge services. The time of supply for reverse-charge services is time the service is consumed/received by the customer.

Leased assets. The time of supply for leased assets is the time the assets are made available under the lease agreement.

Imported goods. The time of supply for imported goods is the time the goods are cleared by Customs for use in Eswatini.

F. Recovery of VAT by taxable persons

For input tax recovery, a valid VAT invoice must be issued for the supply. A taxable person can only claim a refund upon a submission of a VAT return and where the input tax is more than the output tax.

The time limit for a taxable person to reclaim input tax in Eswatini is five years. Input tax can only be claimed in the period in which the tax invoice is issued. However, a VAT return can be amended within five years from the date the return was lodged.

Nondeductible input tax. The underlying principle is that input tax is claimable only where it has been paid on taxable supplies and charged by a registered taxable person. As such, input tax credits on the purchases attributable to the supply of exempt goods or services are prohibited.

Examples of items for which input tax is nondeductible

- Entertainment (includes expenses relating to hotel accommodation, food and beverages, hospitality)
- Passenger motor vehicle
- 50% of mobile telephone services

Examples of items for which input tax is deductible (if related to a taxable business use)

- Entertainment (if the taxable person is in the business of providing entertainment), e.g., hotels, food and beverages
- Passenger motor vehicles (if the taxable person is in the business of car sales and hire)

Partial exemption. Partially exempt businesses are not allowed to claim input tax credits on the purchases attributable to the supply of exempt goods or services. Consequently, mixed supply businesses are required to apportion input tax claim based on the portion of their taxable supplies.

There is no requirement to apply to use the partial exemption standard method. However, the Commissioner-General reserves the right to approve the apportionment calculation, hence it is advisable to seek the Commissioner-General's approval.

Special methods are not allowed in Eswatini.

Capital goods. Input tax credit is allowed to a taxable person, on becoming registered, for input tax paid or payable in respect of all taxable supplies of capital assets, made to the person prior to the person becoming registered; or, imports of capital assets, made by the person prior to becoming registered, where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date of registration and provided that the supply or import occurred not more than six months before the date of registration.

Refunds. If for any tax period, a taxable person is due a VAT refund, the Commissioner-General must refund the excess within two months of the due date of the return or within two months of the date when the return was filed if the return was not filed by the due date.

Pre-registration costs. Input tax credit is allowed to a taxable person, on becoming registered, for input tax paid or payable in respect of all taxable supplies of goods (not services) made to the person prior to the person becoming registered; or, imports of goods, made by the person prior to becoming registered, where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date of registration and provided that the supply or import occurred not more than four months before the date of registration.

Bad debts. Where a taxable person has supplied goods or services for a consideration and has paid the full tax on the supply to the Commissioner-General but has not received payment, in whole or in part, from the person to whom the goods or services are supplied; and has taken all reasonable steps to the satisfaction of the Commissioner-General to pursue payment and reasonably believes that they will not be paid, the taxable person may reduce the output tax by that portion of the tax paid for which payment has not been received. Further provision is made to define reasonable steps and they include:
(a) Creditors own letters of demand to debtor, in vain.
(b) Engagement of external debt collector who failed to collect the debt.
(c) The debt must be non-disputable and final.
(d) There must be a reasonable relation between the monetary size of the debt and the costs implication in connection with the recovery attempts.
(e) The business relations with the debtor must have ceased.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Eswatini.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Eswatini is not recoverable.

H. Invoicing

VAT invoices. Only a valid tax invoice will be considered for the purposes of the VAT Act, and this tax invoice must be issued within 30 days of the supply being made and the seller must retain a copy of the invoice.

The seller may issue a duplicate invoice clearly marked "COPY" where the buyer has lost the original invoice.

Credit notes. A credit note is issued to correct a genuine mistake or to give a credit to your customer under the following situations:
(a) Goods invoiced as standard-rated that should have been exempt or zero rated
(b) If the supply did not take place
(c) If the nature of that supply has been fundamentally varied or altered
(d) If the previously agreed consideration is being altered by agreement with the recipient (including a discount)
(e) If substandard goods are accepted by the customer at a reduced price
(f) If goods are returned or services are not accepted
(g) If goods and services are supplied for an unconfirmed consideration

Electronic invoicing. Electronic invoicing is allowed in Eswatini, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Eswatini. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Eswatini. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, there is no provision in the VAT Act for electronic invoicing. The VAT Act is silent on the nature of invoicing, i.e., whether manual or electronic. The VAT Act only specifies the characteristics of an invoice. Therefore, in practice both manual and electronic invoicing is acceptable provided they meet all the specifications of a VAT invoice.

Simplified VAT invoices. Simplified VAT invoicing is allowed in Eswatini for supplies that are less than SZL3,000. The simplified invoice must contain the seller's details, including address and TIN, date of invoice, description and quantity of goods, value of supply and VAT charged.

Self-billing. Self-billing is allowed in Eswatini. It only applies to sugar mills that purchase sugar cane from sugar cane farmers. Self-billing is only allowed upon application and approval with the tax authorities. There is no requirement for an agreement to be in place between seller and buyer.

Proof of exports. For an export to qualify for a zero rating, a registered taxable person must obtain and be able to show as proof of export in every export transaction:
(a) A copy of the bill of entry or export certified by the customs authorities.
(b) A copy of the invoice issued to the foreign purchasers with tax shown at zero rate.
(c) Evidence sufficient to satisfy the Commissioner-General that the goods have been exported, in the form of an order form, or signed contract with a foreign purchaser, or transport documentation that identifies the goods as follows:
  (i) Transit order or consignment note issued by the Swaziland Railways for goods exported by rail.
  (ii) Copy of an airway bill for goods exported by air.
  (iii) Copy of a transport document for goods exported by road.

Foreign currency invoices. All amounts on VAT invoices are to be expressed in the domestic currency, which is the Swazi lilangeni (SZL). Where an amount is expressed in a currency other than Swazi lilangeni, the amount must be converted into Swazi lilangeni at the average daily selling exchange rates of the previous month for the currency concerned.

Supplies to nontaxable persons. A full VAT invoice is not required to be issued for supplies to nontaxable persons, unless requested by the consumer.

Records. In Eswatini, examples of what records must be held for VAT purposes include invoices (original invoices must be kept for supplies made and copies of invoices must be kept for purchase invoices), VAT account, general financial documents, financial statements, and accounting documents.

In Eswatini, VAT books and records must be held within the country.

Record retention period. All records and accounts, including tax invoices, debit and credit notes, must be kept for a minimum of five years and made available for inspection to an authorized officer of the ERS on demand.

Electronic archiving. Electronic archiving is allowed in Eswatini. However, there is no specific provision on electronic archiving in the VAT law. It is important to retain sufficient records and accounts in formats that enable the ERS officers to examine them effectively.

I. Returns and payment

Periodic returns. "Category A" returns are filed monthly, and the turnover of the registered person must not be less than SZL20 million per annum. "Category B" returns are filed quarterly and the registered person in this category is anyone that does not qualify to be in Category A.

Returns are due before the 20th of the following month for both Category A and B returns.

Periodic payments. For taxable persons in Category A or B, payment of tax must be made on or before the date the return is due to be filed. Where payment is in terms of a notice from the ERS, the due date must be as specified in that notice. However, the Commissioner-General has, through Practice Note No. DT-VAT/011-14, authorized the payments of tax in advance of the VAT return due date.

Electronic filing. Electronic filing is allowed in Eswatini, but not mandatory. Taxable persons have the option to file VAT returns electronically or manually. To access the online filing portal, a taxable person must be registered for online filing with the tax authorities.

Payments on account. Payments on account are not required in Eswatini.

Special schemes. *Cash accounting.* Taxable persons that are permitted to use the cash basis are required to account for VAT to the extent that payment has been made or received. Only businesses whose annual value of taxable supplies does not exceed SZL3 million can use the cash basis of accounting. Regardless, even if a taxable person is on the cash basis method, tax invoices must still be issued.

Annual returns. Annual returns are not required in Eswatini.

Supplementary filings. No supplementary filings are required in Eswatini.

Correcting errors in previous returns. An amended return may be submitted together with a notification detailing the reasons why the return is being amended. The notification amendment must be submitted within five years after the return was filed.

Digital tax administration. There are no transactional reporting requirements in Eswatini.

J. Penalties

Penalties for late registration. A taxable person is liable to pay an additional tax equal to double the VAT payable during the period for which it failed to register for VAT on time. The VAT payable is to be calculated from the time the taxable person was supposed to register.

Penalties for late payment and filings. Failure to submit a VAT payment on time and for late filings is an offense and an additional tax at 2% per month will be payable. Furthermore, the taxable person may be liable, on conviction, to fines or imprisonment or both.

Penalties for errors. Registered persons will be liable to a penalty of SZL2,000 to SZL6,000 or imprisonment for a term not exceeding three years, or to both. There is no specific description of what an "error" is for such penalties and this will depend on the Commissioner-General's view.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of no less than SZL2,000 but no more than SZL6,000 or imprisonment of not more than three years or both such fine and imprisonment. Where failure to notify the Commissioner-General is deliberate or reckless, a fine of no less than SZL6,000 but no more than SZL15,000 or imprisonment of up to six years or both such fine and imprisonment may be imposed. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Registered persons will be liable to a penalty of SZL6,000 to SZL15,000 or imprisonment for a term not exceeding six years, or to both. There is no specific description of how fraud is defined for such penalties and this will depend on the Commissioner-General's view.

Personal liability for company officers. Any person acting in the capacity of a company representative as a nominated officer, director, general manager, company secretary or similar position will be held liable for the company's offenses and will be liable to the specified penalties above, and/or imprisonment.

Statute of limitations. The statute of limitations in Eswatini is five years. The Commissioner-General is empowered to issue an assessment within a period of five years from the date the return was lodged. However, in case of fraud, gross or willful negligence, an assessment can be made any time.

European Union

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The chapter below summarizes the value-added tax (VAT) rules for the European Union (EU) as a whole. For more detailed information, see the chapters summarizing the VAT systems in each of the EU Member States, where you will also find EY VAT contacts listed.

Indirect tax contacts

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A. At a glance

The European Union (EU) consists of the following 27 Member States :

Austria	France	Malta
Belgium	Germany	The Netherlands
Bulgaria	Greece	Poland
Croatia	Hungary	Portugal
Cyprus	Ireland	Romania
Czech Republic	Italy	Slovak Republic
Denmark	Latvia	Slovenia
Estonia	Lithuania	Spain
Finland	Luxembourg	Sweden

For more details on the VAT territories in each Member State, see the relevant chapters.

B. Scope of the tax

EU VAT applies to four taxable transactions:

- The supply of goods for consideration within the territory of a Member State by a taxable person acting as such
- The intra-Community acquisition of goods for consideration within the territory of a Member State by a taxable person acting as such (and in some other instances)
- The supply of services for consideration within the territory of a Member State by a taxable person acting as such
- The importation of goods (regardless of the status of the importer)

Exports and intra-Community supplies of goods are not separate taxable transactions, but "normal" supplies of goods that are VAT exempt (or rather, subject to the 0% VAT rate) ensuring that the goods can leave the territory from where the supply is made. In this section we will outline the EU VAT treatment of cross-border supplies of goods and services.

A taxable person is any person who, independently, carries out in any place any economic activity. Examples of economic activities are the activities of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, as well as the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis. Owning shares of a subsidiary is not considered an economic activity, unless the owner of the shares performs taxed activities for consideration for that subsidiary.

For information on fixed establishment rules in the EU, see *Section D. Services in the Single Market,* subsection *Fixed establishment* below.

Group registration. Member States can choose to consider separate entities as a single taxable person if sufficient financial, organizational and economic links exist between these entities. Transactions between members of these "VAT groups" are not taxable transactions. We refer to the country chapters for more information.

Transfer of a going concern. Member States can choose to consider the transfer of a going concern (TOGC), which is described as the transfer of a totality of assets (goods and/or services) or part thereof, as no supply of goods or services. In those cases, the person to whom the goods and/or services are transferred is to be treated as the successor to the transferor. We refer to the individual Member States chapters for more information.

Transactions between related parties. To prevent tax evasion or avoidance, Member States can choose to take measures to ensure that, in respect of the supply of goods or services involving related parties as defined by the Member State, the taxable amount is to be the open market value. Member States can only do this if at least one of the parties involved does not have a full right to deduct VAT. "Open market value" means the full amount that, to obtain the goods or services in question at that time, a customer at the same marketing stage at which the supply of goods or services takes place, would have to pay, under conditions of fair competition, to a supplier at arm's length within the territory of the Member State in which the supply is subject to tax. Where no comparable supply of goods or services can be ascertained, "open market value" means the following: (1) in respect of goods, an amount that is not less than the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time of supply, or (2) in respect of services, an amount that is not less than the full cost to the taxable person of providing the service.

C. Goods in the Single Market

On 1 January 1993, the Single Market was introduced in the EU. Under the rules of the Single Market, goods may move freely between Member States without hindrance, including customs controls. As a result, the concepts of "import" and "export" don't apply to cross-border trade of goods between Member States. For trade between taxable persons, cross-border supplies of goods between Member States are called "intra-Community supplies" and the acquisition of those goods in the Member State of arrival are called "intra-Community acquisitions." This is different for supplies made to private individuals and other nontaxable persons.

Imports and exports. In the EU, the term "export" applies to the supply of goods exported from a Member State to any country outside the EU (also referred to as Third Countries). The term "import" applies to goods imported into a Member State from any country outside the EU.

After goods are imported into the EU, they are in "free circulation," which means that they may travel within the EU without further payment of customs duties or further border controls.

Intra-Community supplies of goods to nontaxable persons. "Nontaxable persons" are any persons or legal entities that do not perform any economic activity. They are usually not registered for VAT. In the EU, VAT is generally charged on supplies of goods made to nontaxable persons using the "origin principle," which means that VAT applies in the Member State where the goods are shipped from, not the rate that would apply in the Member State where the supplier is established (if different from the Member State of where the goods are shipped from) or the customer's Member State (the Member State where the goods are shipped to). For example, if a Danish tourist buys a dress in a shop in Paris, she pays VAT at the French standard rate of 20%, not at the Danish standard rate of 25%, even if the dress is subsequently "exported" to Denmark. However, exceptions to this rule (may) apply for "distance sales of goods," sales of "new means of transport" and sales to "nontaxable legal persons" *(see below)*.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where buyer of the services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section D. Services in the Single Market,* subsection *Effective use and enjoyment* below). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (i.e., business-to-business [B2B]), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (i.e., B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (i.e., business-to-consumer [B2C]), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales in each Member State, see the relevant chapters.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Note the place of supply rules in the EU will be amended for B2C services that are streamed or made available virtually (e.g., virtual events or distance learnings). Member states are required to transpose the new obligations by 1 January 2025.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection below). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

For more details about local VAT registrations in each Member State, see the relevant chapters.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services.
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return.

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

For more details about the operation of the OSS in each Member State, see the relevant chapters.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance ales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on these sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT

For more details about the IOSS in each Member State, see the relevant chapters.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

For more details about the special scheme for postal services and couriers in each Member State, see the relevant chapters.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

For more details about the rules for online marketplaces in each Member State, see the relevant chapters.

Intra-Community supplies of goods between taxable persons. As mentioned above, "taxable person" (also for the purpose of intra-Community trade) is generally any person or legal entity that is registered for VAT in the EU. Because no customs controls exist anymore between Member States in the Single Market, intra-Community transactions between taxable persons are no longer termed "imports" and "exports" (see *Imports and exports* above). Instead, they are referred to as "intra-Community acquisitions" and "intra-Community supplies."

In general, EU VAT is charged based on the "destination principle" on cross-border supplies of goods made between taxable persons. Under this principle, 0% VAT is chargeable in the Member State from where the goods are supplied (known as the "Member State of dispatch") and the

purchase is taxed as a separate taxable event in the Member State where the goods are delivered (known as the "Member State of arrival").

Intra-Community supplies. An intra-Community supply of goods is "zero-rated," i.e., exempt with credit in the Member State of dispatch. This means that no VAT (or rather, 0% VAT) is chargeable, and the supplier is entitled to deduct VAT paid on purchases connected with the zero-rated supply. The supplier must be able to prove that the goods have been dispatched to a taxable person in another Member State, by establishing that the customer has a valid EU VAT identification number (of a country other than the Member State of dispatch) at the time of the supply. The supplier must also quote the customer's EU VAT registration number, including the country prefix (e.g., BE for Belgium), on its invoices. The evidence required has been harmonized, but still varies among Member States.

Where the goods are transported by or on behalf of the supplier, the supplier must hold at least two items of noncontradictory evidence from the below exhaustive list, issued by two independent parties. At least one item of evidence must relate to the transportation or dispatch of the goods. Where the customer arranges the transportation of the goods, the supplier must hold a written statement from the customer regarding the transportation of the goods (containing specific, required information), as well as at least two items of noncontradictory evidence, meeting the criteria above.

The following evidential documents are included in the exhaustive list:
- Documents relating to the transport or dispatch of the goods, such as a signed CMR document or note, a bill of lading, an airfreight invoice, an invoice from the carrier of the goods (the "transport documents")
- An insurance policy with regard to the transport or dispatch of the goods or bank documents proving payment of the transport or dispatch of the goods
- Official documents issued by a public authority, such as a notary, confirming the arrival of the goods in the Member State of destination and a receipt issued by a warehouse keeper in the Member State of destination confirming the storage of the goods in that Member State (the "other documents")

Many EU Member States consider the above a "safe-harbor rule" and continue to apply their own, often less strict, rules regarding the evidence for zero-rating intra-Community supplies. *Information about the evidence required in each Member State is provided in the chapters of the respective EU countries.*

Intra-Community acquisitions. An intra-Community acquisition is an acquisition of goods from another Member State by a taxable person. An intra-Community acquisition is taxable both in the Member State that issued the VAT identification number of the business making the acquisition, as well as the Member State of arrival. The first acquisition (under the VAT number of the purchaser) does not apply if the person acquiring the goods can establish that VAT has been accounted for in the Member State of arrival at the rate of VAT applicable in that country.

The acquisition tax is self-assessed by a taxable person as VAT payable. If the acquirer is entitled to recover the VAT on the acquisition as input tax (that is, VAT on purchases), the acquirer may offset the input tax at the same time as declaring the output tax. Consequently, an acquirer that deducts input tax in full does not actually pay any VAT in connection with an intra-Community acquisition.

If a business makes an intra-Community acquisition of goods in a Member State where it is not registered for VAT, it is probably required to register there.

Branch transfers. A transfer of goods between different parts of the same legal entity is not generally treated as a supply for VAT purposes (for example, no VAT is charged on a transfer of

goods from a factory to a warehouse owned by the same company within the same Member State). However, this rule does not apply to transfers of own goods across borders within the EU. A taxable person is deemed to make an intra-Community supply and an intra-Community acquisition if this person transfers goods between different parts of a single legal entity that are located in different Member States. For example, a deemed supply and acquisition may occur when goods are moved between branches of the same company located in different countries or when goods are stored in a warehouse in a different country after being manufactured but before being sold. If a deemed acquisition occurs, the person transferring the goods may need to register for VAT in both the Member State of dispatch and the Member State of arrival. *Further information about the requirement to register for VAT is listed in the chapters of the respective EU countries.*

Certain transfers are excluded from the provision discussed above, either because they are deemed not to be acquisitions (see the subsection below, *Transfers deemed not to be acquisitions*) or because the supply of the specific goods is exempt from VAT.

Transfers deemed not to be acquisitions. Not all intra-Community movements of own goods qualify as acquisitions. Exceptions include the following transfers:

- Goods to be installed or assembled for a customer in another Member State
- Goods transported to another Member State under the distance-selling rules
- Goods that will be exported outside the EU from another Member State or dispatched to another Member State (that is, the goods are temporarily in the second Member State)
- Goods sent to another Member State for processing (provided that the goods are returned to the Member State of dispatch after processing)
- Goods temporarily used in another Member State for a supply of services made there
- Goods used temporarily (that is, for less than two years) in another Member State, provided that customs duty relief would be available if the goods were imported from outside the EU
- Goods acquired from a person not registered for VAT, unless the goods acquired are a "new means of transport" (see the subsection below, *New means of transport*) or are subject to excise duties (such as alcohol and tobacco products)

Acquisitions by exempt persons, nontaxable legal persons and flat-rate farmers. Exempt persons, nontaxable legal persons and farmers who account for VAT under a flat-rate scheme are not treated as taxable persons. Consequently, goods acquired by these persons are generally taxed according to the origin principle, that is, in the Member State of dispatch.

However, if a person in one of these categories makes intra-Community acquisitions in excess of EUR10,000 a year (or a higher threshold set by the Member State), it must register for and pay VAT on its acquisitions in the Member State of arrival in the same way as taxable persons, that is, by using the reverse-charge mechanism. However, because a nontaxable or exempt person does not generally deduct input tax, VAT due on intra-Community acquisitions must generally be paid to the VAT authorities. These persons may also choose to be treated as taxable persons even if their acquisitions do not exceed the turnover threshold.

New means of transport. All supplies of "new means of transport" are taxed using the destination principle, that is, in the Member State of arrival, regardless of the status of the vendor or acquirer. Consequently, any person that acquires a new means of transport *(see below)* from another Member State must account for VAT. Taxable persons account for VAT in the same way as for all other intra-Community acquisitions, that is, by using the reverse-charge provision. Nontaxable persons must pay VAT due to the VAT authorities.

The following are considered to be "means of transport:"

- Boats with a length exceeding 7.5 meters
- Aircraft with a take-off weight exceeding 1,550 kilograms
- Motorized land vehicles with a capacity exceeding 48 cubic centimeters or with power exceeding 7.2 kilowatts that are intended to transport persons or goods

For boats and aircraft not to be treated as "new," both of the following conditions must be met:
- The supply of the goods must be more than three months after the date of their first entry into service.
- They must have sailed more than 100 hours in the case of boats and flown more than 40 hours in the case of aircraft.

For cars not to be treated as "new," both of the following conditions must be met:
- They must be supplied more than six months after the date of first entry into service.
- They must have traveled more than 6,000 kilometers.

Excise products. The supply of excise products (i.e., energy products, alcohol and alcoholic beverages, and manufactured tobacco) is always taxable in the Member State of destination. As a result, nonresident suppliers of excise products may be required to register for VAT there.

Intra-Community transportation of goods. VAT is charged on the intra-Community transport of goods using special rules. VAT is charged by the supplier on transport services provided to nontaxable persons in the Member State where the transportation begins.

For supplies of intra-Community transport services provided to taxable persons, the supplier does not charge VAT if the taxable customer is registered for VAT in a different Member State. Instead, the taxable person (customer) accounts for VAT in the Member State where it is established, using the reverse-charge mechanism.

Quick Fixes. Some of the rules regarding intra-EU trade have been further harmonized. These rules are referred to as the "Quick Fixes" and are applicable from 1 January 2020. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted these Quick Fixes for intra-Community trade in goods. *At the time of preparing this chapter, discussions are ongoing in the EU Council on a definitive VAT system to replace the current "transitional" VAT arrangements, which have been applied since 1993. It has been proposed that this new system should be based on taxation in the country of origin at the rate applicable in the country of destination. However, it is not foreseen that such new rules will be agreed to or adopted in the short term.*

The Quick Fixes consist of four adjustments to the EU's VAT rules to provide a short-term solution for specific problems: the VAT treatment of call-off stock, the rules for determining which supplier in a supply chain performs the (zero-rated) intra-Community supply, the evidence required for proving the applicability of the VAT zero rate and the condition that, to benefit from a VAT exemption for the intra-EU supply of goods, the valid VAT identification number of the customer is a requirement.

Call-off stock simplification. Without simplification, call-off stock transferred to another Member State represents a transfer of own goods. Under the simplification, the transportation is linked to the supplier's intra-Community supply of goods to his customer in another EU Member State. This removes the supplier's obligation to register in the Member State where the stock is transferred to and, instead, the customer accounts for local VAT on the intra-Community acquisition there. This simplification is subject to a number of strict conditions.

The simplification applies to a "call-off stock arrangement," i.e., where:
- Stock (own goods) are moved from one Member State to another Member State with a view to their subsequent supply to another taxable person under a call-off agreement.
- The supplier is not established in the Member State of destination.
- The customer is VAT-registered in the Member State of destination.
- The supplier knows the customer's identity and VAT registration number at the time of transfer.
- The supplier maintains a "call-off stock register" and records the transaction on their EC Sales Lists.

Also, goods will have to be supplied from the stock (or returned to the Member State of departure) within a 12-month period.

Where simplification applies, at the time of the "local supply" from the stock, the supplier is deemed to make an intra-Community supply of goods, and the customer is deemed to make an intra-Community acquisition of goods. Special rules apply where the goods are supplied more than 12 months after arrival, returned to the supplier within 12 months, allocated to another customer, supplied to another person, removed to another country or destroyed, lost or stolen.

Chain transactions. In a cross-border chain transaction where goods are supplied multiple times and the goods are transported or dispatched from the location in the EU of the first supplier to a location of the customer in another EU Member State, the zero rate can only be applied to one single supply within that transaction chain. All other supplies are local supplies, either in the Member State of departure of the goods or in the Member State of arrival.

There are two rules for determining which of the suppliers in a chain transaction can apply the zero-rate. These rules only apply to supplies made by an "intermediary operator" which is the supplier within the chain other than the first supplier in the chain who dispatches or transports the goods itself or through a third party acting on its behalf. As a main rule, where the same goods are supplied successively, and those goods are dispatched or transported from one Member State to another Member State directly from the first supplier to the last customer in the chain, the dispatch or transport shall be ascribed only to the supply made to the "intermediary operator." However, the dispatch or transport shall be ascribed only to the supply of goods by the intermediary operator where the intermediary operator has communicated to its supplier the VAT identification number issued by the Member State from which the goods are dispatched or transported.

Two other Quick Fixes concern the list of documents to demonstrate that an intra-Community supply was made, as mentioned above, and the requirement to have the valid VAT identification number of the customer to be allowed to apply the exemption/zero rate to an intra-Community supply.

Triangulation simplification (ABC transactions). A "chain transaction" involves goods that are sold to different parties in a series of transactions but are delivered directly from the first vendor in the chain to the final purchaser in the chain.

If three taxable persons that are registered for VAT in different Member States enter into a chain transaction, special "triangulation" simplification rules may apply. These transactions are sometimes referred to as "ABC transactions." For example, manufacturer A in Spain sells goods to distributor B in France but delivers them directly to B's customer, retailer C in Italy. In these circumstances, the triangulation simplification rules may be applied. Under the normal intra-Community rules, B makes an intra-Community acquisition in C's country in these circumstances. However, under the simplification rules, B may choose not to register for VAT in C's country, and instead, designate C as being responsible for the VAT due. In addition, B must indicate to A that the simplification rules are being applied and include this information on its invoice to C. In some Member States, B may also be required to notify the VAT authorities that it has chosen to use the simplification rule rather than register for VAT there. Following case law of the European Court of Justice, careful consideration must be given to which party is responsible for transporting the goods to determine whether the simplification may be used, because simplified triangulation applies only if the cross-border transport of the goods is arranged between parties A and B.

In some Member States, the triangulation simplification rules do not apply if more than three parties are involved in the chain.

D. Services in the Single Market

As a general rule, business-to-business (B2B) supplies of services are taxed where the customer is located. For business-to-consumer (B2C) supplies of services, as a general rule the place of taxation is where the supplier is established. However, in certain circumstances, these general rules for supplies both to businesses and to consumers do not apply, and specific rules apply to reflect the principle of taxation at the place of consumption. These exceptions concern services such as restaurant and catering services; hiring means of transport; admission to cultural, artistic, sporting, scientific and educational events; and telecommunications, broadcasting and electronic services supplied to consumers.

In general, the following rules apply to services rendered by a taxable person established in the EU:

- If the customer is established in the same Member State as the supplier, the supplier charges VAT on the service at the rate applicable in the supplier's Member State. Member States may, however, apply the domestic reverse-charge mechanism referred to above in relation to supplies of certain services susceptible to fraud, namely gas and electricity services, telecom services and the supply of greenhouse gas emission allowances.
- If the customer is a nontaxable person established in another Member State, the supplier charges VAT on the service at the rate applicable in the supplier's Member State.
- If the customer is a taxable person established in another Member State, the supplier does not charge VAT. The taxable customer accounts for VAT due using the reverse-charge provision at the rate applicable in the customer's Member State.
- If the customer is established outside the EU, the supplier does not charge VAT. The customer may be required to account for VAT in the country where it is established, depending on that country's VAT law.

The following EU VAT rules apply if a person established outside the EU supplies services:

- If the customer is a nontaxable person, the supplier does not charge EU VAT, unless they are "telecommunications, broadcasting and electronically supplied (TBE) services" (see the subsection below, *TBE services*) or the "use and enjoyment" provision applies (see the subsection below, *Effective use and enjoyment*). However, the supplier may (also) be required to charge VAT in its own country, depending on that country's VAT law.
- If the customer is a taxable person established in the EU, the supplier does not charge EU VAT. The taxable customer accounts for EU VAT due using the reverse-charge provision at the rate applicable in the customer's Member State. The supplier may also be required to charge VAT in the non-EU country where it is established, depending on that country's VAT law.
- If the customer is established outside the EU, the supplier does not charge EU VAT, unless the "use and enjoyment" provision applies (see the subsection below, *Effective use and enjoyment*) or other exceptions apply for such as restaurant and catering services; hiring of means of transport; and admission to cultural, artistic, sporting, scientific and educational events. However, the supplier may be required to charge VAT in its country, depending on that country's VAT law.

Reverse charge. To equalize treatment for the supply of services between Member States, the reverse-charge mechanism is used. Under the reverse-charge mechanism, the supply of services is not subject to VAT in the Member State of the supplier. The taxable recipient who has purchased the services self-assesses the VAT due as payable. If the recipient is entitled to recover the VAT on the purchase as input tax, then the recipient may offset the input tax at the same time as declaring the output tax. Consequently, a recipient who deducts input tax in full does not actually pay any VAT in relation to reverse-charge supplies. This process also applies to services received from suppliers that are established outside the EU.

In certain cases, mainly to combat VAT fraud, the reverse-charge mechanism also applies to local transactions. This can, for example, apply to CO2 emission allowances and telecommunications

services as mentioned above, but also to the supply of staff, construction work, the supply of used materials, mobile telephones, microprocessors and central processing units.

Effective use and enjoyment. The above rules may lead to non-taxation or to double taxation if either party is not established in the EU. To help avoid these effects, additional rules may apply that either allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. With a few exceptions, Member States may apply the effective use and enjoyment provisions to almost any type of service if they choose to do so.

If a service is taxed in the EU under the effective use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For the information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

Fixed establishment. The definition of a fixed establishment depends on the place of supply rule for the service in question. For determining the place of supply of services performed to a business (i.e., B2B), under the rules where the services are taxable where the supplier is established, a "fixed establishment" shall be any establishment, other than the main place of establishment of a business, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies.

Electronically supplied services. Specific VAT rules apply to supplies of telecommunication services, broadcasting services and electronically supplied services, also referred to as TBE services. "Electronically supplied services" include services such as supplies of downloaded software and music, information services and distance-learning services supplied by computer.

For further details on VAT obligations on supplies of TBE services, see *Section C. Goods in the Single Market,* subsection *Digital economy.*

E. Vouchers

The EU VAT rules differentiate between single-purpose (SPV) and multi-purpose vouchers (MPVs). The former, SPVs, are defined as "a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services are known at the time of issue of the voucher" while, all other vouchers are defined as MPVs. The transfer of an SPV by a taxable person acting in their own name is regarded as a supply of the goods or services to which the voucher relates. The actual handing over of the goods or the actual provision of the services in return for an SPV accepted as consideration by the supplier is not regarded as an independent transaction from a VAT perspective. The transfer of an MPV, however, is not subject to VAT until it is accepted as consideration for the actual handing over of goods or the actual provision of services.

F. Small businesses trading in the EU

Member States apply simplified VAT rules to small and medium enterprises (SMEs) established and trading in the EU. The threshold for qualifying as an SME varies per Member State. These simplifications are mostly implemented as a VAT registration threshold or a VAT exemption in combination with simplified administrative requirements. *Further information about the VAT rules for SMEs is listed in the chapters of the respective EU countries.*

The European Commission has proposed new rules to give Member States more flexibility for small businesses trading in the EU. The new rules, which will come into force on 1 January 2025, will introduce:

- A revenue threshold across the EU, under which small businesses would benefit from simplification measures, whether or not they have already been exempted from VAT.

- The possibility for Member States to free all small businesses that qualify for a VAT exemption from obligations relating to identification, invoicing, accounting or returns.
- A turnover threshold that would allow companies operating in more than one Member State to benefit from the exemption from VAT and simplification measures in all Member States.

G. Rates

EU Member States may apply a standard rate of VAT and a maximum of two reduced rates. No higher rates may apply. These reduced rates may not be less than 5% and may apply only to certain goods and services listed in Annex III of the EU VAT Directive (Directive 2006/112/EC). As Member States may, in addition to the two reduced rates, apply a reduced rate lower than the minimum of 5% and an exemption with deductibility of the VAT paid at the preceding stage to a maximum of seven points of supplies of goods and services listed in Annex III. The reduced rate lower than the minimum of 5% and the exemption with deductibility of the VAT paid at the preceding stage may only be applied to certain points of Annex III.

As an exception to the reduced rate rule, Member States may continue to apply a reduced rate lower than 5% or to apply a reduced rate to goods not listed in Directive 2006/112/EC if such rates were in force in that country on 1 January 1991 or if the rate was agreed on at the time of the country's accession to the EU. These exceptions are also open to the other EU Member States. Special reduced rates may also apply in certain territories. Member States can apply reduced, super-reduced or zero VAT rates to electronic publications, thereby allowing alignment of VAT rules for electronic and physical publications.

Directive 2006/112/EC sets out which supplies of goods and services may or must be exempted when supplied within the territory of the Member State. Exempt supplies do not carry a right to deduct related VAT on purchases (known as input tax).

The European Commission periodically publishes the VAT rates that apply in the 27 Member States and provides examples of the goods and services that benefit from reduced rates in the EU (http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf).

H. Recovery of VAT

Businesses (taxable persons) can deduct the VAT incurred on their purchases, in so far as the goods and services they purchased are used for the purposes of their own taxed transactions. For a right of deduction to exist, the input transactions must have a direct and immediate link with the output transactions giving rise to a right of deduction. No right of deduction exists for input tax on purchased goods and services that are used for VAT exempt transactions, such as certain financial services, educational services and medical services. In this case, the input tax is a business expense.

Partial exemption. If a business uses the goods and services it has purchased for taxable as well as exempt supplies (either simultaneously or subsequently), it can deduct only a portion of the input tax. This deductible portion of input tax (the so-called "pro rata" percentage) is in principle based on turnover proportions. The deductible input tax is calculated following the following formula: turnover for which a right of deduction exists (numerator), divided by total turnover (denominator). Member States may use slightly different approaches. Member States may, for example, authorize or require a calculation of the proportional deduction for each sector of a taxable person's business or on the basis of the use made of all or part of the goods and services.

Capital goods. For capital goods, a special system exists for the adjustment of the input tax that a taxable person initially deducted. The initial VAT deduction shall be adjusted where it is higher or lower than that to which the taxable person was entitled based on actual use (over time) of the capital goods. Adjustments may have to be made if, after the time of initial VAT deduction but

within a certain period (the so-called adjustment period), the use of the goods changes from use for which a right of deduction exists to use for which no right of deduction exists (and vice versa). This (annual) adjustment of input tax must be made in respect of one-fifth of the VAT charged on the capital goods, or if the adjustment period has been extended by the relevant Member State, in respect of the corresponding fraction thereof. In the case of immovable property, Member States may extend the adjustment period up to 20 years.

Noneconomic activities. Because a right of deduction only exists for VAT on purchases of goods and services that are used for taxed transactions, noneconomic activities (e.g., owning shares without performing taxed activities for the subsidiary whose shares are owned) also limit a business's right to VAT deduction. Members States have to set their own rules for determining the nondeductible proportion in these cases.

I. Recovery of VAT by non-established businesses

Every EU Member State must refund VAT incurred by businesses that are neither established nor registered for VAT in that Member State. A non-established business may claim VAT to the same extent as a VAT-registered business in the Member State.

EU businesses. For businesses established in the EU, refunds are made under the terms of Council Directive 2008/9/EC. All Member States must refund VAT to eligible claimants established in other Member States. The procedure for reimbursement of VAT incurred by EU businesses in Member States where they are not established is a fully electronic procedure, ensuring a quicker refund to claimants.

Eligibility. To be eligible for a refund under Council Directive 2008/9/EC, the claimant must satisfy the following conditions:

- It must be a taxable person that is not established in the Member State of refund.
- It must not have the seat of its economic activity, a fixed establishment from where business transactions are carried out, a domicile or a residence in the Member State where the refund is requested.
- It must not make supplies of goods or services in the Member State of refund, with the exception of transport and transport-related services and supplies of goods and services where the customer liable for the VAT due on the supplies (under the reverse-charge mechanism; see *Section C*).

Minimum claims. Under Council Directive 2008/9/EC, the minimum claim period is three months, and the maximum period is one year. The minimum claim for a period of less than a year is EUR400. For an annual claim, the minimum amount is EUR50.

Documentation. Under Council Directive 2008/9/EC, claimants established in the EU must electronically submit applicable documentation through an electronic portal set up by the Member State where they are established. The refund application must contain the following:

- The applicant's name, contact details, nature of the business, bank details, period to which the application applies and the VAT identification number of the applicant
- For each Member State separately, a list of the name and address of the suppliers and their VAT identification numbers, nature of the purchases categorized according to the coded categories in Council Directive 2008/9/EC, the date and number of all purchase invoices, import documents and the taxable amounts, as well as the VAT amounts, as well as, if applicable, any pro rata VAT deduction amount, as a percentage
- On request by the Member State of refund, original invoices or import documents, if the taxable amount is EUR1,000 or more (EUR250 for fuel purchases)

Time limits. Under Council Directive 2008/9/EC, the deadline for the electronic filing of the refund application is 30 September of the calendar year following the refund period.

Refunds are generally paid within six months after the Member State receives the claim. Member States must pay interest on VAT amounts refunded outside this time limit. *For further details, see the chapters dealing with the individual countries of the EU.*

Appeals. All Member States provide an appeal procedure if a refund is denied.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th VAT Directive. All Member States must refund VAT to claimants established outside the EU. However, Member States may apply a condition requiring the non-EU country where the claimant is established to provide reciprocal refunds with respect to its own turnover taxes. *For further details on each Member States reciprocal agreements, see the individual Member State chapters*

Eligibility. To be eligible for a refund under the EU 13th VAT Directive, the claimant must satisfy the following conditions:
- It must carry out activities that would make it eligible to be a taxable person in the EU if the activities were conducted there.
- It must not have an establishment, center of economic activity, registered office or place of residence in the EU.
- It must not make supplies of goods or services in the Member State where a refund is requested, with the exception of transport and transport-related services and supplies of goods and services where the customer is liable for the VAT on those supplies (under the reverse-charge mechanism; see *Section E*).
- If a VAT refund is claimed in any Member State that requires reciprocal VAT refunds for its citizens, the country where the claimant is established must satisfy this condition.

Minimum claims. The minimum claim limits for non-EU businesses may not be lower than for EU businesses as indicated above.

Documentation. Under the EU 13th VAT Directive, a non-EU claimant must submit the following applicable documentation to the relevant address in the Member State where a refund is requested (*the relevant addresses are listed in the Member States' respective chapters*):
- The standard application form, which is available in all official EU languages and in all Member States; however, the form must generally be completed in the language of the Member State where the refund is requested
- Proof of entitlement, which may include a certificate issued by the tax authorities in the country where the claimant is established (required annually)
- Original invoices, import documents, bills, vouchers, receipts or customs clearance forms supporting the amounts of VAT claimed
- Documents appointing a tax representative in countries where that is required

Time limits. Under the 13th VAT Directive, claims by non-EU businesses must generally be submitted within six months after the end of the calendar year, that is, by 30 June of the following year for most Member States. This deadline is generally strictly enforced. However, certain exceptions exist. *The deadlines applied by the individual Member States of the EU are indicated in the Member States' respective chapters.* Member States are not obliged under EU law to pay interest on VAT amounts refunded outside this time limit.

Appeals. All Member States provide an appeal procedure if a refund is denied.

J. Invoicing

The cornerstone of the VAT system is the invoice, which must be issued for most taxable supplies. However, an invoice is not required for B2C supplies of services.

The relevant EU rules aim to promote and simplify invoicing rules by removing burdens and barriers and establishing equal treatment between paper and electronic invoices without increasing the administrative burden on paper invoices, as well as to promote the uptake of e-invoicing by allowing freedom of choice regarding the invoicing method used. The EU VAT rules prescribe a certain minimum amount of information that needs to be included on an invoice. Simplified invoicing requirements apply to certain transactions of a low value. Also, invoicing is not always required (e.g., for some SMEs, for some e-commerce transaction). *Further information about the invoicing requirement is listed in the chapters of the respective EU countries.*

VAT in the Digital Age (ViDA). On 8 December 2022, the European Commission (the Commission) proposed its VAT in the Digital Age (ViDA) package. It includes a series of measures aimed at modernizing the VAT system and making it resilient to fraud and to address challenges in the area of VAT for the platform economy.

Key proposals are as follows:
- Introducing standardized digital reporting requirements (DRRs) across the EU in an electronic format and imposing electronic invoicing on cross-border EU B2B transactions
- Addressing the challenges of the platform economy in short-term accommodation rental and passenger transport services by clarifying existing rules and enhancing the role of platforms in VAT collection
- Reducing VAT registration requirements in the EU by not taxing the transfer of own goods between Member States, by expanding the scope of the OSS and expanding the use of reverse charge for B2B transactions

The new system introduces digital reporting for VAT purposes for B2B intra-Community transactions to provide Member States with information on a (near) real-time basis. Businesses will also be obliged to follow electronic invoicing for intra-Community B2B supplies based on a European standard. The information reported would be shared via a database of the Commission (i.e., the VAT Information Exchange System [VIES]) between tax authorities for analysis.

The Commission believes that the real-time availability of information about cross-border trade of goods/services will help in addressing missing trader fraud. The Member States will also have the option to introduce mandatory electronic invoicing and digital reporting for domestic B2B transactions, which should comply with the same European standard as cross-border electronic invoicing. The Commission expects that the existing digital reporting requirements in various Member States should converge with the proposed requirements by 2028. *However, at the time of preparing this chapter, it is uncertain whether the date (2028) will indeed be feasible, given the discussions between the Member States and the Commission on this topic. It is expected that this date will be postponed by at least one or two years.*

The package of proposals takes the form of amendments to three pieces of EU legislation: the VAT Directive (2006/112/EC), Council Implementing Regulation (EU 282/2011) and the Council Regulation on Administrative Cooperation (EU 904/2010).

K. EU filings

Intrastat. Intrastat is a system of reporting related to intra-Community transactions made by taxable persons. It allows the collection of statistical information on intra-Community trade in the absence of customs controls at the borders. EU businesses must submit information on a periodic basis to the VAT or statistics authorities if they make either intra-Community supplies or intra-Community acquisitions of goods in excess of certain limits. Businesses are also required to file Intrastat returns for cross-border services provided to business customers in other EU Member States.

Penalties may apply to missing and late Intrastat reports and to errors in reporting.

Further information on the requirements for Intrastat reporting is provided in the chapters dealing with the individual Member States of the EU.

EU Sales Lists. Taxable persons that make intra-Community supplies must submit EU Sales Lists (ESLs) to the VAT authorities quarterly.

As of 1 January 2020, for the intra-Community supply of goods to be zero-rated, the inclusion in the ESL of the correct VAT identification number of the recipient of the goods (in the Member State of arrival) has become a substantive requirement.

Penalties may apply to missing and late ESL reports and to errors in reporting.

Further information on the requirements for ESL reporting is provided in the chapters dealing with the individual Member States of the EU.

Fiji

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 1992
Trading bloc membership	None
Administered by	Fiji Revenue Customs Service (FRCS) (https://www.frcs.org.fj/)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	XX-XXXXX-X-X (9 digits)
VAT return periods	Monthly, bimonthly and annually
Thresholds	
Registration	Annual turnover of FJD100,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
• The supply of goods or services made in Fiji by taxable persons
• The importation of goods from outside Fiji
• The importation of services from outside Fiji

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Fiji, the following services are subject to

the "use and enjoyment" provisions (for both business-to-consumer [B2C] and business-to-business [B2B] supplies): fringe benefits and appropriation for private use. They are deemed supplies and treated as including VAT.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets these conditions, the supply is treated as outside the scope of VAT. In Fiji, a TOGC is treated as outside the scope of VAT, where both parties to the transfer are registered for VAT, and the business (or part of a business) will continue in the same operations, before during and after the transfer.

Transactions between related parties. In Fiji the open market value is required for VAT transactions between related parties.

C. Who is liable

A taxable person is any individual, incorporated entity, trust or partnership that is required to be registered for VAT. VAT registration is compulsory if annual turnover from a trade or profession exceeds FJD100,000. This threshold is for the upcoming 12 months. Generally, the taxable person must register in the next calendar month. This means that there is a requirement to register for VAT at the commencement of any month where there are reasonable grounds for believing that the total value of the supplies (not being exempt supplies) to be made in Fiji in that month and the 11 months immediately following that month will exceed the registration threshold, or where the taxable person is certain that the threshold will be exceeded or when the Commissioner makes this determination.

Exemption from registration. The VAT law in Fiji does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A person may also register for VAT voluntarily in advance of making taxable supplies.

Group registration. Group VAT registration is not allowed in Fiji.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Fiji, by way of reference to a usual place of residence. If the supply of services is made to an individual and received by that person other than for the purposes of any taxable activity carried on by that person, that person shall be deemed to belong in whatever country that person has their usual place of residence, provided that this does not apply to any individual who is present in Fiji at the time the services are supplied, other than when the goods in respect of which the supply is being made are situated outside Fiji.

Non-established businesses. Non-established businesses that don't have a taxable establishment cannot be registered in Fiji. This means that if a non-established business makes supplies of taxable goods or services in Fiji, the permanent establishment or a tax representative in Fiji is required to register and account for the VAT due on its behalf.

In the case of supplies of services made by a non-established business, the VAT due can be self-accounted for by the customer by way of the reverse-charge mechanism (see the *Reverse-charge* subsection below).

Tax representatives. Tax representatives are not required in Fiji. However, they are allowed, but not mandatory. If appointed, a tax representative must be a registered tax agent with the Fiji Revenue Customs Service (FRCS).

Reverse charge. If a non-established business supplies services that are performed or used in Fiji to a customer that is a non-VAT-registered person (i.e., B2C), the customer must self-account for the VAT via the reverse-charge mechanism when making payments offshore. The VAT is required to be paid when the recipient in Fiji makes the said payment for purposes of acquiring a tax clearance certificate. From 1 August 2022, this rule has been extended to also include supplies to persons registered for VAT (i.e., B2B) in Fiji. This means that for both B2B and B2C supplies of services by a non-established business, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism.

Domestic reverse charge. There are no domestic reverse charges in Fiji.

Digital economy. Nonresident providers of electronically supplied services for both B2C and B2B supplies are not required to register and account for VAT on supplies in Fiji. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in Fiji.

At the time of preparing this chapter, the VAT law outlining clarification and changes to the rules for the digital economy are not finalized or made public.

Online marketplaces and platforms. No special rules for online marketplaces and platforms in Fiji.

Registration procedures. An application for VAT must be made online with the taxpayer online system (TPOS), under the separate VAT registration module. Depending on the legal structure of the taxable person registering for VAT, certain documents must be provided with the application. For companies, the documents required include an incorporation certificate and a directors tax number. A trust deed is required for a trust and a partnership agreement is required for a partnership. The documents required for individuals include a birth certificate and identifications, such as a driving license, etc. The VAT registration process usually takes three to five working days.

Deregistration. A taxable person may deregister when they cease to carry on taxable activities or if their turnover was less than FJD100,000 in the previous 12 months or, based on reasonable grounds, is expected to be less than FJD100,000 in the upcoming 12 months. A taxable person can also deregister if its full taxable supplies become exempt.

The application for deregistration is done online with the TPOS system. A formal application is required to be uploaded on to the module. The taxable person will ordinarily be deregistered with effect from the last calendar day of the tax period in which all such taxable activities ceased or from such other time as the FRCS may determine.

The FRCS is not required to cancel the registration of a taxable person where the FRCS has reasonable grounds to believe that the person will carry on any taxable activity at any time within 12 months from that date of cessation.

Changes to VAT registration details. A taxable person must notify the CEO of FRCS online of any changes in their VAT registration details, via the TPOS system. Such notification must be made within 15 days of any change in the name, address, place of business, constitution, name of partners, or nature of the principal activity or activities of the taxable person; any change of address from which, or name in which, any taxable activity is carried on by the taxable person; and any changes in circumstances if the taxable person ceases to operate or close on a temporary basis, except where it closes due to a cessation of carrying on a taxable activity.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 15%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services, unless a specific measure provides for the zero-rate or an exemption.

A reduced rate of 9% was in effect until 1 August 2023.

Examples of goods and services taxable at 0%

- Exports (and related transportation), except goods that have been or will be re-imported into Fiji by the supplier
- Services of a consultant provided to a nonresident person
- Basic food items (including sugar, sugar cane, flour, rice, canned fish, cooking oil, potato, onion, garlic, dhal, tea, salt)
- Certain milk products (including baby milk, powdered milk, liquid milk)
- Personal hygiene products (soap, soap powder, toilet paper, sanitary pads, toothpaste)
- Domestic fuel (kerosene, cooking gas)
- Services provided physically outside of Fiji
- Supply of goods by a registered person to an inbound passenger in the international disembarkation concourse of the airport (e.g., duty free supplies, as well as meals)

Examples of goods and services taxable at 9%

- Non-white goods *(no longer subject to the reduced rate with effect from 1 August 2023)*
- Construction services *(no longer subject to the reduced rate with effect from 1 August 2023)*
- Rental of commercial property *(no longer subject to the reduced rate with effect from 1 August 2023)*
- Fuel and power *(no longer subject to the reduced rate with effect from 1 August 2023)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Rental of residential dwellings
- Ministry of Education-approved educational institutions
- Financial services
- Sale and acquisition of shares and securities
- Supply and provision of the right to partake in any gambling
- Supply by any nonprofit body of donated goods and services
- Supply of employment services to the government whereby payment is of salary and wages from Standard Expenditure Group 6 under a government grant

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Fiji.

E. Time of supply

The time when VAT becomes due is called the "time of supply." In general, the time of supply for goods and services supplied by a taxable person is the earliest of the following events:
- A tax invoice is issued by the supplier or the recipient
- Any payment is received by the supplier
- The delivery of the goods and services takes place

Deposits and prepayments. Where deposits and payments are inclusive of the contract price, the payment made is deemed to be the time of supply.

Continuous supplies of services. Goods supplied under a rental agreement, or services supplied under an agreement that provides for periodic payments, are treated as successively supplied for

successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Goods sent on approval for sale or return. The time of supply for goods sent on approval for return is when a credit note is passed. There are no special time of supply rules for supplies of goods sent on approval for sale. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The time of supply for reverse-charge services is upon payment.

Leased assets. Goods supplied under a rental agreement are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Imported goods. The time of supply for imported goods is at the time when import VAT is paid at the ports.

F. Recovery of VAT by taxable persons

VAT paid by a taxable person is recoverable as input tax if it relates to goods and services acquired solely for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (that is, tax charged on supplies made) in the VAT return for each tax period.

If input tax exceeds output tax in a tax period, the excess will be refunded in the month following the submitted refund claim, or within 30 days of the filing the VAT return. *At the time of preparing this chapter, amendments to the VAT bill (which include more clarification on the refund process) have not been passed or released.*

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes, and that are not wholly used for the furtherance of making taxable supplies.

Examples of items for which input tax is nondeductible

- Private use of business assets
- Not part of your taxable activity (for example, where nonprofits are registered for commercial reasons, the input tax paid for the nonprofit activities cannot be claimed)

Examples of items for which input tax is deductible (if related to taxable business use)

- Business gifts
- Business entertainment
- Mobile phones
- Travel expenses

Partial exemption. Input tax directly related to exempt supplies of goods or services is not generally recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

Where a taxable person makes taxable and exempt supplies and is unable to separately identify the input tax paid/payable relating to both, it is entitled to claim as a credit the proportion of the input tax that is attributable to the taxable supplies based on the formula taxable supplies/total supplies X total input tax creditable.

Approval from the FRCS is not required to use the partial exemption standard method in Fiji. Special methods are not allowed in Fiji.

Capital goods. Input tax incurred on the purchase of capital goods may be deductible subject to the general input tax deduction rules (see above). Accordingly, if the goods are used for taxable supplies, input tax may be fully deducted, subject to the general VAT rules. If the goods are used for both taxable and nontaxable or exempt transactions, a partial deduction may apply. Examples

of capital goods in Fiji include equipment, motor vehicles, plant and machinery, furniture, and tools.

Refunds. If the amount of input tax exceeds the amount of output tax in a reporting period, this can be included on the VAT return and filed online. FRCS will first allocate the refund to payable taxes, such as income tax, etc., and any remaining balance will then be refunded to the taxable person.

Any excess amount will be refunded in the month following the submitted refund claim, or within 30 days of the filing the VAT return. A refund can be obtained by submitting the periodic VAT report, the additional detailed digital report and copies of the tax invoices exceeding the relevant amount if requested by the FRCS. The FRCS may postpone the refund and conduct an examination or audit.

Pre-registration costs. Input tax incurred on pre-registration costs is generally deductible in Fiji. While there are no set rules around this, in practice the FRCS allows input tax incurred on pre-registration costs to be recovered.

Bad debts. VAT paid by a taxable person in connection with bad debts (i.e., if a supply was made and the output tax was declared, but the recipient did not pay the consideration agreed) may be recoverable provided all the below are met:
- Sufficient evidence of recovery was made
- The debtor is bankrupt
- A credit note is passed

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Fiji.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Fiji is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a full VAT invoice for all taxable supplies made to registered taxable persons that exceed FJD10. A tax invoice is necessary to support a claim for input tax recovery. A tax invoice must include such particulars as prescribed by the VAT Act.

Credit notes. A registered taxable person may issue a debit or credit note in circumstances including, but not restricted to, the following: to reflect an alteration in the supply or correction of the tax rate that was applied, correction of the terms of a transaction or a return of goods or services to the supplier, etc. An explanation is required to be indicated on the debit or credit note for its issuance. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Fiji, but it is not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Fiji. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Fiji. The requirements related to electronic invoicing are the same as those for paper invoicing.

There are currently no separate requirements for the format of electronic invoices; however, they must contain the relevant information as required for a normal VAT invoice and the original invoice should be available in case the FRCS requests it.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Fiji. As such, full VAT invoices are required.

However, a supplier, unless requested by the recipient, is not required to issue a full VAT invoice if the consideration in money for the supply does not exceed FJD10 or such amount as the Minister may from time to time, by Legal Notice, declare.

Self-billing. Self-billing is allowed in Fiji, either for one particular transaction or for issuing invoices on a general basis. In Fiji, self-billing is known as "buyer-created invoices." The following conditions apply:

- The parties (i.e., the supplier and the customer or a third-party agent who intends to issue the invoices) should conclude a written agreement in advance on the self-billing process that details the terms and conditions of the invoice issuance.
- If the customer issues the invoice, the words "self-billing" must be indicated in the invoice.
- The parties' liability is joint and several with respect to the compliance with the provisions relating to the invoice issuance.
- The parties must obtain approval from the Commissioner to use self-billing.

Proof of exports. VAT is not charged on exports. To qualify as zero-rated, exports must be accompanied by evidence that the goods have left Fiji. Suitable documentary evidence includes a copy of the single administration document (SAD) (normally referred to as the customs importation document) or customs entries. Another general condition is that the export proceeds are required to be received by the supplier. A grace period of six months is granted, and the Reserve Bank of Fiji (RBF) usually provides confirmation on this.

Foreign currency invoices. Invoices may be issued in a foreign currency. However, the amounts must be converted to the domestic currency, which is the Fijian dollar (FJD) for VAT reporting purposes (i.e., in the VAT return). The conversion must be made using the RBF weighted average exchange rate, which can be found on the RBF's website (http://www.rbf.gov.fj).

Supplies to nontaxable persons. A supplier, unless requested by a recipient, is not required to issue a tax invoice if the consideration in money for the supply does not exceed FJD10 or such amount as the Minister may from time to time, by Legal Notice, declare.

Records. Registered taxable persons are required to keep accounts and records as prescribed by the VAT Act. In Fiji, examples of what records that must be held for VAT purposes include financial statements, trial balance, invoices, etc.

In Fiji, VAT books and records can be kept outside of the country. However, if records are held outside of Fiji, such records must be available in a timely manner at the request of FRCS.

Record retention period. Registered taxable persons must keep books and records for at least seven years from the end of the taxable period to which they relate.

Electronic archiving. Electronic archiving is allowed in Fiji. Records and books of accounts can be kept in an electronic format, as long as they are retrievable when requested by FRCS. They must be held for at least seven years from the end of the taxable period to which they relate.

I. Returns and payment

Periodic returns. The VAT reporting period is monthly. Returns must be filed by the end of the following month.

Periodic payments. Any VAT due for the VAT reporting period must be remitted to the FRCS by the end of the following month. The VAT due is mainly paid by direct transfer via wiring, and cash or cheque in person at the FRCS. For wiring purposes, the payment must be made online with the FRCS (https://www.frcs.org.fj/), and the payment details must also be sent via email (onlinepayments@frcs.org.fj or suvairsdespatch@frcs.org.fj).

Electronic filing. Electronic filing is mandatory in Fiji for all taxable persons. All registered taxable persons are required to file their VAT returns online with the FRCS (www.frcs.org.fj/).

Payments on account. Payments on account are not required in Fiji. However, a taxable person may optionally make advance payments that can sit on ledgers before filing the VAT returns.

Special schemes. *Annual accounting.* For small and medium enterprises, they can opt for annual filing periods and file VAT returns annually, if their annual income threshold is less than FJD300,000.

Secondhand goods. To avoid double taxation on goods that have previously borne VAT when sold as new, a business can opt to charge VAT on the profit margin on supplies of works of art, antiques or collectors' items; motor vehicles; secondhand goods; and goods through a person who acts as an agent, but in their own name, in relation to the supply. This applies only for VAT-registered persons that sell secondhand goods, and the VAT applies only to the difference in the sales price less the cost of acquiring the goods secondhand.

Annual returns. Annual returns are not required in Fiji.

Supplementary filings. There are no supplementary filings required in Fiji.

Correcting errors in previous returns. If a taxable person discovers an error or an omission from a previous periodic declaration, this can be corrected online via the VAT portal with the FRCS.

Digital tax administration. There are no transactional reporting requirements in Fiji.

J. Penalties

Penalties for late registration. There is no specific penalty in Fiji for the late registration of VAT.

Penalties for late payment and filings. The penalty for late payment of VAT and late filing of a VAT return in Fiji is 25% of the tax due.

Penalties for errors. The penalties that would apply are dependent on the impact of the error on the VAT payable for the relevant period. If there is additional VAT payable, the regular charges (described above) would apply.

There are no specific penalties associated with the late notification or failure to notify the FRCS of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The penalty for fraudulent conduct is equal to "A × r × t" where A is the tax benefit arising from the overstatement of input tax, r is the rate of penalty at 15% and t is the number of years after the year of assessment for the tax return. Criminal penalties can also apply here.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Fiji. The penalty for such errors and omissions is FJD25,000 or jail term not exceeding 10 years, but for tax agents this increases to FJD50,000 and jail term not exceeding 10 years. However, in practice the penalty and jail term are usually dependent on the size of the error.

A director of a private company is answerable for anything done by that company under the VAT law. In case of default of the company, a director is liable to the same penalties and to account for the VAT debts of that company, provided that a director is not liable for any tax liability of the company where the FRCS is satisfied that the director was not at the material time or times involved in the executive management of the company.

Where a company that becomes insolvent or liquidated and owes VAT and all associated penalties, each person who is a director of the company is liable to pay to the FRCS such VAT owed and all the associated penalties.

Statute of limitations. The statute of limitations in Fiji is seven years. However, for serious omissions it may extend further back. But where there are no serious omission issues then the Commissioner can only audit from the period of the last audit onward.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Arvonlisävero (ALV)
Date introduced	1 June 1994
Trading bloc membership	European Union (EU)
Administered by	Finnish Ministry of Finance and Finnish Tax Administration (Verohallinto) (http://www.vero.fi)
VAT rates	
Standard	24%
Reduced	10%, 14%
Other	Zero-rated (0%) and exempt-with-credit
VAT number format	1234567-8 (used for domestic trade, imports and exports) FI12345678 (used for intra-Community trade)
VAT return periods	Monthly (or in certain cases quarterly or annually)
Thresholds	
Registration	
Established	EUR15,000
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes , subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Finland by a taxable person
- The intra-Community acquisition of goods and acquisition of services (as provided in Article 196 of EU Directive 2008/8/EC) from another EU Member State by a taxable person (see the chapter on the EU)

- Reverse-charge services received by a taxable person in Finland (i.e., services for which the recipient is liable for the VAT due)
- Reverse-charge goods purchased by a taxable person in Finland
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, Finland does include the insular province of Ahvenanmaa (Åland Islands). Åland Islands are not, however, part of the EU VAT territory, which brings a number of special VAT provisions and practices regarding the trade related to the Åland Islands, specifically in regards to the supplies of goods. However, the province is part of the Finnish and EU customs territory.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The Quick Fixes have been adopted by Finland from 1 January 2020. However, the Quick Fixes provision did not have an effect on the documentation necessary as proof for zero rating the intra-Community supplies of goods, and documentation proving the transportation is accepted as proof. One document as proof of the transportation is considered sufficient. There are no other local rules or derogations of the Quick Fixes in Finland.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Finland, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. The supply of goods or services in connection with the transfer of a going concern (TOGC) or a part thereof is not considered a VAT-taxable sale, provided that the goods or services transferred will be used as part of the transferee's VAT-taxable business activities. If the transferee's business activities result in a partial VAT deduction, this provision only applies to the extent of the VAT-taxable business activities.

Transactions between related parties. If a consideration excluding the tax portion is considerably below the open market value, and the transaction is between related parties where the purchaser does not have the right to deduct the VAT in full, the output tax is calculated based on the open market value.

C. Who is liable

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

The VAT registration threshold of EUR15,000 applies to businesses that are established in Finland or that have a fixed (permanent) establishment in Finland. The law also includes a tax relief for small businesses with a turnover between EUR15,000 and EUR30,000 during the financial year. The tax relief is gradual. As a result, the amount of the relief decreases as turnover increases. According to information received from the Finnish Ministry of Finance, the Council Directive (EU) 2020/285 amending Directive 2006/112/EC on the common system of value-added tax, as it regards the special scheme for small enterprises, and Regulation (EU) No 904/

2010, as it regards administrative cooperation and the exchange of information to monitor the correct application of the special scheme for small enterprises, are implemented. Key changes include the abolition of the tax relief and extending the application of the VAT registration threshold to cover also small businesses that are not established in Finland. The changes will enter into force on 1 January 2025.

Under the main rule, the place of supply of services is determined by the location of the fixed establishment of the purchaser to which the services are supplied. If no such fixed establishment of a purchaser exists, the place of supply is the purchaser's domicile. If the supplier does not have a domicile in Finland and does not have a fixed establishment in Finland that would intervene in the rendering of the service in the country of the purchaser, the supplier must invoice the purchaser for the sale of the service without VAT. Based on the reverse-charge mechanism, the purchaser reports and pays the VAT on the supplier's behalf. The main rule regarding the place of supply of services (Article 44 of Directive 2008/8/EC) is similar to the treatment of intangible services before 2010. However, for certain services (for example, services relating to immovable property, passenger transport, arranging of events and catering services), exceptions to the main rule exist.

Exemption from registration obligation. As a general rule, VAT registration obligations concern all entrepreneurs and companies supplying goods and/or services in the form of economic/business activities. There is generally no exemption to this obligation, unless supplies made are under the EUR15,000 threshold. This threshold applies to businesses established in Finland only. It does not apply to non-established businesses. *For further details see the subsection above.*

Voluntary registration and small businesses. An entrepreneur that is not required to register for VAT as a result of its turnover being below the small business threshold may still choose to voluntarily register for VAT. The voluntary VAT registration may be applied at the earliest from the date the application arrives at the Finnish Tax Administration. The voluntary VAT registration is possible under the precondition that the entrepreneur conducts activities for business purposes. The consideration is made based on all circumstances at hand. Voluntary VAT registration is allowed for both established and non-established businesses.

Group registration. Group registration may be granted to taxable persons that supply exempt financial or insurance services and to other taxable persons controlled by financial or insurance companies. Group members must have close "financial, economic and administrative relationships." All members of the VAT group must be established in Finland. However, Finnish fixed establishments of foreign entities may belong to a VAT group.

Group members are treated for VAT purposes as a single taxable person. No VAT is charged on transactions between group members. Members are jointly responsible for all VAT liabilities of the group.

There is no minimum time period for the duration of a VAT group.

Holding companies. A pure holding company, as set out in the Finnish Act on Credit Institutions (Chapter 1, Article 15), and is aligned with the EU's Capital Requirements Regulation (Article 4, Paragraph 1, Sections 20-21), may be included in a VAT group. From 1 January 2023, the wording of the VAT Act concerning VAT groups has been amended so that an insurance holding company (referred to in the Insurance Companies Act and the Insurance Associations Act) and an ownership entity (referred to in the Investment Services Act) may be included in a VAT group. The amendment corrected the outdated reference to the Accounting Regulation and updated the regulation to reflect developments in financial regulations.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been implemented in Finland. This provides an option to

exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Finnish VAT law, Article 60a of the Finnish VAT Act).

An independent group of persons may be granted a VAT exemption on services that the group supplies to its members, subject to several conditions, among them that the provision of those supplies does not cause any distortion of competition. The legal form of the group of persons or the member is not restricted in the VAT Act. It is recommended that the group requests an advance ruling from Finland's VAT authorities before launching a cost-sharing arrangement.

Fixed establishment. The legal definition of a fixed establishment no longer exists in the Finnish VAT Act, as the fixed establishment is regulated by the EU Council Implementing Regulation. Accordingly, a fixed establishment shall be any establishment that has a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use the services supplied to it for its own needs or to enable it to provide the services that it supplies.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Finland. A non-established business that makes taxable supplies in Finland is not required to register for VAT if the reverse-charge rule applies to all its transactions. If the reverse charge does not apply, the non-established business must register for VAT in Finland. The VAT registration threshold does not apply to supplies made by a non-established business that does not have a fixed establishment in Finland.

When registering for VAT in Finland, a foreign business must fill in an explanatory form concerning the business activities conducted by it in Finland. The explanatory form is an enclosure to the VAT registration. The Finnish tax authorities are likely to use the information provided on the form in determining whether the foreign business has a permanent establishment in Finland.

A non-established business that is involved in intra-Community trade in Finland must notify the Finnish VAT authorities of its activities (*see the chapter on the EU*). Consequently, even if the business does not have to register for VAT (for example, because the reverse charge applies to its sales), it must still notify the Finnish VAT authorities of the fact that it has begun activities. It must also report details of its intra-Community trade to the VAT authorities on a monthly basis. The procedure for registering for the "notification duty" is the same as for general VAT registration.

Alternatively, a non-established business may opt to register for VAT. If a non-established business opts to register for VAT, it may recover Finnish input tax more quickly through its periodic tax returns. The taxable person must file a periodic tax return that contains VAT information and information regarding other taxes reported through the MyTax portal.

Tax representatives. A non-established business that must register for VAT in Finland is not required to appoint a tax representative, but it may choose to do so. In practice, many non-established businesses appoint tax representatives to deal with correspondence from the Finnish VAT authorities, because it is normally written in Finnish or Swedish.

However, if a non-established business opts to register for VAT in Finland when it is not required to do so (for example, because the reverse charge would apply to its transactions), it must appoint a tax representative resident in Finland. This obligation applies only to businesses that do not have a domicile or a fixed establishment in the EU. The Finnish VAT authorities must approve the tax representative. The representative is not liable for any VAT due.

Reverse charge. Under the reverse-charge rule, the Finnish customer is responsible for accounting for the VAT. However, a non-established taxable person may opt to register for VAT purposes in Finland, and the reverse-charge rule no longer applies, except for certain supplies of construction services or sales of metal scrap or metal waste.

The reverse-charge rule applies to most supplies of goods and services. The reverse-charge rule does not apply to the following transactions:
- Supplies of goods and services to private individuals
- Supplies of goods and services to a non-established business that does not have a fixed establishment in Finland or a VAT registration in Finland
- Distance sales of goods
- Supplies of passenger transport, supplies of the right of admission to educational, scientific, cultural, entertainment or sporting events and other similar events, as well as services directly related to the admission to such events

Domestic reverse charge. The reverse-charge mechanism is also applied to the following domestic sales:
- Sales of emission rights
- Sales of construction services
- Sales of investment gold
- Sales of scrap metal and metal waste

The reverse charge is applied to the domestic supply of construction services (also labor leasing for construction work). The reverse-charge mechanism is applied to supplies of construction work with respect to immovable property in accordance with specific requirements. The nature of the service and the status of the buyer are decisive in determining whether the supplied service falls under the reverse-charge mechanism. The condition is that the buyer is a business engaged in the rendering of construction services on an ongoing basis.

The reverse-charge mechanism applies to local supplies within Finland between taxable businesses provided that the goods supplied meet the specific requirements.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above).

In Finland, the registration for VAT is done by filing a startup notification in paper format. It is not yet possible for foreign businesses to file their startup notifications online.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Finland, registration for the OSS can be done electronically in the MyTax portal. The OSS consists of three parts; the Union scheme, the non-Union scheme and the Import One-Shop Stop (IOSS).

The Union scheme covers all the services sold to consumers in the EU and the distance selling of goods to consumers in the EU. A supplier can use the Union scheme to file and pay VAT if: 1) The supplier has its domicile or has a fixed establishment in the EU, and the supplier sells services to private consumers in EU countries, or 2) A supplier conducts distance sales from one EU country to another. Goods are sold to private consumers. It is not necessary for a supplier to have its domicile or a fixed establishment in an EU country.

A supplier can file and pay VAT through the non-Union scheme if the supplier has no domicile and no fixed establishment in the EU territory, and the supplier sells services to private consumers in EU countries.

The quarterly tax period is applied for the Union and non-Union schemes. Corrections will be made subsumed in the tax returns that are filed after perceiving the error, i.e., a corrective replacement return shall not be filed for the tax period where the error occurred. *For more details about the operation of the OSS, see the chapter on the EU.*

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU, regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the chapter on the EU.*

In Finland, registration for the IOSS can be done electronically in the MyTax portal. The monthly tax period is applied for the IOSS.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final

destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Finland, the special scheme for postal services and couriers can be used by a transport company that acts as a representative for the consignee, who is a private individual or some other operator not registered for VAT and submits import declarations on behalf of this individual or operator. Before the transport company can use the special scheme for postal services and couriers, it must first register by sending a free-form notification to the Customs Authorization Centre. *For more details about the special scheme for postal services and couriers, see the chapter on the EU.*

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales of goods within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments (distance sales). In both cases, the final customer must be a nontaxable person.

In Finland there are no additional specific local rules that apply. *For more details about the rules for online marketplaces, see the chapter on the EU.*

Vouchers. Finland has, as of 1 January 2019, implemented the EU Directive 2016/1065 amending VAT Directive (2006/112/EC) as regards treatment of vouchers.

A "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

A "single-purpose voucher" (SPV) means a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue of the voucher.

A "multi-purpose voucher" (MPV) means a voucher, other than a single-purpose voucher.

In short, where the VAT treatment attributable to the underlying supply of goods or services can be determined with certainty when the SPV is issued, VAT should be charged on each transfer, including on the issue of the SPV. The actual handing over of the goods or the actual provision of the services in return for an SPV should not be regarded as an independent transaction. For MPVs, VAT should be charged when the goods or services to which the voucher relates are supplied.

Registration procedures. In the case of mandatory VAT registration, retrospective VAT registration is required, provided that the business activities, causing the Finnish VAT registration obligation, have commenced in the past. In the case where a foreign entity opts to register voluntarily for VAT purposes in Finland, the earliest possible point of VAT registration is the date of the filing of the VAT registration form.

In Finland, the VAT registration form must be filed in paper format, including the company's trade register extract with an English translation attached. The form and its enclosures must be sent to the Finnish Tax Administration by post. On average, the completion of the VAT registration procedure takes two to four weeks after the filing of the VAT registration application.

Starting on 1 January 2024, according to Article 175, the tax administration must issue a decision to the person concerned for the VAT registration and the formation and dissolution of a VAT group referred to in Article 13a.

Deregistration. A taxable person that ceases to be eligible for VAT registration must deregister by filing a notification in paper format.

Where the original VAT registration was voluntary, the deregistration can be done at the earliest from the date when the deregistration form arrives at the tax administration.

Where the original VAT registration was mandatory, the deregistration can be effective retroactively from the date the VAT taxable activities have ended. If a VAT-registered company submits nil VAT declarations for several consecutive months, it is possible that the tax administration will deregister that taxable person from the VAT register.

Changes to VAT registration details. A taxable person is obliged to notify the tax administration when there is a change in its VAT registration details (change of name of company, address, type of business, VAT status, etc.). The change notification is filed in paper format or through the MyTax portal.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 24%
- Reduced rates: 10%, 14%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure allows for a reduced rate, the zero rate or an exemption.

Zero-rate supplies can also be classified as "exempt with credit," which means that no VAT is chargeable, but the supplier may recover related input tax. Examples of exempt-with-credit supplies include intangible services supplied to another taxable person established in the EU or to a recipient outside the EU.

Examples of goods and services taxable at 0%

- Exports of goods
- Sale, leasing and chartering of sea-going vessels with prescribed characteristics, as well as work performed on such vessels
- Sales of goods or services to the EU Commission or another EU body to react for COVID-19, when certain preconditions are met

Examples of goods and services taxable at 10%

- Cinema
- Sporting services
- Books (printed and digital versions)
- Medicine
- Passenger transport
- Accommodation
- Compensation from copyrights received by a copyright organization that represents the copyright holders
- Newspapers and periodicals (printed and digital versions)

The Finnish government has plans to amend the VAT rates so that the changes would become effective as of 1 January 2025. According to these plans, the goods and services that are currently subject to 10% reduced VAT rate would be subject to 14% VAT rate, with the exception that newspapers and magazines would remain under 10%. Furthermore, the VAT rate on incontinence and menstrual protection and diapers would be reduced from current 24% to 14%.

Examples of goods and services taxable at 14%

- Most foodstuffs, including restaurant and catering services (food served at restaurants)
- Animal feed
- Drinking water

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Land and buildings
- Financial transactions
- Insurance
- Education
- Health and welfare
- Transfers of copyright ownership
- Universal postal services supplied by universal postal service providers

Option to tax for exempt supplies. Leasing of land and buildings is generally exempt. However, provided that the certain preconditions are met, the lessor may opt to register for VAT when leasing immovable property and consequently, charge leases with the standard VAT rate. This is possible only provided that the land and or building in question is used continuously for a taxable purpose, or in certain other separately prescribed situations. There are also some additional requirements for mutual real estate companies.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply is the month in which the goods are delivered, or the services are performed.

During the accounting year, a taxable person may account for VAT on the basis of invoices issued and received. At the end of the accounting year, the VAT reporting must be adjusted to follow the basic time of supply (i.e., on the basis of goods delivered and services performed).

Deposits and prepayments. The time of supply for an advance payment or prepayment is when the payment is received by the supplier (even if the supplier has not yet issued an invoice or made the supply).

Continuous supplies of services. The time of supply of the continuous supplies of services is the month in which a settlement period ends. A service for which invoicing is based on time spent rather than on amounts received is considered to be continuous.

Goods sent on approval for sale or return. There are no special time of supply rules in Finland for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Finland for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Usually, the (operational) lease of assets is seen as continuous supplies of services as the invoicing is based on time spent. The time of supply of continuously delivered services is the month in which a settlement period ends.

Imported goods. The tax point for importation of goods is the date of the written customs clearance confirming that the imported goods are in "free circulation" in the EU following their direct importation or their release from a customs regime. This is not necessarily the date on which the goods are imported.

Intra-Community acquisitions. The tax point for an intra-Community acquisition of goods is the month following the month in which the goods are received, but this is superseded if an invoice is issued in the month of receipt of the goods, where the tax point is the month of receipt of the goods.

Intra-Community supplies of goods. The time of supply of intra-Community supplies of goods reflects the time of supply of intra-Community acquisition. As a consequence, the basic time of supply for an intra-Community supply of goods is the month in which the goods are delivered to the purchaser. The tax point for an intra-Community supply of goods is the month following the one in which goods are delivered to the customer, but this is superseded if an invoice is issued in the month that the goods are delivered.

Distance sales. The time of supply for supplies of distance sales is the month in which the goods have been delivered to the recipient of the goods.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied within Finland, VAT paid on imports of goods and VAT due on the intra-Community acquisition of goods and VAT self-assessed on acquisition of services or goods.

The time limit for a taxable person to reclaim input tax in Finland is three years. If a taxable person notices erroneously non-deducted input tax related to an earlier period, it may recover the input tax within three years, calculated from the beginning of the calendar year that follows the end of the fiscal year in question. For example, if a taxable person notices that input tax has not been recovered for November 2023, the input tax must be recovered and the VAT return corrected either by the end of 2026 (if fiscal year equals to calendar year) or by the end of 2027 (if the fiscal year would be ending for example 31 March 2024).

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Business entertainment
- Purchase, lease, hire and maintenance of passenger cars and cars for mixed purposes (i.e., cars designed and equipped for carrying passengers and goods), unless used exclusively for VAT-deductible business use
- Private use of trucks and vans
- Fuel for private cars
- Private expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- Hotel accommodation (VAT on hotel breakfast is not deductible)
- Books
- Advertising
- Staff entertainment (subject to limitations)
- Home and mobile telephone bills (portion of private use is nondeductible)
- Attendance at conferences, seminars and training courses
- Fuel and maintenance of vans, to the extent used for business purposes
- Public transport and taxis

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

In Finland, the amount of input tax that a partially exempt business may recover is calculated in the following two stages:

- In the first stage, companies should identify whether the purchase may be directly allocated to either exempt or taxable supplies. Exempt-with-credit supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is recoverable in full.
- The second stage apportions the remaining input tax, i.e., the input tax that relates to both taxable and exempt supplies, in order to allocate a portion to taxable supplies (which may then be recovered). The deductible part of a purchase that is used as both VAT taxable and exempt business activities is determined based on its usage. Thus, the pro rata calculation should demonstrate how the purchase is used in business activities subject to VAT. For example, this treatment applies to the input tax related to general business overhead costs.

There is no "standard method" for partial exemption in Finland. Any method that gives a reliable or precise calculation of the partial exemption may be used. Approval from the tax authorities is not required to use any method.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. In Finland, special treatment for capital goods is restricted to purchases of land and buildings and to construction and fundamental improvements.

Special rules apply to deductions on real estate investments, including:

- Input tax on real estate investments is deducted in the VAT year in which the goods or services are acquired for taxable business purposes. The amount of input tax recovered depends on the

use of the immovable property for taxable business activity. If the use of the property for taxable business activity increases or decreases, the amount of input tax recovered is adjusted. The right or obligation to adjust relates only to real estate used for business purposes.

- The adjustment period is 10 years, beginning with the year in which the construction or renovation work is completed. This period also applies to certain cases in which the real estate is taken into use after the completion of the real estate investment (that is, cases in which the real estate is not taken into use immediately after the real estate investment has been completed). Each year, 1/10 of the input tax paid for the real estate investment is subject to adjustment.
- The annual adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the portion of taxable use of the property has increased or decreased compared with the year in which the investment was made. The annual adjustment is reported in the last periodic tax return of the calendar year in question (i.e., the periodic tax return for December). Adjustments do not apply to operating costs or maintenance costs.
- If the immovable property is sold to a business, the right or liability for adjustments is transferred to the acquiring business if not otherwise agreed. In some cases, a full adjustment must be made instead of annual adjustments.
- The adjustment and monitoring rules also apply to tenants that have made real estate investments with respect to the leased premises. Consequently, the status of the tenant is comparable to the status of the owner of the immovable property, with respect to the transfer of the adjustment obligation.

Other rules may also apply to specific situations, such as a sale of the real estate that is under construction. According to the Finnish Ministry of Finance, the effects of the judgment given by the Court of Justice of the European Union in the matter of *C-787/18 (Sögård Fastigheter AB)* shall be examined. This case refers to the transferability of the VAT adjustment liability. *At the time of preparing this chapter, the government has proposed amending the Value Added Tax Act, and this is due to be submitted in 2024, but it is not clear when the changes will be introduced.*

In Finland, the capital goods adjustment applies to construction services only. It does not apply to any other services.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit.

Under the so-called MyTax procedure, the amount of VAT that has not been used for the payment of VAT due during the tax period (i.e., the input tax credit) is set off against other taxes due if needed or otherwise refunded to the taxable person after the tax period. Alternatively, the taxable person can allocate the amount of VAT into the tax account. This amount can be used for the payment of the VAT and other taxes due in the future. As a result of the introduction of the tax account procedure, two earlier practices are, in general, no longer applicable: the VAT advance refund procedure that applied during the accounting period and the VAT refund procedure that applied after the accounting period. For further information, see *Section I. Returns and payment*.

Pre-registration costs. In general, costs related to the starting up of a taxable business are deductible. A taxable person may deduct VAT on such acquisitions that have been purchased for the purposes of the upcoming business. The input tax on such costs should be allocated to the (first) calendar month during which the actual business activities and VAT liability start.

Bad debts. Bad debt relief is available for both established businesses and non-established businesses registered for VAT in Finland. The amount does not need to be final based on bankruptcy or enforcement procedures, but it must be considered to be accrued in accordance with good accounting practice.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Finland.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Finland is recoverable. The Finnish VAT authorities refund VAT incurred by businesses that are neither established in Finland nor registered for VAT in Finland. Non-established businesses may claim Finnish VAT to the same extent as a VAT-registered business.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9. The VAT refund procedure under EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Finland during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Finland:
- Under EU Directive 2008/9, a claim form must be filed electronically with the domestic tax authorities of the taxable person's country. According to the Finnish tax authority guidelines, applicants should use the electronic portal maintained by the tax authority in their Member State of establishment to reclaim Finnish VAT. The Finnish Tax Administration processes the electronically submitted applications in Finland.
- The section of the tax.fi website called "ALVEU" has an electronic question/answer service, called "Contact User Support" (tax.fi/ALVEU).
- The claim form may have to contain a closer specification of the invoices and importation documents (among others, the nature of the purchased goods or services itemized to different codes).

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th VAT Directive. *For full details, see the chapter on the EU.*

Finland does not exclude claimants from any non-EU country from the refund process and does not require reciprocity.

Find below specific rules for Finland:
- The deadline for refund claims is 30 June of the year following the year in which the supply was made. The date of supply may be earlier than the date of the invoice. The deadline for claims is strictly enforced.
- Claims must be submitted in Finnish, English or Swedish. The refund application must be accompanied by the appropriate documentation.
- The minimum claim period is three consecutive months during the same calendar year. The maximum claim period is one year. The minimum claim amount for a period of less than a year is EUR400. For an annual claim, the minimum amount is EUR50.
- According to the Finnish tax authority guidelines, refunds must be requested in writing. Form 9550 must be submitted, and the completed form should be sent to:

  Finnish Tax Administration
  P.O. Box 560
  FI-00052 VERO
  Finland

Late payment interest. In Finland, interest is not paid on late refunds to non-established businesses (for both EU and non-EU non-established businesses).

H. Invoicing

VAT invoices. A Finnish taxable person must generally provide a VAT invoice for all supplies made to other taxable persons and to all legal entities, including exports and intra-Community supplies. There are no obligations to issue invoices for advance payments for intra-Community

supplies. Invoices are required for supplies to private persons regarding intra-Community supplies of new means of transport and distance sales.

Both sales and purchase invoices must be in accordance with the Finnish VAT invoicing rules. A purchaser of goods and services may recover the input tax on the purchase only if it retains an invoice that fulfills the requirements. If purchase invoices do not fulfill all the requirements, the purchaser may lose the right to recover the input tax, unless the inadequate invoice is replaced with a new (corrected) invoice.

An invoice for intra-Community supplies of goods carried out in accordance with the conditions specified in Article 138 or for supplies of services for which VAT is payable by the customer pursuant to Article 196 must be issued on the 15th day of the following month at the latest.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. An invoice must be issued for annual discounts, rebates, etc. The credit note must include a reference (e.g., invoice number) to the original invoice to which the credit applies. If the credit does not apply to a specific invoice, but is, for example, a discount for a certain period of time, then the invoice can be marked with additional information about the period of discounts.

Electronic invoicing. Electronic invoicing is allowed in Finland, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There are no provisions in Finland that would unambiguously require electronic invoicing to be mandatory as such. However, the law stipulates that for B2G supplies the business must have the right to use electronic invoicing (government entities must accept electronic invoices). Furthermore, it is stipulated that for B2B and B2C supplies the purchaser has the right to require electronic invoices from its vendors. The law is not applied to entrepreneurs whose turnover is EUR10,000 or less.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. Simplified VAT invoices may be issued in the following cases:
- Invoices for amounts up to EUR400 (including VAT)
- Invoices relating to supplies made by certain businesses whose clients are principally private persons, such as retailers and kiosks and hairdressers
- Invoices regarding passenger transport or restaurant services and receipts concerning parking meters and vending machines

Self-billing. Self-billing is allowed in Finland. There must be an agreement (written or oral) between the supplier and the purchaser on applying the self-billing arrangement. The general invoicing requirements apply also in self-billing cases and the supplier is responsible for the accuracy of the invoice.

Proof of exports and intra-Community supplies. Finnish VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods. However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence, such as proof that the goods have left Finland. For an export, acceptable proof includes a copy of the export document, officially validated by customs. The authorities may also approve the use of other documentation such as consignment notes (or other commercial evidence) or the import declaration of the customs destination. Depending on the party that arranges the transportation, other requirements may need to be satisfied for the VAT exemption to be allowed.

For an intra-Community supply, proof of transportation of the goods movement from Finland to another EU Member State and valid VAT number of the customer in the other EU Member State is required.

No special documentation applies in Finland for evidencing the application of the Quick Fixes. In Finland, a supplier submits export and re-export declarations in the Export Declaration Service of the Finnish Customs. An electronic export declaration must be submitted to Customs for all goods exported from the EU, but for a few exceptions. The most common exceptions are the following:

- Postal parcels with a maximum value of 1,000 euros
- Personal goods carried by passengers

Foreign currency invoices. A valid Finnish VAT invoice may be issued in a foreign currency, but the VAT amount must be converted to euros (EUR) using the latest selling rate of the Bank of Finland or the rate published by the European Central Bank at the time the tax becomes chargeable.

Supplies to nontaxable persons. Finnish suppliers are not specifically required to issue tax invoices to nontaxable customers, but in practice, an invoice may often be required.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Finland, examples of what records must be held for VAT purposes include bookkeeping materials (bookkeeping, financial statements, annual report, etc.) and tax invoices. In Finland, VAT books and records can be kept outside of the country. As of 1 January 2023, the provisions of the VAT Act concerning the storage location of invoices was amended in line with the amendment to the Accounting Act, so that taxable persons can now determine the storage location of invoices themselves. The review of invoices must be possible in Finland for the tax authority without undue delay, and it is also required that there is a complete real-time computer connection to the invoices stored electronically abroad.

Record retention period. The retention period for bookkeeping materials is 10 years. As a general rule, invoices must be kept for six years. In certain specific situations, longer retention periods apply, e.g., 13 years for invoices and documents related to real estate investments subject to the VAT monitoring liability.

Electronic archiving. Electronic archiving is allowed in Finland. This documentation can be stored abroad provided that the storage is arranged by electronic means and real-time access from Finland is guaranteed.

I. Returns and payment

Periodic returns. Finnish periodic VAT returns are submitted monthly or, in certain cases, quarterly or annually.

The taxable person files self-assessed tax returns, such as VAT returns, and EU Sales Lists in the Finnish Tax Administration's online portal, MyTax.

In general, the periodic VAT return must be filed electronically by the 12th day of the second month following the return period. For example, the due date for the January 2024 VAT return is 12 March 2024.

If the taxable person's tax period is a calendar year, the due date for the VAT return and payment of the tax due is the 28th day of the second month following the return period. The periodic VAT return is considered to be filed on time when the Finnish tax authorities receive the VAT return within the prescribed period.

Voluntary extensions of VAT reporting and payment periods to a quarter or a year are available for small companies (turnover not more than EUR100,000 or EUR30,000 per calendar year, respectively).

Periodic payments. Under the MyTax procedure, all taxes and payments are entered into a tax account maintained by the tax authority. The taxable person must pay all taxes due, in euros, by the 12th day of the month by using a certain reference number to one of the bank accounts indicated by the Finnish Tax Administration for VAT payments. The amount of VAT that is not used for the payment of VAT due during the tax period is set off against other taxes due if needed or otherwise refunded to the taxable person after the tax period. Alternatively, the taxable person can retain the VAT in the tax account and use it for the payment of the VAT (or other taxes) due in the future.

Electronic filing. Electronic filing is mandatory in Finland for all taxable persons. However, the Finnish Tax Administration may temporarily allow taxable persons to file a paper VAT return if the taxable person does not have access to electronic filing. Non-Finnish users can also have access to electronic filing services. E-filing of documents, such as VAT returns and EU Sales Lists, is organized through a so-called Suomi.fi identification (the formerly used Katso ID has been replaced from 1 August 2021 by the Suomi.fi identification). Consequently, in order to be able to make electronic filings, taxable persons should set up Suomi.fi credentials for electronic filing. The setup of an e-filing procedure is rather complex, especially for foreign companies with no Finnish citizens as employees.

Payments on account. Payments on account are not required in Finland.

Special schemes. *Cash accounting.* Small companies with turnover less than EUR500,000 per financial year can notify and pay the VAT on a cash basis. This simplification only concerns fully domestic transactions.

Margin scheme. A special VAT margin scheme also applies for transactions carried out by travel agents and for transactions concerning secondhand goods, works of art, collectors' items and antiques.

Reindeer herding. For the purposes of VAT on reindeer husbandry, the herd and its reindeer owners form one taxable person, i.e., a reindeer owners' association. This means, among other things, that within the association, purchases and sales related to reindeer husbandry are exempt from VAT (from the association to a shareholder and vice versa, and from one shareholder to another). Sales are subject to VAT when reindeer meat or other reindeer products are sold outside the reindeer owners' association, either through the association or as the reindeer owner's own direct sales.

Annual returns. Annual returns are not required in Finland.

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

The threshold for Intrastat Arrivals and Intrastat Dispatches for 2023 is EUR800,000. *At the time of preparing this chapter, the thresholds for 2024 have not been announced.*

Finnish taxable persons must complete Intrastat declarations in EUR.

The Intrastat return period is monthly. The submission deadline is the 10th business day following the return period.

EU Sales Lists. If a Finnish taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL; also called an EU recapitulative statement) to the Finnish tax authorities. An ESL is not required for any period in which a taxable person does not make any intra-Community supplies. Supplies falling under Article 44 of the EU VAT Directive must be reported on an

ESL if the purchaser is located in the EU and is liable to pay the VAT on behalf of the supplier in the country where the purchaser is established.

The reporting period for an ESL is one month. The due date for filing the ESL is the 20th day of the month following the month of the transaction. The ESL must be filed electronically. Subject to certain conditions, the tax authorities can allow the taxable person to file the ESL in paper format if a request is made.

Correcting errors in previous returns. An error in a VAT return is corrected by submitting a replacement VAT return for the period containing the error. Minor errors, where the value of VAT due is less than EUR500, may be corrected for the period in which the error was discovered.

Digital tax administration. There are no transactional reporting requirements in Finland.

J. Penalties

Penalties for late registration. There is no specific penalty in Finland for the late registration of VAT. However, if the late registration results in the late submission of VAT returns or the late payment of VAT, penalties are imposed.

Penalties for late payment and filings. For the late payment of VAT, interest at an annual rate of 7% is assessed for 2023 beginning with the day following the due date to the date of payment. If the periodic tax return is filed late, a penalty payment of EUR3 per day is assessed until the tax return is filed, up to a maximum of EUR135 per return. If the tax return is filed more than 45 days late, the penalty payment is EUR135 plus 2% of the VAT payable on the return in question. The maximum amount of the penalty payment dependent on the tax payable is EUR15,000 per type of tax per tax period.

For Intrastat, a penalty is assessed for late filing or for a failure to submit a return or for the submission of an incorrect Intrastat return in an amount ranging between EUR10 and EUR2,500.

For ESL, the tax authorities may impose a penalty fee of EUR100 if the ESL is filed up to 45 days late, or EUR200 if the ESL is filed more than 45 days late.

Penalties for errors. A punitive tax increase will be imposed in case of submitting incorrect or erroneous tax returns, any other returns/declarations, as well as any other required information or clarification, or in case any of the aforementioned documents or information have not been submitted at all. As a main rule, the amount of punitive tax increase is 10% of the amount of tax payable. However, the amount of tax increase may vary and be between 15%–50% depending, e.g., on the degree, extent and recurrence of the neglect.

Failure to notify or late notification to the tax authorities of changes to a taxable person's VAT registration details may result in penalties for noncompliance. Such penalties may be charged where such changes have an effect on the VAT status of the taxable person. If, for example, VAT is not accounted for correctly, the tax administration may impose a penal tax increase, which is normally 10%. For further details, see the subsection above *Changes to VAT registration details.*

Penalties for fraud. Both minor VAT misdemeanors and VAT/tax offenses are punishable under the Finnish penal code. Respectively, VAT fraud is punishable under provisions of criminal legislation.

Personal liability for company officers. Company directors can be held personally liable for errors and omissions in VAT declarations and reporting if they are personally liable for tax, for example, in the case of a limited partnership.

Statute of limitations. The statute of limitations in Finland is three years. If a taxable person notices an error in its VAT returns, the error must be corrected within three years from the

accounting period or tax year in which the tax concerns. The three-year time limit is calculated from the beginning of the next calendar year.

The same three-year time limit concerns the tax authorities who can go back to review a taxable person's VAT returns and identify errors and impose penalties. Additionally, the tax authorities may continue the reassessment period for one year due to information received from other authorities, information received exceptionally late from a third party, or taxable persons' late filing or other actions that aim at delaying the process. An extended six-year period is applicable in case of information received from international exchange of information between tax authorities other than automatic exchange of information.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	10 April 1954
Trading bloc membership	European Union (EU)
Administered by	French Ministry of Finance (www.impots.gouv.fr) (FTA)
VAT rates	
Standard	20%
Reduced	2.1%, 5.5%, 10%
Other	Zero-rated (0%) and exempt
VAT number format	FR 31 8 3 2 3 7 5 8 3 1
VAT return periods	Monthly (normal regime); quarterly and annually (simplified regime); or no return, depending on turnover and output tax due in the previous year
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services performed in France by a taxable person
- The intra-Community acquisitions of goods from another European Union (EU) Member State by a taxable person or, under certain circumstances, by a nontaxable legal person (*see the EU chapter*)
- The intra-Community acquisition of new means of transport from another EU Member State by any person
- Reverse-charge services received by a taxable person in France (i.e., services for which the recipient must account for the VAT due)
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of France includes Corsica and Monaco. The Overseas Dependencies of the islands of Guadeloupe, Martinique and Réunion are considered to be export territories with respect to the other EU Member States, as well as with respect to mainland France (*see the EU chapter*), although French VAT is applicable in these territories (with specificities). VAT does not apply in French Guiana (Guyane) and Mayotte.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The Quick Fixes rules have been implemented in France and in force as of 1 January 2020. Outlined below is a summary of the new system.
- A reinforcement of the conditions of VAT exemption relating to intra-EU deliveries of goods. To benefit from the VAT exemption of these supplies two new conditions must be met:
  - The customer must be identified for VAT purposes in a Member State other than that of the departure or dispatch of the goods.
  - The customer must communicate to the supplier their VAT ID in the arrival country before the shipment of goods occurs. Where it is established that the customer is a taxable person acting as such at the time of acquisition and subsequently provides its vendor with a VAT identification number issued by the Member State of destination, and there is no indication of fraud or abuse, the vendor must issue a corrective invoice.
- VAT exemption may be challenged by the FTA whether or not the supplier files a recapitulative statement.
- The presumption of transport of goods regarding intra-EU deliveries. Article 45a of the Implementing Regulation 2018/1912 of 4 December 2018 provides that goods are presumed to have been transported from one Member State to another Member State referring to intra-EU deliveries. In this respect, proofs of transport must be kept by the supplier and those differ depending on whether the dispatch/intra-EU delivery is carried out by the seller/a third party on their behalf/the buyer/a third party on their behalf. Specific proofs are listed, but the list is not exhaustive (e.g., written confirmation by the purchases of the receipts of the goods). Note that the FTA allows economic operators to prove by any means that goods left EU departure country.
- A clarification of the rules for the taxation of chain sales. When the same goods are subject to subsequent supplies and are dispatched/transported from one Member State to another Member State directly from the first supplier to the last customer of the chain, the VAT exempt transport/dispatch should be allocated to:
  - The supplies between the supplier and the intermediate operator (the latter being defined as a taxable person in the chain, other than the first supplier, who dispatches or transports the goods themselves or through a third party acting on their behalf)

  - The supply made by the intermediate operator, by derogation, when they have communicated to their supplier the VAT identification number allocated by the Member State of departure of the dispatch or transport of the goods
- The introduction of a simplification measure for stocks under a contract of deposit; this simplification measure avoids the need for the seller to be registered for VAT in the country of arrival of the goods and allows an intra-Community supply to be considered only at the time of collection by the buyer from the seller's stocks – if specific conditions are met

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.*

In France, the following services are subject to the "use and enjoyment" provisions:
- Article 59a of Directive 2006/112/EC allows Member States to consider the place of supply of telecommunications, broadcasting and/or electronic services provided to non-VAT taxable persons (private individuals):
  - If situated within their territory, as being outside the EU if the service is effectively used and enjoyed outside the Community
  - If situated outside of the European Union, as being situated within their territory if the service is effectively used and enjoyed in their territory

Article 59a has been implemented in France and it is currently in force.

Transfer of a going concern. The definition of a transfer of a going concern (TOGC) given by EU case law (*CJEC–C-497/01–Zita Modes*) and implemented by the French administrative doctrine is rather extensive: the transfer must concern "a business or an autonomous part of an undertaking, including tangible and, where appropriate, intangible elements that together constitute an undertaking or part of an undertaking capable of pursuing an autonomous economic activity."

However, to benefit from the VAT relief scheme within the meaning of Article 257 bis of the French Tax Code (FTC), two additional conditions must be met: (i) the acquirer must continue to carry on the activity of the undertaking or the autonomous part of the transferred undertaking; this means, e.g., that transferred assets must not subsequently be retransferred again by the acquiring entity; however, the recipient is not required to continue exactly the same activity as that previously carried on by the transferor; and (ii) both parties must be taxable persons liable for VAT. In this context, the FTA usually requires both parties to be VAT registered in France due to French capital scheme.

Transactions between related parties. In France, there are no specific rules for the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is any business entity or individual that performs taxable supplies of goods or services, intra-Community acquisitions, imports or distance sales, in France in the course of a business.

Under the franchise regime, the following thresholds apply to small French-established businesses:
- Sales of goods: EUR91,900 during the previous year (or EUR101,000 when the turnover did not exceed the EUR91,900 threshold during the year before the previous year)
- Supplies of services: EUR36,800 during the previous year (or EUR39,100 when the turnover did not exceed the EUR36,800 threshold during the year before the previous year)

A taxable person that begins business activity in France must notify the French VAT authorities and register for VAT within 15 days.

Exemption from registration. The VAT law in France does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Taxable persons that are established in France have the option to voluntarily register for VAT through voluntarily waving the application of the franchise regime, which is for small French-established businesses, such that they can be taxable and can register for VAT.

For foreign taxable persons, there is one specific scenario where they will be able to voluntarily register for VAT in France. This is in the case of renting an immovable property on an unfurnished basis. If the taxable person wants to opt to tax the renting of an immovable property on an unfurnished basis, it will have to be VAT registered before it makes this option. See more detail on the option to tax in the *Section D. Rates* below.

At the time of preparing this chapter, the Finance Bill 2024 proposes changes to the franchise regime. However, the Finance Bill 2024 has not been adopted. If the provisions relating to the franchise regime are adopted, the new rules will only apply from January 2025. The proposed rules focus on the transposing of the provisions of Directive (EU) 2020/285 of 18 February 2020 on the special VAT regime for small businesses (i.e., franchise regime). The Finance Bill for 2024 provides for reform of the VAT exemption regime as follows:

- *Concerning the scope of the scheme, taxable persons established in an EU Member State would be able to benefit from the exemption not only in their state of establishment but also in other Member States, provided they do not exceed an overall European sales ceiling of EUR100,000; thus:*
- *Taxable persons established in France may operate in other Member States and benefit from the exemption system applicable there, provided they have identified themselves in France and send their tax department, on a quarterly basis, the sales achieved in each Member State*
  - *Conversely, taxable persons whose head office is located in another Member State would benefit from the exemptions applicable in France, provided they complete the same formalities in their State of establishment.*
  - *Taxable persons established in a third country would benefit from the same system, provided they have identified themselves in a Member State of their choice where they have a permanent establishment.*

Group registration. Law No 2020-1721 of 29 December 2020 introduced Article 256 C of the FTC, pre-setting out the single taxable person regime that is effective from 1 January 2023.

The VAT group allows the creation of a single taxable person within a group of financially, economically and organizationally linked companies. The main advantage of the VAT group is the simplification that results from the creation of a single taxable person, with a single identification number and filing a single return. Its aim is to simplify the tax management of groups by allowing intra-group economic transactions to be completely offset for VAT purposes.

The scheme is optional and flexible in that the scope is freely chosen and can be adapted later under conditions.

All members of a VAT group in France are jointly and severally liable for VAT debts and VAT penalties. This includes the payment of the tax and for any adjustments up to the amount they would have been liable for in the absence of a VAT group.

The option for the VAT group must be formulated by the latest on 31 October of the year preceding its application. It takes effect on 1 January of the year following the year in which it was made. The minimum time period required for the duration of a VAT group is three years.

Consolidated payment of VAT. Consolidated payment of VAT allows the parent company of a group to pay the VAT and the taxes, contributions and fees declared on the Annex of the French VAT return, due by all the members of the group. The option for centralized VAT payment must be distinguished from the optional VAT group scheme.

The parent company is therefore required to pay the amount of VAT equal to the difference between the amounts of VAT due and the tax credits enjoyed by the members of its group for the same month.

If at the end of this difference a VAT credit is established, only the parent company of the group will be able to deduct it from the amount of VAT due for the following months or to claim its reimbursement. In the latter case, the amount of VAT reimbursed will have to be distributed among the subsidiaries, according to the terms of the integration agreement concluded within the group.

Thus, the parent company becomes the sole taxable person of its group, and all other taxable persons of the group will be exempt from their obligation to pay VAT, as well as from any duties, late payment interest and penalties incurred as a result of the infringements committed by the group members. However, the consolidation regime only concerns the payment of VAT, and the subsidiaries remain taxable persons for VAT purposes, subject to all other obligations inherent to such status.

Each member remains liable for its own tax obligations and will therefore continue to file its own VAT returns. The parent company, on the other hand, will only file, in addition to its own French VAT return (CA3), a monthly recapitulative return that should be presented as a simple statement summing up the net VAT due by the members of the group, as well as the VAT credits from which they benefit.

Any accounting audits will be carried out on each entity of the group, as each member will continue to complete and file its VAT returns independently with respect to its own accounting.

Although the parent company becomes, once the option for the consolidation regime comes into force, the only person liable for VAT for the group, the subsidiaries are not exempt from any payment obligation toward the Treasury. Indeed, each of them remains jointly and severally liable with the parent company for the payment of VAT, as well as any duties, late interest and penalties for which it would be liable if the option for consolidation had not been exercised.

Holding companies. In France, a pure holding company cannot be a member of a VAT group since it cannot be considered a taxable person for VAT purposes within the meaning of Article 256 A of the FTC.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been transposed into Article 261 B of the FTC. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in France VAT law).

Services rendered to their members by groups formed by natural or legal persons exercising an activity that is exempt from VAT or for which they do not have the status of taxable person are exempt from this tax on the condition that they contribute directly and exclusively to the carrying out of these transactions that are exempt or excluded from the scope of value-added tax and that the sums claimed from the members correspond exactly to their share of the common expenses.

Fixed establishment. As preliminary remarks, the concepts of "permanent establishment" for corporate income tax (CIT) purposes and "fixed establishment" for VAT purposes are two independent notions, based on different criteria, which should not be mixed.

Indeed, the concept of fixed establishment relates exclusively to VAT matters and is used to determine VAT registration and VAT collection obligations.

According to the guidelines of the French tax authorities, a VAT fixed establishment is characterized by a sufficient degree of permanence, as well as the human and technical resources necessary to do the following:
- To independently perform supplies of goods or services ("supplier" VAT establishment)
- To use supplies of goods or services that are provided to it ("recipient" VAT establishment)
- To be involved in supplies of goods or services rendered in France by the headquarters ("participant" VAT establishment)

Non-established businesses. A "non-established business" is a business that has no statutory seat nor fixed establishment for VAT purposes in the territory of France. If a non-established taxable person exclusively performs supplies that are subject to the reverse-charge mechanism, it does not need to register for VAT in France.

Tax representatives. Businesses established outside the EU in countries not having signed a convention regarding mutual assistance in tax matters with France (except some listed countries, for example the United Kingdom and Northern Ireland) must appoint a tax representative to register for VAT. The tax representative for VAT must be known and accepted by the French tax authorities and is jointly and severally liable with the non-established businesses represented by it for all French VAT liabilities.

Foreign businesses established within the EU or in countries having signed a convention regarding mutual assistance in tax matters with France (except some listed countries) may either register for VAT directly or appoint a VAT agent who files the registration form and the periodic VAT returns on behalf of the foreign company. In contrast to a VAT representative, the VAT agent acts under the responsibility of the foreign entity. The same rules apply to businesses established in countries that have concluded a tax treaty with France covering mutual assistance.

Reverse charge. Under a mandatory reverse-charge mechanism, the recipient of goods or services holding a French VAT number is liable to settle the French VAT incurred on the (local) supply of goods or services performed by a taxable person not established in France, regardless of where the recipient is established. An entity is considered VAT-established in France if it holds a sufficient degree of permanence and a suitable structure in terms of human (French resident employees) and technical resources (e.g., leased cars) in France enabling it to receive the supply of goods or services in France.

From 1 January 2022, the import reverse-charge mechanism is mandatory and import VAT is now self-assessed on the VAT return. In this context, the management and collection of import VAT has been transferred to the General Directorate of Public Finance (*Direction générale des Finances publiques [DGFiP]*) instead of the customs administration.

Taxable persons who declare imports for which the chargeable event occurs on or after 1 January 2022 benefit from a postponement of the date for submitting the VAT return to the 24th of the month following the period (month or quarter) during which the import was carried out.

Domestic reverse charge. In addition, specific domestic reverse-charge rules apply to the following:
- Delivery of natural gas and electricity
- Supplies of gold or golden products with a purity of more than 325/1000
- Supplies and work performance on new industrial waste and recoverable material
- Transfer of allowances to emit greenhouse gases
- Electronic communications services
- Construction work, including repair, cleaning, maintenance, reconstruction and demolition services related to immovable property carried on by a subcontractor

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (i.e., B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (i.e., B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (i.e., B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the EU chapter.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In France, the appointment of a fiscal representative is mandatory for taxable persons established in a non-EU country that have not signed an agreement on mutual assistance in the recovery of tax debts with France and who carry out transactions in France for which they are liable to pay tax (or for which they are required to fulfill reporting obligations in France without being liable to pay VAT).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically as a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In France, the OSS does not apply to territorialized overseas transactions, whether they involve the supply of goods, services or imports, including when VAT applies (i.e., as with the islands of Guadeloupe, Martinique and Reunion).

Whether it is the EU or non-EU scheme, the taxable person who wishes to be covered (or is covered) by a particular scheme must inform the administration of the Member State of identification of the moment when it starts its activity as a taxable person, ceases it or modifies it in such a way that it no longer fulfills the conditions required to be able to avail itself of that scheme.

The VAT return must be filed by the last day of the month following each calendar quarter, even if no transactions were carried out during that period.

The payment of the VAT due is made at the time of filing the relevant return and at the latest on the last day of the month following each calendar quarter. Each payment must indicate the reference number of the return to which it relates.

Taxable persons may not make any deduction of VAT in the OSS. The tax borne in connection with the transactions declared in the OSS is, depending on the case, deducted on the ordinary VAT return if the taxable person is identified for VAT purposes in France for transactions other than those declared in the OSS or according to the special procedure for reimbursing foreign taxable persons in the opposite case.

For more details about the operation of the OSS, see the EU chapter.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In France, for this scheme, the intrinsic value means the price of the goods contained in the shipment, excluding transport and insurance costs (unless these are included in the price and are not indicated separately on the invoice) and all other taxes and charges. The operation of this scheme is similar to that of the OSS EU and non-EU schemes detailed above, in particular with regard to the declaration and payment procedures and the deduction rules.

For more details about the IOSS, see the EU chapter.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In France there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased

and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply); any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In France, a facilitating taxable person is one who:
- Directly or indirectly lays down any of the general conditions under which the supply of goods is made
- Who intervenes, directly or indirectly, in the authorization of the invoicing to the purchaser with regard to the payment made
- Which intervenes, directly or indirectly, in the order or delivery of the goods

When more than one electronic interface is involved in the ordering process, the "facilitating" taxable person is the one who operates the one on which the order is registered and through which the transaction is finalized.

For more details about the rules for online marketplaces, see the EU chapter.

Vouchers. Article 256 ter, 3-a of the French Tax Code implemented the EU Directive 2016/1065 regarding VAT treatment of vouchers. A voucher is an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

Vouchers are classified as a "single-purpose voucher" (SPV) or "multi-purpose voucher" (MPV). SPVs are vouchers where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services is known at the time of issue of the voucher. The VAT on SPVs becomes due upon the time of issuance. MPVs are vouchers, other than SPVs, triggering the fact that the VAT due is unknown at the time of issue of the voucher.

Registration procedures. Registration requires completing a specific form and specific documents (e.g., articles of association). The registration form must indicate the address of the company, its main activity and the address where the company keeps its accounting records. Moreover, the company must attach a certificate of registration in the Trade and Companies registry in its country as well as the original of a certificate of taxable person status delivered in its EU Member State, the article of association, as well as the French translation of the main articles and in certain cases, an original proxy (i.e., if EY is appointed as representative). Finally, the applicant must justify its intention to perform taxable activities in France.

Businesses established outside the EU must include with their applications the "proxy" appointing the fiscal representative *(see above).*

The complete file is to be sent to the following tax office for EU businesses:

Service des Impôts des Entreprises Etrangères
10, rue du Centre
TSA 20011
93465 Noisy-Le-Grand Cedex, France

The VAT registration is free of charge and no guarantee is required. It generally takes six to eight weeks to obtain a VAT number, provided a complete VAT application file is sent and no further questions are raised.

The application must be sent by the postal service to the relevant tax service and/or by email.

Deregistration. When ending economic activities, a company must file a specific form (i.e., a Form M4 for non-EU businesses or a *déclaration de cessation* for EU businesses), within 30 days (extended to 60 days under certain circumstances) following the date of the end of activity. This form must list the transactions performed by the company during this period and the ending date of the activity.

The company is required to regularize its position before the tax authorities, depending on whether it is in a VAT credit position (i.e., net input tax to be refunded) or in a VAT debit position (i.e., net output tax due). In the first case, the company can apply for a refund of its VAT credit within a period of 30 days running as from the date of the end of activity. In the second case, the company must settle the remaining VAT due through the filing of its VAT return.

Usually, the company will not be allowed to deduct the input tax due on costs incurred after the date of the end of activity.

For a change in the VAT status and/or change of activities, a taxable person should complete Form M4 and submit to the tax authorities accordingly.

Changes to VAT registration details. The cessation of the activity, the change of the company's name, as well as the change of address of the registered office or the change of correspondence address must be notified to the FTA as soon as possible. Depending on the changes to be communicated to the FTA, a specific form may be required. Also, changes can be notified to the FTA through the online account of the registered company and by email to the FTA's relevant office.

Regarding VAT number, the FTA may request additional information to attribute or not the French VAT ID. This information shall be provided within 30 days of receipt of the request. The French VAT ID is not granted in principle; it may be suspended/erased if changes to VAT registration details have not been duly and timely communicated.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rates: 2.1%, 5.5%, 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Some supplies are classified as "exempt with credit" (i.e., zero-rated), which means that no VAT is chargeable, but the supplier may recover related input tax.

On the island of Corsica, the standard rate is 20%. However, rates of 0.9%, 2.1%, 10% and 13% apply to specified goods or services. The 0.9% rate applies to the first performance of certain theatrical performances and circuses, as well as the sale of live animals for butcher and meat to nontaxable person. The 2.1% rate applies to the supplies of certain goods and services that are subject to the reduced rate of 5.5% in mainland France. The 10% rate applies to work on immovable property, to agricultural equipment and to sales of restaurant food for consumption on the premises. The 13% rate applies to petroleum products.

In the overseas dependencies of Guadeloupe, Martinique and Réunion, the standard rate is 8.5%. A reduced rate of 2.1% applies to the supplies of goods and services that are subject to the 5.5% rate in mainland France. A special VAT rate of 1.05% applies to periodicals. A special VAT rate of 1.75% applies to the sale of livestock to nontaxable persons.

Examples of goods and services taxable at 0%
(i.e., exempt with credit)

- Specified financial transactions
- Exports of goods outside the EU and related services
- Intra-Community supplies of goods

Examples of goods and services taxable at 2.1%

- Pharmaceuticals (under conditions)

Examples of goods and services taxable at 5.5%
(2.1% in Corsica, Guadeloupe, Martinique and Réunion)

- Foodstuffs

Examples of goods and services taxable at 10%

- Accommodation

The term "exempt supplies" refers to supplies of goods and services that are within the scope of VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Land under specific conditions
- Financial transactions
- Buildings completed for more than five years
- Insurance
- Education
- Health and welfare
- Betting and gaming

Option to tax for exempt supplies. Taxable persons performing economic activities that are exempt of VAT may, under express legal provision, be able to apply VAT on such activities. As a result, the taxable person will be able to recover the VAT credit incurred on the goods or services. An option to tax for VAT may exempt the taxable person from payroll tax if at least 90% of its turnover becomes taxable.

The following are examples of exempt supplies of goods and services, for which there is an option to tax available:

- Leasing of unfurnished buildings to professionals (who are VAT-registered in France)
- Leasing of agricultural assets
- Specific public services provided by local public authorities
- Supplies of undeveloped lands between taxable persons
- Supplies of buildings completed for more than five years
- Certain transactions of bank establishments

E. Time of supply

In France, the time when the legal conditions necessary to determine the VAT liability are fulfilled is called the "chargeable event," while the time when VAT becomes due and recoverable is called the "tax due point" (chargeability of VAT). Different tax event rules and tax due point rules apply to supplies of goods and supplies of services.

The general rule is that the tax event and the tax due point for goods occur at the same time. They occur when the right to dispose of the goods as owner is transferred. In practice, this corresponds to the issuance of the invoice. If the sale contract stipulates that the supplier retains ownership of the goods, the tax is due at the moment of the physical transfer of the goods from the supplier to the buyer.

The tax event for services is the moment when the services are performed, while the tax due point is the date of the effective payment. However, the supplier may opt to account for VAT on an accrual basis; that is, when the services are supplied, and the invoice is issued (i.e., the option for the debit [*l'option pour les débits]* rule). In principle, if the consideration for a supply of services is paid in installments, VAT is due on the receipt of each installment.

Deposits and prepayments. From 1 January 2023, the collection of advance payments (i.e., prepayments) for supplies of goods gives rise to VAT. The tax due point for advance payments for services occurs on collection of the payment.

Continuous supplies of services. In the case of installment payments or continuous payments with respect to continuous supplies of services, the chargeable event occurs at the end of the periods to which such installments or payments refer. However, for continuous supplies of services over a period of more than one calendar year, subject to the non-domestic reverse charges, which do not give rise to installments or continuous payments during that period, the tax event occurs on expiry of each calendar year until such time as the supply of services comes to an end.

In the case of installments or frequent payments with respect to continuous supplies of goods, the chargeable event occurs at the end of the period to which such installments or payments refer. However, for continuous intra-Community supplies or acquisitions of goods over a period of more than one calendar month, which do not give rise to installments or payments during that period, the tax event occurs on expiry of each calendar month until such time as the supply or acquisition of goods comes to an end.

Goods sent on approval for sale or return. The time of supply rules for goods sent on "approval" or for "sale return" is in principle when the transfer of the ownership has occurred. It could be different under the assumption where the agreement has been contracted under a suspensive condition. Therefore, under said scenario, the tax due point will occur when the condition is realized, leading to the transfer of the ownership. Under a resolutive condition, the tax point will be the transfer of the ownership, at the conclusion of the agreement, but the latter can be retroactively resolved if said condition is realized.

Reverse-charge services. The time of supply for a domestic reverse-charge service received by a French taxable person is the date of payment for the service unless the recipient of the service has opted to account for VAT on an accrual basis. With regard to a cross-border reverse charge, the tax point is when the service is supplied, without options.

Leased assets. A leasing contract of goods is an agreement whereby the lessor (i.e., the owner) contracts the use of the good to the lessee (i.e., the person who leases) in return for a consideration. At this stage, lease incomes received by the lessor during the period of the lease agreement are taxable pursuant to the collection rules applicable to the supplies of services.

At the end of the lease period, should the lessee opt for the purchase of the good, VAT is chargeable upon the transfer of the right to dispose of the asset.

Imported goods. The time of supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

Intra-Community acquisitions. The tax event for an intra-Community acquisition of goods is the moment of the introduction of the goods in France. The tax due point is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice before this date but after the tax event, the tax due point is the date of the invoice.

Intra-Community supplies of goods. The tax event for an intra-Community supply of goods is the moment of the shipment of the goods from France. The tax due point is the 15th day of the month following the month in which the shipment occurred. If the supplier issues an invoice before this date but after the tax event, the tax due point is the date of the invoice. However, specific rules might be applicable in respect of tax due point. For instance, for a contract of sale with a retention-of-title clause, VAT is due when the good is physically delivered.

Distance sales. There are no special time of supply rules in France for supplies of distance sales. As such, the general time of supply rules apply (as outlined above). This means that the time of supply for distance sales is the same as for supplies of goods: when the delivery occurs – provided that the transaction is taxable in France.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by offsetting it against output tax charged on supplies made. Input tax includes VAT charged on goods and services supplied in France, VAT paid on imports of goods and VAT self-assessed by the taxable recipient under the reverse-charge mechanism.

A valid tax invoice or customs document is compulsory for a VAT refund claim.

The time limit for a taxable person to reclaim input tax in France is by 31 December of the second year following the VAT due point of the underlying transaction.

Nondeductible input tax. Input tax may not be recoverable on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use). Furthermore, input tax may not be recoverable on certain business expenditures.

The following lists provide some examples of items of expenditure for which input tax is not recoverable and examples of items for which input tax is recoverable, except in specific cases.

Examples of items for which input tax is not recoverable

- Hotel accommodation for employees
- Petrol
- Transport of passengers
- Purchase, lease and maintenance of passenger cars
- Business gifts valued at more than EUR73, including VAT, per person per year

Examples of items for which input tax is recoverable (if related to a taxable business use)

- Restaurant meals and entertainment for employees and clients
- Hotel accommodation for clients
- Attending conferences, exhibitions and training seminars
- Books
- Motorway tolls
- Liquefied petroleum gas (LPG)
- Purchase, lease and maintenance of vans and trucks
- Diesel fuel (up to 80%); petrol used in vehicles excluded from deduction rights (up to 10%)

- Advertising
- Business use of a home telephone

Partial exemption. Input tax directly related to exempt supplies is, in principle, not recoverable. If a French taxable person performs both exempt supplies and taxable supplies, it may only recover a portion of input tax. This situation is referred to as "partial exemption."

In France, the amount of input tax that may be recovered is calculated in two stages:
- The first stage identifies the input tax that may be directly allocated either to exempt or to taxable supplies. Exempt-with-credit supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is fully recoverable.
- The second stage prorates the input tax on mixed expenditures (relating to both taxable and exempt supplies) to allocate a portion to taxable supplies (which may be recovered). For example, this treatment applies to the input tax on general business overhead expenses.

Alternatively, a taxable person may apply the recovery ratio to all expenditures for the acquisition of goods and services.

Other pro rates can be used in France, but these are only based on turnover realized for both taxable and exempt activities. Such special methods (and the calculation outline above) do not need to be approved or notified to the tax authorities.

A taxable person that performs within the same business entity different types of business activities that are subject to different VAT rules (i.e., Separate Business Units) must maintain separate accounts for each branch of activity and compute its recovery rights separately for each business unit.

Approval from the tax authorities is not required to use the partial exemption standard method in France.

Special methods are allowed in France. However, use of any special methods must be approved in advance by the FTA on a case-by-case basis.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years and thus qualify as fixed assets. Input tax is recoverable in the VAT year in which the goods are acquired. The amount of input tax recoverable depends on the VAT recovery ratio in the year of acquisition. However, the amount of input tax for capital goods initially deducted might have to be adjusted over a reference period if the VAT recovery ratio varies by more than 10 percentage points over the adjustment period, depending on the effective use of the fixed assets.

In France, the capital goods adjustment applies to the following assets for the number of years indicated:
- Buildings: for 19 years following the year in which they are acquired (that is, 20 years in total). This rule applies to buildings acquired on or after 1 January 1996.
- All other fixed assets: for four years after the year in which they were purchased, acquired under an intra-Community acquisition, imported or used for the first time (that is, five years in total).

Adjustment is required each year following the acquisition, to a fraction of the total input tax (1/20) for land and buildings and 1/5 for other fixed assets). The adjustment may result in either an increase or a decrease of recoverable input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the fixed asset was acquired.

Further adjustments might be required upon the disposal of fixed assets (or similar events) within the adjustment period.

The tax authorities consider that fixed services (for example, installation of a fixed asset) must follow the same input tax recovery rules as fixed assets, as outlined above.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The input tax credit may be carried forward to offset output tax in subsequent return periods, until it is used up.

A refund of the input tax credit may be requested at the end of the calendar year if the total amount refundable is at least EUR150. A refund may also be requested at the end of a calendar month or quarter if the amount refundable is at least EUR760.

VAT refund claims must be reported on Form 3519 for persons VAT-registered in France. Non-VAT-registered EU taxable persons seeking a refund of French VAT should apply online.

Pre-registration costs. Newly created companies may claim a refund of input tax paid on expenses incurred before registration, back to the point in time when they expressed their intention to perform economic activities. Documentation useful to show such an intention may include a statement of existence, a VAT registration certificate, evidence of market investigation and marketing expenses, etc.

Bad debts. A taxable person may recover input tax paid on unpaid invoices when the debt is officially unrecoverable, which occurs when the supplier has exhausted all legal remedies against the debtor. However, VAT may be recovered further to a judgment of liquidation or a judgment granting a recovery plan. Therefore, a mere default of recovery does not enable the supplier to qualify the debt as definitely unrecoverable and to claim a refund. Certain formalities are to be followed depending on the nature of the judgment that stated the debts are unrecoverable. However, in principle, a duplicate invoice should be issued.

Bad debt relief rules are applicable only to supplies for which the tax point arises before the receipt of payment. Consequently, VAT refund difficulties mostly arise regarding supplies of goods. For supplies of services, the tax point occurs at the date of the effective payment, so bad debt relief rules are only applicable when the taxable person has opted to pay VAT under the invoice dates regime (i.e., *l'option pour les débits*) under which VAT is due at the time when the debt is recorded.

Noneconomic activities. Noneconomic activities shall be taken into account in the computation of the VAT recovery ratio that will enable a taxable person to determine its deductible input tax, specifically as to the assessment of the first and second of the three relevant ratios.

The first relates to the direct allocation of purchased goods or services to the execution of economic activities falling within the scope of VAT (i.e., *le coefficient d'assujettissment*). The second ratio concerns the operation opening a VAT deduction right (i.e., *le coefficient de taxation*). The third ratio addresses specific rules that might limit the input tax deduction right (i.e., *le coefficient d'admission*).

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in France is recoverable. The French VAT authorities refund VAT by businesses that are neither established nor registered for VAT in France. Non-established businesses may claim French VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made in principle under the terms of EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only under the following two conditions:
- The business does not have, in France, the seat of their economic activity or a permanent establishment from which the transactions were carried out or, failing this, their domicile or habitual residence.
- The business has not made any supplies of goods or services where the place of supply is located in France.

For full details, see the EU chapter.

Find below specific rules for France:
- The minimum amount to claim for a quarterly period is EUR400. For an annual claim, the minimum amount is EUR50
- These applications for reimbursement must be submitted by 30 September of the calendar year following the reimbursement period

In this respect, note that a VAT refund claim might be filed via the 8th VAT Directive even if the business customer has a French VAT ID – if specific conditions are met (e.g., the business customer is VAT registered in France for Intrastat purposes only).

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details see the EU chapter.*

France does not exclude any non-EU countries from the refund process.

Find below specific rules for France:
- The deadline for refund claims is 30 June of the year following the calendar year in which the tax is incurred. This deadline is strictly enforced.
- The minimum claim period is three months. The maximum claim period is one year. The minimum claim for a quarterly period is EUR400. For an annual claim, the minimum amount is EUR50.
- Claims must be submitted in French.
- Taxable persons established outside the EU are required to have a taxable representative in France accredited by the abovementioned tax department, who undertakes to fulfill the obligations incumbent on them.
- From 1 July 2021, such claims may only be submitted electronically.

Late payment interest. Interest on arrears is due by the tax authorities where the repayment has not been made before the expiry of the period of six months from the date on which the application is considered complete or where repayment was made after a previous decision rejecting the application. The arrears interest amounts to 0.20% per month.

H. Invoicing

VAT invoices. A French taxable person generally must provide a VAT invoice for all taxable supplies performed for the benefit of other taxable businesses or nontaxable legal entities, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. An invoice must be issued as soon as the supply has taken place. A VAT invoice is required to support a claim for input tax deduction.

Credit notes. A VAT credit note may be used for transactions involving French customers to correct the VAT amount charged and reclaimed on a supply. The VAT amount credited must be separately itemized and it must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in France for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in France. This is in line with EU Directive 2014/55/EU (*see the EU chapter*). This is with effect from 1 January 2018 for large companies and 1 January 2019 for small and medium-sized enterprises.

For B2B and B2C supplies, electronic invoicing is allowed in France, but not mandatory. This is in line with EU Directive 2010/45/EU (*see the EU chapter*).

All formats of electronic invoices are accepted, but authenticity of the origin, integrity of content and legibility must be satisfied from the invoice's date of issuance through the end of the archiving period.

In the case of invoices not issued in the Electronic Data Interchange (EDI) format or electronically signed with a qualified certificate, business controls must be put in place that demonstrate the existence of a reliable audit trail between the invoice and the underlying transaction. This would apply notably to e-invoices sent by e-mail. In a press release dated 28 July 2023, the government announced that it was postponing the timetable for rolling out digital invoicing between businesses (i.e., B2B supplies).

At the time of preparing this chapter, new legislation is due to be adopted in December 2023 that will make electronic invoicing mandatory for all taxable persons (B2B supplies).

The introduction of electronic invoicing will take place in two stages from 2026:
- 1 September 2026 for all taxable persons for receiving e-invoices and large and intermediate-sized companies for the transmission of e-invoices
- 1 September 2027 for small and medium-sized enterprises and micro-enterprises issuing e-invoices

Definitions of the company sizes, are as follows:
- A microenterprise is a company with fewer than 10 employees and annual sales or a balance sheet total not exceeding EUR2 million.
- A small-and-medium-sized enterprise (SME) is a company with fewer than 250 employees and an annual turnover not exceeding EUR50 million or a balance sheet total not exceeding EUR43 million.
- An intermediate-sized company is a company that does not fall into the SME category, with fewer than 5,000 employees and an annual turnover not exceeding EUR1.5 billion or a balance sheet total not exceeding EUR2 billion.
- A large company is a company that cannot be classified in any of the above categories.

Membership of a category is assessed at the level of each legal entity on 1 January 2025, on the basis of the last financial year ending before that date or, in the absence of such a financial year, on the basis of the first financial year ending after that date.

The obligation to issue e-invoices concerns only taxable persons established in France and affects domestic sales and purchase of goods and services between taxable persons (i.e., B2B) or between a company and the public authorities (i.e., B2G). It also applies to credit notes and advance payment invoices.

For e-reporting, the obligation will follow the same schedule as e-invoicing (as outlined above), and the obligation is for data to be transmitted electronically via a dedicated platform used for the invoicing data. Such an obligation is applicable for the following:
- Taxable persons established in France for sales and purchases made to professionals located abroad (i.e., B2B, where the customer is a foreign company) and sales made in France to individuals (i.e., B2C)
- Non-established taxable persons registered for VAT in France for sales for which they are liable for VAT in France (excluding transactions declared by one of the three OSSs)

Invoices and data can be shared with the French tax authorities via a public billing platform called Chorus Pro or to a dematerialization platform operator.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.

Simplified VAT invoices. Invoices whose total amount excluding tax is less than or equal to EUR150 may not include the following information:

- The individual identification number allocated to the taxable person pursuant to Article 286b of the French Tax Code and under which they have carried out the supply of goods or services
- The reference to the relevant provision of the French Tax Code or to the corresponding provision of Council VAT Directive 2006/112/EC of 28 November 2006 or any other statement indicating that the transaction benefits from a VAT exemption

However, the invoicing simplification rule does not apply to all transactions; and as such further analysis is necessary on a case-by-case basis.

Self-billing. Self-billing is allowed in France. Article 289, I§1 of the French Tax Code states that every taxable person must ensure that an invoice is issued by themselves or, in their name and on their behalf, by their client or by a third party for taxable transactions.

A written agreement between the supplier of goods/services and the issuer of the invoice, in principle, is not required. However, in the event that the French tax administration requested the proof of the self-billing, a written agreement is the best way to demonstrate that parties have agreed to self-bill the invoices.

Furthermore, even if a self-billing agreement has been subscribed, each party remains responsible of its declarative and invoicing obligations.

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

- For an export, a copy of the export document, officially validated by customs and showing the supplier as the exporter. Other acceptable proof of export may be provided. The sales invoice must include specific wording.
- For an intra-Community supply, the proof of the dispatch of the goods can be provided by any means. No special documentation applies in France for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. The tax authorities accept written confirmation by the purchaser of the receipt of the goods. In addition, the French guidelines give a non-exhaustive list, including, for example, the following documents: CMR letter, carrier's invoice, insurance contract for the international transport of the goods, contract concluded with the purchaser, commercial correspondence, written order form issued by the purchaser indicating that the goods are to be dispatched or transported to another Member State, delivery note etc. Regarding invoicing obligations, the supplier must include the purchaser's EU VAT identification number on the sales invoice and specific wording (it is sufficient to include a statement why the transaction is exempt from VAT and no reference to the legal provision).

It should be noted that the compulsory statements on invoices relating to exports and intra-Community supplies are not conditions for exempting these transactions.

Foreign currency invoices. If a French VAT invoice is issued in a foreign currency, the VAT amount to be paid for which the place of supply is within France must be converted into the domestic currency, which is the euro (EUR), using the rate published by the European Central Bank for the date of the supply. For intra-Community transactions, the customs rate (published monthly) may be used. If a taxable person chooses to use the customs rate, such rate must be used

for all intra-Community trade, for at least one calendar year for both VAT returns and Intrastat returns.

Supplies to nontaxable persons. French VAT rules do not set requirements as to the issuance of invoices for supplies of telecommunications, broadcasting or electronic services to nontaxable private individuals. However, requirements are defined by the Commercial Law. The invoice should include additional information on these services:

- The total amount including VAT and the corresponding VAT basis
- The total amount including VAT of the services rendered by the service provider and corresponding VAT basis
- Total amount including VAT of the services rendered by third parties and corresponding VAT basis

The invoice shall comprise two sections, one referring to the services rendered by the operator and another one to the services delivered by third parties. The first section shall be organized in three parts:

- The subscription, all-inclusive packages and options
- Communications
- Other services and product of the operator

The second section shall be organized in two parts:

- Subscriptions with third parties
- Temporary services from third parties

These five parts must show detailed information on the services such as reference periods, quantities of goods or services, rebates, communications included in the subscription or not. For prepaid electronic communication, a simplified document can be issued.

For other B2C supplies, the issue of a VAT invoice is not mandatory, but if a VAT invoice is issued it must comply with the general VAT invoicing rules.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In France, examples of what records must be held for VAT purposes include balances, annual accounts, balance sheet, profit and loss account and notes, and supporting documents (i.e., customer and supplier invoices, purchase orders, delivery and receipt slips, bank documents).

In France, VAT books and records can be kept outside the country. Such documentation can be stored outside France but within the EU (i.e., by entity, subsidiary, third party) and the access shall be granted to the FTA. However, such documentation cannot be stored outside the EU (e.g., Switzerland).

Record retention period. Record retention period is, in principle, six years according to fiscal legislation. The six-year period shall run from the date of the last operation mentioned in the books or registers or from the date on which the documents or records were drawn up. According to commercial regulations, the accounting documents (e.g., accountancy books, invoices) must be kept for a period of 10 years.

Electronic archiving. Electronic archiving is mandatory in France, for certain records. It is mandatory to electronically archive electronic invoices. Records must be held on a computer medium or on any medium of the company's choice for a period of at least six years.

It is optional to electronically archive paper invoices issued (i.e., sales) and received (i.e., purchases). Companies that receive or issue paper invoices may, under certain conditions, digitize

them at any time and keep them in electronic form for six years. In this context, the transfer of invoices originally issued on paper to a computer medium must be carried out under conditions that guarantee their identical reproduction. The result of this digitization must therefore be a true copy of the original in image and content.

I. Returns and payment

Periodic returns. The applicable VAT return period depends on the taxable person's turnover. The following criteria apply:

- Companies following the normal regime (*le régime réel normal*) file returns monthly. There are two categories of taxable person that must follow the normal regime:
  - Companies whose turnover exceeds EUR818,000 (for goods) or EUR247,000 (for services)
  - Companies whose output tax due exceeded EUR15,000 the preceding year
- Companies following the simplified regime (*le régime réel simplifié*) file returns quarterly and annually. There are two categories of companies that can follow the simplified regime:
  - Companies whose turnover is between EUR85,800 and EUR818,000 (for goods) or between EUR34,400 and EUR247,000 (for services), and whose output tax due the previous year was less than EUR15,000
- Companies that are not required to file a VAT return are those whose turnover is less than EUR85,800 (for goods) or EUR34,400 (for services)

For French and non-EU companies, monthly VAT returns are due between the 15th and the 24th day of the month following the end of the return period. The due date depends on several factors including the type of legal entity involved and where the taxable person is established.

For EU entities, monthly or quarterly VAT returns are due on the 19th day of the month following the end of the return period.

Periodic payments. For French and non-EU companies, monthly VAT payment is due between the 15th and the 24th day of the month following the end of the return period. The due date depends on several factors including the type of legal entity involved and where the taxable person is established.

For EU entities, monthly or quarterly VAT payment is due on the 19th day of the month following the end of the return period.

VAT payments must be made electronically (except small companies and auto-entrepreneurs under certain circumstances). For companies not established in France but VAT-registered in France, electronic payment is not required, and it can be carried out by a bank transfer within the deadline. See the subsection *Electronic filing* below for more detail.

Electronic filing. Electronic filing is mandatory in France for all taxable persons. Businesses (including foreign businesses, but except small companies and auto-entrepreneurs under certain circumstances) must file their VAT returns electronically. For companies not established in France but VAT-registered in France, electronic filing is also required.

A notice is currently available on the official website in French (http://www.impots.gouv.fr). The *TéléTVA* process can be used through one of these two methods:

- The Electronic Data Interchange (EDI) procedure using UN-EDIFACT standards (*l'échange de données informatisées*): the data will be transmitted to the tax office by the intermediary of an "EDI partner" accredited as such by the tax administration. The EDI partner can be the taxable person itself provided the accreditation has been granted.
- The "EFI" procedure (*l'échange de formulaires informatisés*): the taxable person declares and settles the VAT due through the tax authorities' official website http://www.impots.gouv.fr. The taxable person must have previously connected to this website and, by filling in the required

information, created an account in the trader subscription section (*Espace professionnel*). When that is done properly, an activation code is sent to the taxable person. Once the account is activated, the taxable person has access to the VAT filing space. For foreign businesses, it is necessary to have a Single Euro Payments Area (SEPA) account to be able to settle the VAT due electronically (no need for a French bank account).

The taxable person must first approach the tax administration to be registered on a compulsory or voluntary basis.

Payments on account. Payments on account are optional in France. In certain circumstances, taxable persons may opt to file VAT returns and pay VAT due under the installment payment scheme, pursuant to which the deadline for filing is extended. See the subsection *Special schemes* below for more detail.

Special schemes. *Installment payment scheme.* If certain conditions are met (e.g., *Régime simplifié de TVA*), taxable persons may opt to file VAT returns on a yearly basis and pay VAT due under the installment payment scheme, pursuant to which the deadline for filing is extended. However, an installment shall be approved by the tax authorities before the initial deadline. The installment payment scheme is applicable to taxable persons meeting the following thresholds:

- Turnover of between EUR82,800 and EUR789,000 for the sale of goods, objects, supplies and foodstuffs to be taken away or consumed on the spot; provision of accommodation (excluding furnished rentals, furnished tourist accommodation, self-catering cottages and bed and breakfast)
- Between EUR33,200 and EUR238,000 for the provision of services

Franchise regime. The franchise regime allows small French-established businesses to avoid both the filing of French VAT returns and the payment of VAT if the following thresholds are not exceeded:

- Sale of goods:
  - EUR91,900 in the previous calendar year
  - EUR101,000 in the previous calendar year, when the turnover of the penultimate year did not exceed the amount mentioned in a)
- For provisions of services, excluding sales for consumption on the premises and accommodation services:
  - EUR36,800 the previous calendar year
  - EUR39,100 in the previous calendar year, where in the penultimate year it did not exceed the amount mentioned directly above

Real estate operations. Deliveries of buildings and similar transactions should be in principle taxable in France if they relate to buildings located in France (i.e., mainland France, Corsica, the Principality of Monaco, French overseas departments – with the exception of French Guiana and Mayotte).

Agricultural activity. Agricultural producers are likely to be subject to two different VAT tax regimes depending on the nature of the taxable transactions they carry out:

- Those who carry out agricultural activities are either obligatorily or optionally subject to VAT under the Simplified Agriculture Scheme (SAS).
- Operators who are not subject to taxation under the SAS are automatically placed under the flat-rate refund scheme, which is designed to offset the VAT on their purchases, unless they opt for SAS.

Operators subject necessarily to this scheme are those whose average income from all their holdings, calculated over the previous two consecutive calendar years, exceeds EUR46,000. Taxation takes effect from 1 January of the following year.

Annual returns. Businesses falling into the scope of the simplified regime (*le régime réel simplifié*) are obliged to file an annual return (Form CA12). In contrast, businesses subject to *le régime réel normal* scheme do not have to file annual VAT returns.

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

Taxable persons must complete Intrastat declarations in EUR.

The Intrastat return period is monthly. The submission deadline is the 10th business day following the return period.

As of 1 January 2022, the Intrastat return has been replaced by two returns, with no threshold applicable. These two returns are the statistical declaration and the recapitulative VAT statement.

The statistical declaration is intended to provide data on foreign trade.

The recapitulative VAT statement is intended to check the compliance of taxable persons with the intra-Community VAT rules. The filing of such declaration is a condition for exemption for intra-EU deliveries of goods. The recapitulative statement shall be produced within 10 working days of the month in which VAT became chargeable in respect of intra-Community supplies of goods or the month in which the movement of goods took place for other transactions.

A taxable person should not declare a response to a statistical survey if it has not received the request form the tax administration. In case of no supplies in a given month, the taxable person will have to submit a nil return (*les mois sans réponse statistique*).

As there is no threshold, the statistical declaration will report data as per the first euro of purchases and/or sales. The data to be reported in this declaration are set out in Article 289 B, II of the FTC.

EU Sales List. An ESL for services must, in principle, be filed with respect to services provided by French suppliers to customers registered for VAT in the EU in specified circumstances. The ESL for services must be submitted electronically on the web portal of the French customs administration on a monthly basis.

Correcting errors in previous returns. Where a taxable person has, in good faith, omitted to enter taxable revenue on a turnover declaration showing a non-attributable tax credit, it may rectify its error by adding the undeclared revenue to the revenue for the month in which the omission was discovered, provided that in respect of the period following this omission, the enterprise has not obtained a refund of nontaxable deductible tax credits. In this case, the regulatory provisions setting the conditions and modalities of reimbursement, as well as the minimum amounts to be reimbursed, necessarily imply, for their implementation, the re-examination of each of the declarations subsequently filed.

When, in other cases, taxable persons will be able to rectify the error made by adding the undeclared revenue to the revenue for the month in which the omission was discovered, they will have to enter it in the box reserved for correspondence on the turnover form:
- The amount of revenue omitted broken down by rate
- The corresponding VAT
- The period of completion of the transactions to allow the calculation of the interest for late payment legally due

As regards omissions of taxable receipts relating to an initial VAT return for a previous accounting year, the abovementioned reporting arrangements apply when the corrected VAT amount for that year is less than or equal to EUR4,000. Above this amount, the correction of these omissions is made by filing a rectifying declaration relating to the period to which the error is attached under the same conditions as the initial declaration.

Corrections can be made online as well as the initial filing of declarations.

Digital tax administration. *Reliable audit trail (piste d'audit fiable [PAF]).* To prevent any risk of VAT fraud and to make the invoicing system more secure, European Directive 2010/45/EU introduced the PAF regulation. Any entity, regardless of its form, must demonstrate that it has put in place a documented procedure to prove the reality of invoicing flows and to ensure the conformity of invoices.

Accounting Entry File (fichier des écritures comptables [FEC]). Taxable persons holding a computerized accounting system for accounting purposes must provide the FTA with the electronic file detailing the accounting entries for the period subject to the tax audit

J. Penalties

Penalties for late registration. There is no specific penalty in France for the late VAT registration. However, interest and penalties apply if a return is absent and if a late registration results in the late payment of French VAT.

Penalties for late payment and filings. The following penalties are assessed for the late submission of VAT and late payment of VAT:
- Late payment: 5% of the tax due
- Late submission: 10% of the tax due if the French VAT authorities have not yet issued a formal notice
- Payment more than 30 days after the first formal notice of a late submission: 40% of the tax due
- Second formal notice of a late submission: 80% of the tax due

In addition to the penalty, interest accrues at a rate of 0.2% per month. This rate applies as of 1 January 2018. Before this date the rate was 0.4%.

In case electronic filing and payment obligations are not respected, a 0.2% penalty (assessed on the VAT due) is applicable.

For Intrastat, the penalty for late filing is EUR750, increased to EUR1,500 if the report is not filed within 30 days after the French customs authorities have issued a warning notice. In addition, every omission or inaccuracy on an Intrastat return is punishable by a fine of EUR15. The fine cannot exceed EUR1,500 per Intrastat return. A penalty of EUR1,500 may also apply if a taxable person refuses to provide information or documents to the French customs authorities.

Penalties for errors. The following penalties are assessed for errors associated with electronic filing:
- Failure to declare VAT by electronic means: 0.2% of the VAT due (minimum EUR60)
- Failure to pay VAT by electronic means: 0.2% of the VAT due

For inaccurate invoices, a penalty of EUR15 per missing mandatory information per invoice applies

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any inaccuracies or omissions in a declaration or deed containing information to be withheld for the assessment or settlement of the tax, as well as the repayment of a tax claim that has been wrongly obtained from the tax authorities, shall give rise to the application of a surcharge of the following:

- 40% in the event of deliberate failure to comply
- 80% in the event of abuse of rights within the meaning of Article L. 64 of the *Livre des procedures fiscales (LPF)*
- 80% in the event of fraudulent practices or concealment of part of the price stipulated in a contract or in the event of the application of Article 792 bis of the FTC

Personal liability for company officers. In principle, any person who has fraudulently evaded or attempted to evade the establishment or payment of all or part of the taxes referred to in this codification (e.g., VAT), either by willfully failing to make its declaration within the prescribed time limits or by willfully concealing part of the sums subject to tax, either by arranging insolvency or otherwise hindering tax collection, or by acting in any other fraudulent manner, is liable, irrespective of the applicable tax penalties, to five years' imprisonment and a fine of EUR500,000, which may be increased to twice the proceeds of the offense.

The penalties are increased to seven years' imprisonment and a fine of EUR3 million, which may be increased to twice the proceeds of the offense, when the acts were committed in an organized gang.

Statute of limitations. The statute of limitations in France is three years. In principle, it is by 31 December of the third year following the year during which the tax became due.

The three-year period may be extended to 10 years for taxable persons carrying out covert/fraudulent activity.

Georgia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Damatebuli ghirebulebis gadasakhadi (D.Gh.G)
Date introduced	24 December 1993
Trading bloc membership	None
Administered by	Ministry of Finance of Georgia (https://www.mof.ge)
VAT rates	
Standard	18%
Other	Zero-rated (0%) and exempt
VAT number format	123456789
VAT return periods	Monthly – General
	Quarterly – Non-established taxable persons
Thresholds	
Registration	GEL100,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- Supply of goods or services in Georgia, in exchange for consideration within the scope of economic activities
- On termination of VAT registration, the balance value of the goods for which a taxable person has obtained a full or partial VAT credit
- Use of self-constructed buildings as fixed assets, if a taxable person would not be able to obtain a full VAT credit in case of purchasing these buildings from another person
- Transfer of ownership of goods or services in exchange for shares in an enterprise or partnership
- Import of goods into Georgia

- Transfer of ownership of property or services in exchange for consideration by decision of the state/local self-government body
- Actual delivery of goods under the terms of a rental, leasing or a similar agreement on condition of redemption
- Supply of goods under an agreement, according to which a commission fee is paid for the purchase or sale of goods
- Supply of electric or thermal energy, natural gas, water, cooling energy
- Free supply of goods if a taxable person supplying the goods has obtained a full or partial VAT credit for these goods or expenses incurred on them
- Supply of goods or services by a taxable person to its employee for his/her personal use, or supply/use of goods for a purpose different from the purpose of a taxable person's own activities, if the taxable person has obtained a full or partial VAT credit for these goods or expenses incurred on them
- Goods remaining in the taxable person's possession after the termination of an economic activity carried on by the taxable person or its legal successor, if the taxable person has obtained a full or partial VAT credit for these goods or expenses incurred on them
- Shortages in inventory or fixed assets
- Transfer of intangible property
- Repair of own fixed assets (buildings) for the purpose of a taxable person's activities, if the taxable person would not be able to obtain a full VAT credit if it were to purchase this service from another person

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Georgia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Georgia, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- Assets are transferred as a unit that allows the continuation of the supplier's economic activity
- Assets are transferred on the basis of a single written agreement, which provides for an exhaustive list of the assets being transferred
- A supplier and a buyer have reflected the transfer in the VAT return of the relevant reporting period

Transactions between related parties. In Georgia, for a transaction between related parties, the value for VAT purposes is calculated at the market price. The market price of goods/services is the price formed as a result of interaction of demand for and supply of identical (in the absence of such – similar) goods/services on the market on the basis of a transaction between the persons who are not related parties. The market price is determined on the basis of information on transactions on identical (similar) goods/services at the moment of supply (in the absence of such, on the calendar day closest to the moment of sale that precedes or follows, the moment of sale of such goods/services by maximum 30 calendar days).

C. Who is liable

Enterprises or individuals are considered to be VAT-taxable persons if any of the following circumstances exists:
- They are registered or required to be registered for VAT.
- They carry out taxable imports of goods into Georgia. Such persons are considered taxable persons with respect to such imports only, without the obligation to register.
- They are tax agents for the operations subject to reverse charge, without the obligation to register.
- They are taxable persons that are not established, or do not usually live in Georgia, or do not have a fixed establishment in Georgia who participate in the rendering of services or making taxable supply of services in Georgia that are not subject to the reverse charge. Such persons are considered taxable persons with respect to such services only, without the obligation to register.

Taxable persons must register for VAT if they satisfy any of the following conditions:
- They conduct economic activities, and the total amount of VAT taxable transactions carried out in any continuous period of 12 calendar months exceeds GEL100,000. Such persons must register within two working days after exceeding the threshold.
- They produce goods subject to excise tax (excisable goods) in Georgia. Such persons must register before making a supply of such goods.
- An entity is established as a result of a reorganization and at least one of the parties to the reorganization is a taxable person. The entity must register before any taxable transaction is carried out, but no later than 10 calendar days following the completion of the reorganization.
- A taxable person contributes goods or services to the capital of an enterprise or partnership. Registration of the latter is required before any taxable transaction is carried out, but no later than 10 calendar days following the date of the contribution.
- They have a fixed establishment in Georgia and supply goods or services. Such persons must register no later than the last day of the reporting period in which the supplies were made.

In determining whether the threshold required for VAT registration is reached, exempt VAT taxable supplies are not considered, except the following:
- VAT-exempt operations related to financial or real estate, if these operations are the primary activity of the taxable person
- Export operations
- Some supplies of goods/services that are exempt from VAT with the right of deduction

Exemption from registration. The VAT law in Georgia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Enterprises or individuals may register for VAT voluntarily. VAT registration is effective from the submission date of the application but no later than the date when the obligation of mandatory VAT registration arises.

Group registration. Group VAT registration is not allowed in Georgia.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Georgia, for any place that is not the place of establishment of a taxable person but is characterized by a sufficient degree of consistency, and by a proper structure in terms of human and technical resources, thus allowing it to provide or receive services and use them for its own need.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Georgia. The reverse-charge VAT generally applies to business-to-business (B2B) supply of services made by non-established businesses in Georgia. For business-to-consumer (B2C) supplies of certain services a non-established business pays VAT without the obligation to register. The obligation to calculate and pay VAT without the obligation to register for VAT arises for non-established businesses who supply "digital services" (i.e., telecommunication services, radio and television broadcasting services and electronically rendered services) to consumers in Georgia.

Such foreign suppliers undergo a simplified online registration procedure through the special platform created on the website of the Georgian Revenue Service. To complete the registration procedure, the foreign supplier has to submit some basic information, such as the legal name of the organization, the headquarters' address, its website, country of residence for tax purposes, tax ID and contact persons, among other information. There is no requirement to present any documents. VAT returns can be submitted through the same online platform. The VAT reporting period is quarterly. A non-established business that carries out taxable transactions in Georgia must, through the platform created on the Revenue Service website, submit a tax return for each reporting period no later than the 20th of the month following the reporting period and pay the tax no later than the last day of the same month.

A non-established business can settle VAT liabilities in US dollars (USD), Euros (EUR) or Georgian lari (GEL). Since foreign currency payments are accepted, a supplier can transfer the VAT amount from its regular foreign bank account.

The taxable base is compensation received for delivery of digital services to consumers in the territory of Georgia. The VAT rate is 18%.

Non-established businesses are required to maintain their accounting records for a period of three years from the end of the year when the taxable service was rendered.

Tax representatives. Tax representatives in Georgia are only required for VAT-registered businesses of EU Member States. Such taxable persons need to meet certain criteria and appoint an authorized representative to obtain a refund of VAT paid when purchasing goods and/or services in Georgia or when importing goods to Georgia. For VAT-registered businesses of non-EU Member States, tax representatives are not required in Georgia, as the refund of VAT is not available for them.

Reverse charge. The reverse-charge mechanism applies to the following:

- Supplies of services to a tax agent in Georgia by a taxable person that is not established, or does not usually live in Georgia, or does not have a fixed establishment in Georgia participating in the rendering of the services
- The importation of foreign goods purchased at a customs warehouse
- The importation of foreign goods purchased from a Free Industrial Zone Enterprise

Under the reverse-charge mechanism, any persons established in Georgia (except for individuals who do not carry out entrepreneurial activities and Free Industrial Zone Companies) or having fixed establishment in Georgia, through which the services were purchased, are responsible for the calculation and payment of VAT.

Domestic reverse charge. A domestic reverse charge applies in Georgia to the transfer of collateral objects to the ownership of a creditor, within the measures to ensure fulfillment of contractual terms. In other words, it applies to the instances where items are pledged to guarantee the performance of contractual obligations and then are transferred to the creditor, e.g., when a debtor fails to repay the loan and must transfer their property to the creditor that was pledged as a collateral under the loan agreement.

Digital economy. As a general rule, in B2B transactions, the place of rendering services is the place where the customer is established. In B2C transactions (where the consumer is a natural person who does not engage in economic activities for VAT purposes), the place of rendering services is the place where the supplier is established. However, as an exception "digital services" (i.e., telecommunication services, radio and television broadcasting services, and electronically rendered services) are treated as rendered in the territory of Georgia if any one of the following criteria is met:
- The bank account used by recipient is with a financial institution located in Georgia.
- The recipient is physically located in Georgia.
- The IP address of the device used by recipient is in Georgia
- The telephone code used by the recipient belongs to Georgia.

Nonresident providers of B2B digital services are not required to register and account for VAT on supplies in Georgia. Instead, the customer is required to self-account for the VAT due via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

Nonresident providers of B2C digital services are liable to pay VAT without the obligation to register (see the *Non-established business* subsection above for details).

There are no other specific e-commerce rules.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Georgia.

Registration procedures. The VAT registration procedure is straightforward, and a taxable person may register for VAT in one working day. An authorized official of the company or its officially designated representative shall appear in person at the tax office to sign and submit the application. A taxable person may also register for VAT online via the official website of the electronic services of the Revenue Service. In case of mandatory registration, the taxable person must submit a statement including information about the date when the obligation for registration has arisen and about the reason for the obligatory registration.

Deregistration. The VAT registration of a taxable person is canceled in the following cases:
- An enterprise/organization is liquidated.
- An individual passes away.
- A taxable person applies to the tax authorities through a written request or approves a request from the tax authorities to deregister.
- A bankruptcy proceeding is initiated in accordance with the procedure prescribed under the Law of Georgia on Insolvency Proceedings.

A taxable person may request deregistration within one year of the most recent VAT registration if the value of taxable transactions carried out during the preceding 12 calendar months did not exceed GEL100,000. The tax authorities may also request that the taxable person deregister without requiring to meet any conditions if the taxable person approves to deregister. For example, if a taxable person registers as a VAT payer by mistake, they cannot deregister for at least one year. For such cases, the tax authority has a right to deregister the VAT payer without any conditions, if, of course, the taxable person approves of such deregistration

The VAT registration is canceled from the date the state registration is canceled, the date the individual passes away or the first day of the month following the application by a taxable person, the date a court's statement on bankruptcy is published or an approval of the request from the tax authorities is granted.

Changes to VAT registration details. Every business entity in Georgia is registered at the National Agency of Public Registry and changes in registration details (company name, address, etc.) are made in the Public Registry. The Public Registry and Revenue Service exchange information,

and subsequently every change in registration detail is automatically reflected in the Revenue Service database. Therefore, a taxable person has no additional/separate obligation to notify the Revenue Service about such changes and no penalties apply thereon.

Changes in the registration information at the Public Registry are made through submission of original copies of certain documentation. The Public Registry has no deadline for presenting such documents. After a taxable person decides to make changes, it must gather the necessary documents and bring them in person to the registry. Changes in registration details will only be made after such documents have been provided.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of goods and services taxable at 0%

- Supply of fuel or groceries to the aircraft
- Supply, remake, repair, servicing or lease of aircraft and equipment installed or used on an aircraft
- Supply of goods outside Georgia (export, re-export)
- Supply of goods or services intended for the official use of foreign diplomatic missions and equivalent representative offices as well as for the personal use of the members of such diplomatic missions and representative offices (including family members residing with them)
- Transportation of goods under export, re-export, external processing, and transit arrangements (i.e., foreign goods moving through the customs territory of Georgia) and related services
- Transportation of goods not yet declared into import, warehouse, temporary import, internal processing or free-zone operations between points located in Georgia and related services (except for storage services)
- Transportation of goods declared into import, warehouse, temporary import, internal processing or free-zone operations before entering the territory of Georgia from the customs border of Georgia to the destination point and related services (except for storage services)
- Transportation of passengers and cargo and related services if the departure or arrival point is located outside Georgia and if a unified transportation document is issued for such transportation
- Import and supply of products to be provided on board for international flights or international sea passages
- Transportation, loading, unloading and storage services provided for the purpose of sending (returning) empty transport facilities (including containers and wagons) outside Georgia
- Supply of natural gas to thermoelectric power stations
- Withdrawal of assets by the state or a local governing body from an entity's capital if more than 50% of the shares are owned by the state or the local governing body
- Free supply of goods or services to the state or a local governing authority
- Supply of Georgian goods to a duty-free outlet for sale, and sale of goods and provision of catering services in a duty-free zone
- Supply of gold to the National Bank of Georgia

- Organized foreign tours into Georgia by tour operators and the supply of tourist packages to foreign tourists
- Rendering of services to ships on carrying goods into the customs territory of Georgia
- Supply of goods or services or import of goods that qualify for VAT exemption in accordance with the framework of international agreements ratified by the parliament of Georgia
- Supply of unprocessed agricultural products produced in Georgia (except for eggs and chickens)
- Supply/import of books and e-books, also, rendering of sales and printing services for the goods

Examples of exempt supplies of goods and services

- Supply or import of certain medicines
- Supply or import of passenger cars
- Import of publications and mass media
- Import of baby products
- Supply of land plots
- Supply of goods and services between Free Industrial Zone Companies
- Conduct of financial operations or supply of financial services
- Supply of medical services
- Supply of educational services
- Supply of assets under finance leases if the assets are exempt without the entitlement to credit
- Supply of betting and gaming services
- Import of gold for supply to the National Bank of Georgia
- Supply or import of goods and services needed for the oil and gas industry under the Law of Georgia "on Oil and Gas"
- Import of natural gas for electricity production
- Import of goods by an issuer or a recipient of a grant as defined by the grant agreement
- Import or temporary import of goods or services intended for the official use of foreign diplomatic missions and equivalent representative offices, as well as for the personal use of the members of such diplomatic missions and representative offices (including family members residing with them)
- Import or temporary import of goods intended for the personal use of the citizens of foreign countries employed at oil and gas exploration and extraction works
- Import of natural gas for electricity production
- Import of goods by an issuer or a recipient of the grant as defined by the grant agreement
- Supply of property by partnerships to their members if all the members are individuals, the partnership is not a taxable person, and the members have not changed since the moment of establishment of partnership

Option to tax for exempt supplies. A VAT-registered taxable person may apply to pay VAT on certain transactions that qualify for exemption without the right to reclaim input tax (namely financial transactions and/or financial service and the supply of a land). This option gives the taxable person the right to reclaim input tax against output tax.

After applying to the tax authorities to use this option, it becomes effective from the first day of the reporting month following submission of the application and is valid for 12 calendar months for all transactions.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The "basic" tax point is the moment when goods are supplied, or services are rendered. However, the "actual" tax point is the moment of receipt of advance payment if the latter occurs earlier than the basic tax point.

A range of other situations have different time of supply rules that do not fit naturally into the above scheme. The following are some of these special time of supply rules:
- In case of VAT deregistration, the moment when registration is canceled
- The moment of discovering inventory and/or fixed asset shortage
- The moment of completing the repair of own fixed assets (buildings)
- In case of bringing self-constructed buildings into use as fixed assets, the starting point of their use in economic activity
- In case of regular or continuous supplies of goods (electrical or thermal energy, gas or water), the last day of the reporting period

Deposits and prepayments. If a deposit/prepayment is made as an advance payment for subsequent supply of goods/services, then the time of supply is the moment such payment is received.

Continuous supplies of services. For telecommunication services, the time of supply is the last day of the reporting period. For continuous supplies of other services, the same time of supply rule applies, provided no advance payments are made.

Goods sent on approval for sale or return. There are no special time of supply rules in Georgia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply.

Reverse-charge services. The time of supply for services subject to the reverse-charge mechanism is determined in accordance with the standard rules discussed above.

Leased assets. In the case of delivery of goods under the terms of a rental, leasing or a similar agreement on condition of redemption, the time of supply is the moment of actual delivery of goods.

Imported goods. The time of supply for imported goods is the date on which the commodity declaration is filed at the border and the goods are accordingly placed into release for free circulation procedure.

F. Recovery of VAT by taxable persons

VAT-registered taxable persons may recover input tax, which is VAT charged on expenses related to the supply of goods and services. Taxable persons generally recover input tax by deducting it from output tax, which is VAT charged on supplies made. Recoverable input tax includes VAT charged on goods and services acquired in Georgia, VAT paid on imports into the customs territory of Georgia and VAT self-assessed for reverse-charge services received from outside Georgia, provided that respective goods/services are intended for use in taxable operations. VAT-registered taxable persons may also recover input tax, which is charged on expenses related to the supply of goods/services outside Georgia.

The time limit for a taxable person to reclaim input tax in Georgia is three years. No input tax credit is allowed if three years have passed from the end of calendar year in which the taxable transaction took place.

Nondeductible input tax. No VAT credit is allowed in the following circumstances:
- VAT paid on goods and services intended for use in exempt supplies without the right to reclaim input tax
- VAT shown on tax invoices that do not make the identification of the seller of the goods or services possible or are not issued according to the law
- VAT shown on tax invoices, if three years have passed from the end of the calendar year in which the taxable transaction took place.
- VAT shown on tax invoices issued with respect to bogus operations or fictitious agreements

Examples of items for which input tax is nondeductible

- VAT paid on representative expenses (which refer to expenses incurred by a person within the scope of economic activity) including:
  - Expenses (for juices, mineral waters, soft drinks, tea, coffee, breakfast, lunch, dinner, banquet) related to events (presentations, receptions) arranged on behalf of a person
  - Expenses for excursions and cultural and entertainment events
  - Souvenir expenses
  - Guest service expenses
- VAT paid on expenses incurred for entertainment events

Examples of items for which input tax is deductible (if related to a taxable business use)

- Any item that is not specifically defined as nondeductible by the Tax Code of Georgia is deductible, if it is related to a taxable business use. Examples include:
  - Leased property
  - Fixed assets wholly used in taxable transactions
  - Office inventory

Partial exemption. Input tax directly related to exempt supplies with the right to reclaim input tax is recoverable in full, while input tax directly related to exempt supplies without the right to reclaim input tax is not recoverable. If a taxable person makes both exempt supplies (with and without the right to reclaim input tax) and taxable supplies, it may not recover input tax in full and must be apportioned. This situation is referred to as "partial exemption."

The statutory method of apportionment is a pro rata calculation. The portion of input tax to be recovered is calculated by fraction and is fixed as a percentage, where the numerator is the value of supplies with the right to reclaim input tax and the denominator is the total turnover of the business. The recoverable VAT for each reporting period is calculated in accordance with the fixed annual percentage of the previous tax year and is adjusted in the last reporting period according to the annual percentage of the current tax year.

The following shall not affect the calculation of the fixed annual percentage:

- The turnover related to the supply of fixed assets used for taxable person's own activity
- The turnover related to immovable property or financial transactions if these are not the primary activity of the taxable person

Approval from the tax authorities is not required to use the partial exemption standard method in Georgia.

Special methods are not allowed in Georgia.

Capital goods. Capital goods are items of capital expenditure that are used in the business for more than one year.

The recovery of input tax on capital goods is similar to the other goods described above with one exception. This exception applies if fixed assets are used in both taxable and exempt supplies (with and without the right to reclaim input tax) and the input tax cannot be directly attributed to either of these types of supplies. In these circumstances, the input tax is recoverable in full in the first reporting period if exempt supplies without the right to reclaim input tax account for less than 20% of the total turnover of the preceding tax year of the business. The recoverable VAT is adjusted at the end of each calendar year based on the value of exempt supplies without the right to reclaim input tax as compared to the total turnover of the business for the respective calendar year.

If the abovementioned 20% threshold is not met, the input tax is recoverable only in the last VAT return of a calendar year in the proportion of supplies with the right to reclaim input tax to total turnover of the business during the calendar year.

The following adjustments must be made to the value of input tax for capital goods:
- For an immovable property, an adjustment of 1/10 of total input tax applies annually for 10 calendar years from the year of bringing the property into use.
- For other fixed assets, an adjustment of 1/5 of total input tax applies annually for five calendar years from the year of bringing the asset into use.

Refunds. The excess of input tax over output tax in the reporting period must first be used to offset other taxes payable. If the amount of VAT credit exceeds all taxes payable, the excess can be used to cover future VAT and other tax liabilities, or a refund may be claimed. In certain cases, excess VAT may be refunded to a taxable person automatically.

Pre-registration costs. The recovery of VAT incurred before VAT registration is allowed on the balance of inventory acquired for business purposes outstanding at the moment of VAT registration.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Georgia.

Noneconomic activities. Input tax may not be recovered on purchases of goods and services that are not used for economic activities.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Georgia is not recoverable. Non-established businesses, except EU taxable persons, cannot recover VAT in Georgia, because generally only entities registered for VAT in Georgia may claim recovery of input tax.

EU taxable persons have a right to refund the VAT amount paid on purchased goods (except real estate), services or the importation of goods to Georgia. In order to enjoy the above tax relief, an EU taxable person must satisfy the following conditions:
- The person must not have a fixed establishment in Georgia, or its place of business activity or permanent residency must not be in Georgia.
- Goods/services purchased in Georgia or goods imported into Georgia must be used for taxable transactions.
- If the operations were carried out by a Georgian taxable person, the VAT paid would be recoverable in accordance with the Tax Code of Georgia.

To obtain a refund of VAT, EU taxable persons are required to appoint a tax representative for this purpose (see *Section C. Who is liable*).

H. Invoicing

VAT invoices. A VAT-registered taxable person must issue a VAT invoice upon supply of goods/services to another taxable person. VAT invoices can be issued according to the supply cycles for electrical or thermal energy, gas or water supplies if the taxable person accounts for the supplies based on cycle accruals and payment is usually made periodically and not according to the calendar months. A VAT Invoice is issued electronically.

Credit notes. The amount of VAT may be adjusted if the circumstances on which this amount was determined have changed. Any adjustment is made in the reporting period when the change in circumstances occurs. The rules for making adjustment to VAT invoices are defined by the Minister of Finance of Georgia.

Electronic invoicing. Electronic invoicing is allowed in Georgia, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Georgia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Georgia. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, note that Georgia has not implemented any international standards for electronic invoicing. For purposes of strictly local tax administration, Georgian VAT payers may issue VAT invoices electronically. Electronic VAT invoicing is done through the Revenue Service web portal. Paper-based invoicing is also allowed, though it is used very rarely in practice.

All VAT payers in Georgia who have to issue a VAT invoice can do so electronically through the Revenue Service web portal. It is permissible for B2B, B2C and B2G transactions involving exchange of goods or services. The information outlined in the invoices and overall process remains consistent regardless of the recipient of the goods or services.

Simplified VAT invoices. Simplified VAT invoicing is allowed in Georgia. As of 1 January 2021, simplified invoicing was approved in the Georgia VAT law. *However, at the time of preparing this chapter, detail around when simplified VAT invoices can be issued and what information must be reported for simplified VAT invoices has not been issued by the tax authorities.*

Self-billing. Self-billing is not allowed in Georgia.

Proof of exports. Goods exported from Georgia are exempt from VAT with the right to reclaim input tax. To confirm the applicability of this exemption, the supplier must collect and provide to the tax authorities all relevant supporting documents: sales invoice, sales contract, transportation document, license/certificate, etc.

Foreign currency invoices. No foreign currency invoices are allowed for VAT purposes. VAT invoices must be issued in the domestic currency, which is the Georgian lari (GEL).

Supplies to nontaxable persons. When a VAT-registered taxable person delivers goods or services to a consumer (B2C), a VAT invoice is issued only upon request. Where the customer does not request an invoice, no invoice is required to be issued.

Records. There are no specific requirements related to record keeping for indirect tax in Georgia. In Georgia, examples of what records must be held for VAT purposes include primary documents, accounting registers and other documents on the basis of which taxable objects are defined and tax liabilities are established. For VAT purposes, such documents may include VAT invoices, commodity declarations, contracts and other transaction-related documentation.

In Georgia, VAT books and records can be kept outside the country. While there is no provision in the Georgia VAT law on where to hold such records, in practice, records may be held in or outside Georgia. If the records are held outside Georgia, the taxable person must be able to provide the records to the tax authorities upon request within five days, though the deadline may be extended upon written request.

Record retention period. Generally, all records relevant to indirect tax need to be kept for the statute of limitations period, which is three years.

Electronic archiving. Electronic archiving is allowed in Georgia. It is not mandatory, and as such physical archiving (i.e., paper) is also allowed. In practice, documents are archived and provided to tax authorities upon request in either form (i.e., electronic and paper).

I. Returns and payment

Periodic returns. The VAT reporting period for businesses established in Georgia, is monthly. Taxable persons must file VAT returns by the 15th day of the month following the reporting period. VAT returns must be completed in GEL and filed electronically.

The VAT reporting period for non-established businesses that provide digital services to be used in the territory of Georgia by natural persons is quarterly. A non-established business that carries out such transactions in Georgia must, through the platform created on the Revenue Service website, submit a tax return for each reporting period (quarter) no later than the 20th of the month following the reporting period. A non-established business can settle VAT liabilities in US dollars (USD), euros (EUR), or GEL.

Periodic payments. The VAT amount payable to the budget is the difference between output and input tax. Payment in full is required by the due date for the VAT return, i.e., by the 15th day of the month following the reporting period. VAT liabilities must be settled in GEL through bank transfer to the State Treasury Account.

VAT on imports is paid at the moment the goods are imported into Georgia. Reverse-charge VAT must be paid by the 15th day of the month following the reporting period.

Electronic filing. Electronic filing is mandatory in Georgia for all taxable persons. VAT returns must be completed and filed electronically through the Revenue Service web portal (https://eservices.rs.ge/). Prior registration with the Revenue Service is required to access the taxable person's account on the web portal.

Payments on account. Payments on account are not required in Georgia.

Special schemes. *Secondhand items, works of art, collectibles, antiques.* Supplies of secondhand items, works of art, collectibles and antiques are subject to a special scheme for VAT. Under the special scheme, the taxable amount is determined by dividing the seller's profit margin by 1.18. If the seller is applying the special scheme, neither the seller, nor the buyer have the right to reclaim input tax.

To apply the special scheme, a taxable person must notify the tax authority indicating the period of application of the scheme, which may not be less than 24 months.

Annual returns. Annual returns are not required in Georgia.

Supplementary filings. No supplementary filings are required in Georgia.

Correcting errors in previous returns. Any errors in previous returns can be corrected by submitting an adjusted return electronically. The adjustment of the taxable transaction amount is made in the reporting period when the circumstances causing the adjustment occurs. The taxable amount should be adjusted if the circumstances/factors based on which the taxable amount was determined have changed. From 1 January 2021, the Minister of Finance of Georgia determines the cases of adjustment of the amount taxable with VAT, as well as the procedure for subscribing and submitting the document. According to the order of the Minister of Finance of Georgia, the amount of the taxable transaction is adjusted in the following circumstances:

- The taxable transaction was canceled.
- The type of taxable transaction has changed (including the tax regime).
- Parties agreed to change the amount of remuneration determined at the time of taxation, except for changes caused by changes in exchange rates.
- The goods/services were fully or partially returned to the supplier.

If a VAT invoice was incorrectly issued for a taxable transaction, a taxable person should issue a corrected VAT invoice. A corrected VAT invoice has the same requirements as an ordinary VAT invoice.

Digital tax administration. There are no transactional reporting requirements in Georgia.

J. Penalties

Penalties for late registration. The penalty for late registration equals 5% of the VAT taxable turnover (except for exempt operations) for the entire period of operating without VAT registration.

Penalties for late payment and filings. Late payment interest is calculated from the day following the payment due date. Late payment interest is imposed at a rate of 0.05% of the overdue tax amount for each overdue day. The payment day is considered an overdue day in case of delay.

If the submission of a tax return is delayed for up to two months, the penalty is 5% of the tax payable based on this tax return. If submission of a tax return is delayed for more than two months, the penalty is 10% of the tax payable based on this tax return.

Penalties for errors. If understated tax does not exceed 5% of the reported tax, a penalty equaling 10% of the understated amount is imposed. The same penalty applies if the understatement results from a change of a tax point by the tax authorities. If understated tax amounts to 5%–20% of the reported tax, a penalty equaling 25% of the understated amount applies. In any other case, a penalty equaling 50% of the understated amount is imposed.

No penalty is imposed for incorrect information presented in the return or calculation form filed by the taxable person if the latter files an amended return or calculation form before receiving the notification regarding the tax audit or the tax violation from the tax authorities.

There are no specific penalties associated with the late notification to the tax authorities of changes to a taxable person's VAT registration details. For further details, see subsection *Changes to VAT registration details* above.

Penalties for fraud. If input tax credit is claimed based on bogus operations, fictitious agreements or fake documents, a penalty of 200% of the credited tax amount is imposed.

For the issuance of a fake invoice or the issuance of an invoice based on bogus operations or fictitious agreements, a penalty equal to 200% of the VAT amount indicated in this VAT invoice is imposed.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Georgia. However, in case of intentional evasion of taxes in the amount exceeding GEL100,000, criminal proceedings are instituted.

Statute of limitations. The statute of limitations in Georgia is three years. The statute of limitations for conducting a tax audit, assessing taxes and imposing sanctions on a taxable person is three years from the end of the calendar year in which the taxable transaction was performed. Taxable persons have the same time limit to voluntarily correct errors in previous tax returns. Notably, if less than a year remains before the expiry of the three-year period and the taxable person files a tax return (including an adjusted tax return) for the relevant period, the statute of limitation is extended for one year.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Umsatzsteuer/Mehrwertsteuer (USt/MwSt)
Date introduced	1 January 1968
Trading bloc membership	European Union (EU)
Administered by	German Federal Ministry of Finance (http://www.bundesfinanzministerium.de)
	Ministries of the Federal States
VAT rates	
Standard	19%
Reduced	7%
Other	Zero-rated (0%) and exempt

VAT number format	DE123456789 (DE+9 digits)
VAT return periods	Monthly, quarterly and annually
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR12,500
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Germany by a taxable person
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- Reverse-charge supplies, including supplies of services and supplies of goods with installation services
- The self-supply of goods and services by a taxable person
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of Germany does not include the Island of Helgoland, the territory of Buesingen and a free zone of control type I, as defined in Article 1 (1), first sentence of the Customs Administrative Act; this mainly covers the free ports of Bremerhaven and Cuxhaven, as well as certain other special territories.

Services rendered for foreign businesses are taxable in their home countries instead of Germany.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

In Germany, the Quick Fixes have been implemented as of 1 January 2020. These include regulations regarding consignment stock, chain supply, intra-Community supply and its documentation. Documentation of intra-Community supplies according to Quick Fixes is required in addition to those under national regulations. In Germany, the rules on chain supplies are broader than the EU law. They also include the allocation of the moved/unmoved supply for local and export sales, as well as chain supplies where the transport is arranged by the first or last party of the supply chain.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Germany, the following services are subject to the "use and enjoyment" provisions:
- Freight transport services and other similar transport services of objects
- Work on movable objects
- Certain travel services (*Reisevorleistung*)
- Services in connection with exhibitions and events
- Hire of means of transport
- Hire of goods
- Broadcasting services
- Telecommunication services
- Advertising services
- Financial services
- Certain consultancy services

Transfer of a going concern. A supply under the transfer of a going concern (TOGC) regime is not subject to VAT. Transferred assets as a whole must qualify as a going concern. That requires that the entirety enables to render supplies/services. The acquirer must use the acquired entirety to continue rendering the same supplies/services. Partial TOGCs are possible, i.e., part of a single asset deal might be a TOGC (e.g., transfer of rented property where the acquirer continues the renting of the property) while other parts are not.

Transactions between related parties. The VAT taxable amount for transactions between related parties is calculated under the regular regime (remuneration is the tax basis). If the remuneration is, however, below a certain threshold, the threshold serves as the taxable amount instead. For supplies of goods, the threshold consists of the costs of acquisition. For supplies of services, the threshold is determined by the sum of all costs incurred for rendering the service, if input tax on these costs could be (entirely or partially) deducted.

C. Who is liable

A taxable person is any business entity or individual that independently carries out any economic activity in any place.

There is no VAT registration threshold in Germany. Therefore, a taxable person that begins an activity in Germany must provide certain information connected to the enterprise to the German VAT authorities.

The following two distinct types of numbers are used in Germany:
- General tax number (*Steuernummer*)
- VAT Identification Number (USt-IdNr.)

The tax number is the number under which the taxable person is registered at the local tax office that is responsible for the person's tax affairs. The tax authorities use the tax number for internal management and coordination purposes. The tax number must be used for all preliminary VAT returns, annual VAT returns and all correspondence with the local tax authority.

On receipt of the tax number, a taxable person may apply to the Federal Office of Finance in Saarlouis (BZSt) for a VAT Identification Number. This number is used for intra-Community transactions and EU taxable persons selling products from, within or to Germany including the usage of electronic interfaces.

Exemption from registration. The VAT law in Germany does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Germany does not contain any provision for voluntary registration, nor special VAT registration rules for small businesses. This is

because there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Group registration. Germany allows group registration for subsidiaries that are "financially, economically and organizationally integrated" into the business of a parent entity. The following general conditions apply:

- The parent (or controlling) member of the VAT group may be any type of legal entity, including a corporation, a general partnership or a sole entrepreneur (natural person). However, it must carry out taxable activities to be able to act as the parent company of the VAT group.
- A subsidiary (or controlled) member of a VAT group must be a corporation or a general partnership. A sole entrepreneur (i.e., a natural person) is ruled out as a controlled member. National jurisdiction has positively admitted general partnerships only if they fulfill additional certain requirements, though. A decree of the tax authorities mainly – if not entirely – follows the rulings regarding the requirements for admitting a general partnership. The European Court of Justice (ECJ) (C-868/19, 15 April 2021) ruled that the certain tighter requirements for general partnerships in Germany (compared to the regular requirements to corporations) are not in line with the EU Directive. *At the time of preparing this chapter, the national jurisdiction reacted only partially to this ruling (Federal Fiscal Court, V R 14/21 (V R 45/19); still pending: Lower Fiscal Court Berlin-Brandenburg, 5 K 5044/19). The tax authorities have not reacted to the ECJ's ruling.*

The VAT authorities apply the following criteria to determine whether entities are eligible for integration:

- "Financial integration" means, according to rulings of the national jurisdiction and national tax authorities' opinion, that the parent has the majority of voting rights in the subsidiaries. The ECJ has ruled, however, that financial integration does not require the majority of voting rights. Instead, the majority of shares is sufficient as long as the parent is able to enforce its will (ECJ, C-141/20, 1 December 2022). For a general partnership, national jurisdiction and tax authorities require that the parent holds all its shares (directly and/or indirectly). The ECJ disputed that (see above).
- "Economic integration" means that the subsidiaries act like departments of one entity or like divisions with respect to the overall business of the group.
- "Organizational integration" exists if the parent has the means to exercise management power in the subsidiaries. For example, this requirement is met if the parent and the subsidiary have the same person acting as the Managing Director, whereas legislation requires this person to be employed at the parent and not at the subsidiary.

If the integration conditions are met, the subsidiaries and the parent are automatically treated as a group for VAT purposes. The effect of grouping is that the subsidiary is no longer considered to be an entrepreneur or separate taxable person. As a result, intragroup transactions are outside the scope of VAT and accordingly, no VAT is charged. The subsidiary is no longer required to file separate VAT returns and its transactions are reported through the parent's VAT return. These effects apply only to domestic supplies between the group entities (that is, supplies within the scope of German VAT). In addition, the effects of the VAT grouping are limited to Germany.

VAT grouping does not apply to certain intra-Community compliance obligations. Each subsidiary must have its own separate VAT Identification Number and must file its own European Sales List, if it carries out intra-Community supplies. Intrastat returns may be filed either on an aggregate group basis by the parent or by each subsidiary separately.

Generally, the representative member is liable for VAT debts and penalties. However, other VAT group members can be held liable partially.

There is no minimum time period required for the duration of a VAT group.

Holding companies. In Germany, a pure holding company cannot be a member of a VAT group. This is because a pure holding company does not qualify as a taxable person. They might, however, serve as link to established financial integration between their parent company and their subsidiaries.

Cost-sharing exemption. The VAT cost-sharing exemption, in accordance with VAT Directive 2006/112/EEC Article 132(1)(f), has been implemented in Germany. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in German VAT law).

Fixed establishment. A legal definition of a fixed establishment for VAT purposes does not exist in Germany. It requires a facility or other fixed place, which is equipped with a minimum of personnel and assets to provide the respective services/supplies.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Germany. A non-established business is not required to register for German VAT if all of its supplies are covered by the reverse-charge procedure (under which the recipient of the supply must self-assess VAT). The reverse-charge procedure applies to most services. It does not apply to supplies of goods located in Germany (except supplies of installed goods) or to supplies of goods or services made to private persons. In principle, if the reverse charge does not apply, a non-established business must register for German VAT. As such, no threshold applies for non-established businesses.

Tax representatives. In principle, a non-established business that is required to register for VAT in Germany may not appoint a tax representative. A tax representative may be appointed only if the non-established business does not have any German VAT to reclaim and exclusively makes supplies that are either exempt from German VAT or exempt with credit.

Reverse charge. Applying the reverse-charge mechanism shifts the liability for payment of the tax from the supplier to the recipient of the supply. The recipient must self-assess the VAT due.

The recipient is allowed to reclaim the reported VAT in the same preliminary VAT return as input tax to the extent it is allowed for input tax deduction. The supplier must issue invoices without German VAT. Therefore, the taxable person only invoices the net amount. Furthermore, it is mandatory for the entrepreneur to state on the invoice that the reverse charge applies and that the recipient is liable for German VAT with the following phrase: *"Steuerschuldnerschaft des Leistungsempfängers" or "Transactions subject to reverse-charge mechanism."*

Domestic reverse charge. The reverse-charge procedure applies in principle to the following supplies and services (if further criteria are met):

- Supplies of services performed by entrepreneurs based in other EU Member States or third states to a German-based taxable person
- Services and the supply of goods with installation provided by non-established businesses
- Certain supplies in connection with immovable property
- Certain supplies in connection with the real estate transfer tax law
- Certain supplies of gas and electricity and emission certificates
- Goods supplied as part of the execution of security outside of an insolvency procedure
- Supply of rights to emit greenhouse gases and of gas and electricity certificates
- Certain supplies of heat and cooling
- Supply of scrap and discarded metal as defined by a special annex
- Facility cleaning under certain conditions
- Supplies of integrated circuits, mobile phones, tablet computers and games consoles for a remuneration of EUR5,000 or more
- Supplies of base metals as defined by a special annex
- Telecommunication services

The reverse-charge procedure does not apply to certain supplies of passenger transportation or to services with respect to fairs or exhibitions.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but these rules are referred to as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B, Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Germany, the registration and application process follows the normal rules (see the *Registration procedures* subsection below).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Germany, if the taxable person chooses to use the OSS, it must declare and register with the Federal Central Office for Taxes (*Bundeszentralamt für Steuern*). The OSS cannot be used retroactively. Instead, the taxable person can only declare to OSS for a future assessment period.

Declaration and payment of VAT under the OSS must be made within one month after the end of the respective assessment period (quarter).

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU, regardless of their value. Furthermore, the former threshold for the VAT exemption regarding goods with a value less than EUR22 has been lifted. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the chapter on the EU.*

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In Germany, if the taxable person chooses to use the IOSS, it must declare and register with the Federal Central Office for Taxes (*Bundeszentralamt für Steuern*). The IOSS cannot be used retroactively. Instead, the taxable person can only use the IOSS from the day onward at which the taxable person's individual identification number has been issued.

Declaration and payment of VAT under the IOSS must be made within one month after the end of the respective assessment period (month).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Germany the taxable person may apply for the optional scheme before the competent customs authority. The scheme can only be used for goods that are transported into Germany. The taxable person must declare monthly the goods for which this scheme was used until the 10th day after the respective month.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow

the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Germany, there are no additional specific local rules that apply. The taxable person must declare these supplies within its regular preliminary VAT declarations.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. In Germany, the rendering of a single-purpose voucher (SPV) is taxed at the VAT rate of the supply itself. In that case the actual supply/service is not taxed. The rendering of a multi-purpose voucher (MPV) is not taxed. Instead, the supply/service paid with that voucher is taxed regularly (i.e., the voucher is taxed on redemption). The voucher classifies as SPV if the place of supply as well as the VAT amount are already certain upon issuing of the voucher.

Registration procedures. There is no VAT registration threshold in Germany. All taxable persons that carry out taxable transactions in Germany that are subject to German VAT must register for VAT purposes in Germany. It normally takes four to six weeks to obtain a (general) tax number from the responsible local tax authority. The entrepreneur may apply for a VAT ID number for intra-Community transactions or services supplied where received from the Federal Central Office for Taxes (*Bundeszentralamt für Steuern*).

The entrepreneur can apply for the (general) tax number at the responsible local tax authority by explaining in writing why they need to register for VAT in Germany. No special form is required, but the entrepreneur generally must complete a questionnaire issued by the relevant local tax authority. Furthermore, they must submit a certification of status of taxable person as well as an excerpt from their local trade register. Online registration is not possible. To obtain the VAT ID number, a separate application is required to be submitted to the Federal Central Office for Taxes *(Bundeszentralamt für Steuern)*.

Deregistration. There is no special procedure or form required to deregister. The entrepreneur informs the tax office and states the reason for the deregistration.

Changes to VAT registration details. A taxable person must report changes to its VAT registration details to the tax authorities without any undue delay. No fixed deadline exists for such notifications. However, any delay that hampers the duly taxation might trigger penalties or might even be regarded as fraudulent behavior.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 19%
- Reduced rate: 7%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

Some supplies are classified as "exempt-with-credit" (i.e., zero-rated), which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the EU and related services, and intra-Community supplies of goods.

Examples of goods and services taxable at 7%

- (e-)Books and (e-)newspapers
- Cultural services
- Food
- Passenger transport (under certain conditions)
- Agricultural products
- Hotel stays
- Supply of gas via the natural gas network and supply of heat via a heating network for the period from 1 October 2022 (retroactive) to 29 February 2024

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Land and buildings
- Financial transactions
- Insurance
- Education
- Medical services
- Supply, intra-Community acquisition, import and installation of certain photovoltaic systems and electricity storage systems *(with effect from 1 January 2023)*.

Option to tax for exempt supplies. For some exempt supplies, such as land, buildings and financial transactions, there is an option for the supplier to treat a transaction as taxable, and if certain requirements are met, related input tax can be recovered. The supply or service must be rendered to an entrepreneur for business purposes, and further requirements might apply.

E. Time of supply

The general time of supply rule for goods is upon completion (generally transfer of power of disposition). However, based on the decisions by the German Federal Fiscal Court and the tax authorities, the time of supply of a supply of transport (i.e., a moved supply) would be the time when the transport begins (not when it is completed). In the case of a supply not linked with transport (i.e., an unmoved supply), the time of supply is the time when the right to dispose of the goods passes from the seller to the buyer.

The general time of supply rule for services is when the service is completely rendered.

The VAT falls due at the end of the filing period in which a supply takes place (tax point). However, some taxable persons are permitted to account for VAT on a cash basis (cash accounting). If cash accounting is used, the tax point is the end of the filing period in which payment is received.

Deposits and prepayment. The time of supply for advance payments or prepayments is the end of the VAT return period in which payment is received.

Continuous supplies of services. Continuous supplies of services are deemed to be rendered upon completion of delivery. If such services can be divided into parts and separate payments for these parts are agreed, such as monthly payments for an ongoing lease, VAT arises for these partial supplies.

Goods sent on approval for sale or return. There are no special time of supply rules in Germany for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). In general, VAT accrues when the recipient receives the power of disposition or if the taxable person acts/uses the goods as if it has already been received. Terms of agreements and facts of the given case are decisive.

If goods are returned, the VAT can generally be reclaimed, but not retroactively. This refers to the point in time in which the VAT amount due can be reduced. This means if goods are returned (meaning the supply has been canceled), the supplier can lower the VAT on that supply (to zero), which has been declared upon the supply. The lowering of the VAT is (regarding its point in time) allocated to the return of the goods and not to the point in time in which the supply has been rendered. Deducted input tax on the returned goods must be repaid to the tax authorities accordingly.

Reverse-charge services. The tax point for a supply taxed under the reverse-charge procedure (self-assessment by a German taxable person) is the end of the month following the month in which the supply takes place. If the supplier issues an invoice before this date, the tax point is the date on which the invoice is issued. For most services under the reverse-charge procedure, the tax point is the month in which the services are rendered, regardless of the date on which the invoice is issued. For most services under the reverse-charge procedure that last longer than a year, the tax point is once a year (for the yearly part of the service).

Leased assets. A regular lease (letting) is a service. It is rendered either upon completion of the lease term or upon end of a defined period of the lease term for which a separate payment is agreed (e.g., monthly payments for an ongoing lease). If an asset is leased (leasing) it may be classified either as a service or as a supply. If classified as a supply, it is deemed to be rendered upon completion of delivery (lease term). If it is classified as a service, it is taxed like the regular lease (letting).

Imported goods. The tax point for imported goods is the date on which the goods clear customs or the date on which the goods leave a duty suspension regime and are released for free circulation. The date on which import VAT becomes due depends on how the goods clear customs. The following are the applicable rules:

- If the goods are cleared without using a payment-simplification regime, in general, the import VAT payment is due within 10 days.
- If the goods are cleared using a payment-simplification regime, payment is postponed for up to 45 days.

Intra-Community acquisitions. The tax point for an intra-Community acquisition of goods is the end of the month following the month when the acquisition occurred. If the supplier issues an invoice before this date, the tax point is the date on which the invoice is issued.

Intra-Community supplies of goods. There is not technically a "tax point" for intra-Community supplies of goods, as the supplies are generally zero-rated. However, intra-Community supplies must be reported in the tax period following the period in which the supply took place (i.e., where the transport began). However, if the supply was invoiced in the period in which the supply took place, it must be reported in the tax period of invoicing. For example, an intra-Community supply took place in January and was invoiced in March. The transaction must be reported in the VAT period for February (same applies if the invoice was raised in February). If the supply would have been invoiced in January (i.e., the month the supply took place), it must be reported in the VAT return for January.

The same applies for intra-Community B2B services and supplies under the triangulation simplification.

Distance sales. There are no special time of supply rules in Germany for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for taxable business purposes (used for taxable (output) services or supplies). Exceptions to

this rule exist. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

The time limit for a taxable person to reclaim input tax in Germany is the period to which the input tax is allocated. Input tax must be claimed for the period to which it is allocated. Retroactively this is only possible as long as the tax assessment for the previous period can still be procedurally amended. Input tax includes VAT charged on goods and services supplied in Germany, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods (*see the chapter on the EU*) and VAT on purchases of goods and services taxed under the reverse-charge procedure.

A valid tax invoice or customs document must generally accompany a claim for input tax. A tax invoice that is not fulfilling all formal requirements may be corrected/amended retroactively under certain conditions.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). The following specific rules apply in Germany to the input tax deduction:

- *The 10% rule.* If an asset is used for less than 10% business purposes, no input tax recovery is allowed. This rule applies to all assets.
- *Private use.* For corporations (for example, a GmbH or an AG) that are taxable persons, any purchase of goods or services is treated as being made for business purposes. Consequently, input tax recovery is allowed in full (if used for taxable output services or supplies). If the goods or services are used for private purposes, the legal entity is deemed to make a supply of goods or services and output tax is due. However, if the taxable person already intends to use the goods or services for private purposes when it acquires them, the legislation does not grant input tax recovery. Consequently, no output tax is due upon use for private purposes.
- *Luxury goods and services.* Input tax may not be deducted for some items of business expenditure. In general, if an item of expense is allowable for German income tax purposes, the input tax may be deducted.

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

Examples of items for which input tax is nondeductible

- Business gifts (if valued over either EUR35 or EUR60, depending on the recipient)
- Employees' home telephone bills and private mobile telephone bills

Examples of items for which input tax is deductible (if related to a taxable business use)

- Hotel accommodation
- Restaurant meals for employees on business trips
- 100% purchase, lease or hire of cars by corporations, partnerships or sole proprietors (with VAT chargeable on employee private use)
- Advertising
- Books
- Transport services

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If a German taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." Note "exempt with credit" supplies are treated as taxable supplies for these purposes.

The amount of VAT recoverable is calculated using the following two-stage calculation:
- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is fully deductible. Input tax directly related to exempt supplies is entirely not deductible (exceptions apply).
- The second stage identifies the amount of the remaining input tax (for example, business overheads) that may be allocated to taxable supplies and recovered.

Approval from the tax authorities is not required to use the partial exemption standard method in Germany. Special methods are not allowed in Germany.

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

In Germany, the capital goods adjustment applies to the following assets for the number of years indicated:
- Land and buildings (adjusted for a period of 10 years)
- Other assets (adjusted for a period of five years)

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

For goods that are used only once, the adjustment takes place at the time the transaction (for example, their resale) is carried out. No adjustment period applies.

The initial input tax deduction for services that are not performed on goods but that are used for transactions within the scope of VAT (for example, software licenses, cleaning services, consulting services for a business concept and prepayments for long-term leasing) must be adjusted to the extent that the initial deduction ratio changes.

For goods that are integrated in other goods and for services performed on goods, the capital goods scheme applies in the same way; that is, the additional supply has its own capital-goods adjustment scheme, but the adjustment period is the same as the period that applies to the basic good (for example, if new windows are added to a house, the adjustment period for the windows begins with their first use and the adjustment period lasts 10 years, because the windows become part of the immovable property).

No adjustment need be made in the following situations:
- The total input tax on the purchase or the production cost of the goods or service is less than EUR1,000.
- The correction amount for the year does not exceed EUR1,000, and the adjustment is less than 10%.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The credit is generally refunded. Exceptionally, the tax authorities may make the refund conditional on the taxable person making a deposit (for example, a bank guarantee) that is subsequently refunded.

Pre-registration costs. Input tax on costs incurred before registration is deductible. No special rules apply. Status as a taxable person does not depend on registration. However, recovery of input tax on such costs requires (retroactive) registration.

Bad debts. A taxable person is entitled to recover any VAT already accounted to the tax authorities in respect of unpaid debts. VAT on a bad debt is recovered at the VAT rate that was applied to the original transaction.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Germany.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Germany is recoverable. The German Federal Tax Office *(Bundeszentralamt für Steuern, or BZSt*) refunds VAT incurred by businesses that are neither established nor registered in Germany. Non-established businesses may claim German VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Germany during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Germany:
- EU businesses must file their refund claims to the competent tax authorities (usually with scanned documents, e.g., invoices) in their home states via an electronic form. These tax authorities pass on the form to the BZSt. Any further correspondence with the BZSt must be completed in German.
- The original invoices must be retained because the BZSt may review the original invoices or copies of them under certain circumstances. The BZSt must generally repay VAT within four months after the date on which the claim was submitted for refund. The refunded amount yields interest of 0.15% per month, i.e., up to 1.8 % per year, beginning generally four months and 10 workdays after the claim is received by the BZSt.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

Germany applies the principle of reciprocity; that is, the country where the claimant is established must also provide VAT refunds to German businesses. The German VAT authorities have published a list of countries to which refunds are granted and a list of those to which they are not granted. The current list can be obtained online from the Federal Ministry of Finance (*Bundesministerium der Finanzen*).

A non-established business is generally allowed to claim German VAT to the same extent as a VAT-registered business. However, businesses established outside the EU may not recover German VAT on fuel costs.

Find below specific rules for Germany:
- The deadline for refund claims by non-EU businesses is 30 June of the year following the year in which the invoice was received by the claimant. The date of supply may be earlier than the date of the invoice. The claims deadline is strictly enforced.
- Claims must be submitted in German.
- The claimant must submit a Certificate of Taxable Status, which confirms that the claimant is registered as a taxable person under a tax number. The certificate may not be older than one year. In addition, the German VAT authorities may send an additional questionnaire to confirm that the claimant should not be registered for VAT in Germany, as opposed to using the EU 13th

Directive procedure. According to the tax authorities, the application must be signed by the legal representative and other representatives are not allowed to sign the application. Consequently, they may reject an application on this ground.
- For all claimants, the minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is EUR1,000, while the minimum amount for an annual claim or for the remainder of a year is EUR500.
- Applications of non-EU businesses for refunds of German VAT must be sent to the following address:

  Bundeszentralamt für Steuern
  Dienstsitz Schwedt/Oder
  Passower Chaussee 3b
  D-16303 Schwedt/Oder
  Germany

Late payment interest. For late (refund) payments to both EU and non-EU non-established businesses, the regular interest rate applies. It is 0.15% per completed month. *For further details on the recent legislative changes for interest rates, see the section "EU businesses" above.*

H. Invoicing

VAT invoices. A German taxable person must generally provide VAT invoices for supplies made to other taxable persons and to legal entities, including exports and intra-Community supplies. This obligation generally does not exist for supplies that are exempt. Invoices are not automatically required for supplies made to private persons. A German taxable person is required only to issue invoices to private persons for certain supplies in connection with real estate.

Invoices must be issued within six months. Invoices for intra-Community supplies as well as services subject to reverse charge and rendered by taxable persons resident in the EU must be issued within 15 days following the month in which said supplies or services have been rendered.

A VAT invoice is required to support a claim for input tax deduction or a refund under the EU refund schemes (*see the chapter on the EU*).

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It is also possible to cancel an incorrect invoice and issue a revised one.

For intra-Community supplies of goods and exports, the invoice must include the statement that the supply is VAT-free. In addition, the customer's valid VAT Identification Number (issued by another EU Member State) must be mentioned in the invoice for all intra-Community supplies of goods.

Electronic invoicing. Electronic invoicing is mandatory in Germany, for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Germany. This is in line with EU Directive 2014/55/EU (*see the chapter on the EU*).

For B2B and B2C supplies it is allowed but not mandatory. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Germany. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, at the time of preparing this chapter, for local B2B supplies the following is currently under legislative review:
- *Electronic invoicing will be mandatory for B2B supplies, if the supplier and recipient are both established in Germany (i.e., domestic local B2B supplies)*
- *Electronic invoicing will be required to have certain formats, either:*

- *EU VAT Directive 2014/55/EU (CEN EN 16931)*
  Or
- *Compatible or interoperable format to EU VAT Directive 2014/55/EU (CEN EN 16931)*
- *Introduction is scheduled as of 1 January 2025*
- *Various transition periods may be in place until either 1 January 2027 or 1 January 2028*
- *Alterations and amendments at this stage of the legislative procedure are still possible*

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A Simplified VAT invoicing scheme is available in Germany for invoices with a gross amount not exceeding EUR250. For such invoices, reduced formal requirements apply. In general, only the name and address of supplier, date of invoice, description and quantity of rendered supply/service, gross amount and tax rate must be stated.

Self-billing. Self-billing is allowed in Germany. A self-billed invoice must state "Gutschrift" "Self-billing" or the respective word in other languages as stated in the VAT Directive. Self-billing must be agreed in advance between the supplier and customer before the first self-billed invoice is issued. No special form for the agreement is required. Nonetheless, a written agreement is favorable. A self-billed invoice becomes invalid upon the supplier's veto.

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (*see the chapter on the EU*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Germany.

The Automated Tariff and Local Customs Clearance System (ATLAS) proof of export is considered to be the standard documentary proof. Alternative proof, such as bills of lading, airway bills or freight forwarder certificates, is accepted only if an export has not been declared in the electronic ATLAS procedure or if, in special cases, the electronic export procedure could not be completed as required.

For intra-Community supplies, the standard proof – the so-called *Gelangensbestätigung* (confirmation of arrival) – is required. The confirmation must contain the following information:
- The name and address of the customer
- The amount and customary description of the supplied goods
- In case of transport by the supplier or on behalf of the supplier or customer, the place and date of receipt of the delivered goods in another EU Member State
- In the case of transport by the customer, the date and place of the end of the transport in another EU Member State

Other types of proof are allowed. However, the tax authorities are more likely to challenge alternative proofs than to challenge the *Gelangensbestätigung*.

No special documentation applies in Germany for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply (the so-called *Gelangensbestätigung)*. However, from 1 January 2020, proofs as stated in the VAT Directive as amended under the "Quick Fixes" scheme are recognized in addition to the proofs stipulated by national law. See the *Quick Fixes* subsection above for more detail.

Foreign currency invoices. If a German VAT invoice is issued in a foreign currency, the value must be converted to the domestic currency, which is the euro (EUR) using an official exchange rate. The following conversion rates may be applied:
- The actual bank-selling rate for the date of the supply (not the date of the invoice) (see *Section E. Time of supply* above). The rate used must be evidenced by documentation issued by the bank (this must be allowed by the German tax authorities).
- The average monthly exchange rates published by the Federal Ministry of Finance shortly after the end of the month.

German law provides that the use of the official Ministry of Finance rates is the standard method of currency conversion for VAT purposes. Alternatively, the tax authorities may accept the use of bank selling rates by a taxable person. However, neither the law nor any official guidelines specify how this acceptance is to be achieved. In addition, no formal obligation to ask for approval exists. In practice, many companies simply use bank selling rates, while others inform their tax office in advance and ask for acceptance.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Germany. As such, full VAT invoices are required.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Germany, examples of what records must be held for VAT purposes include all records and data that are relevant for VAT. This includes invoices, records regarding export or intra-Community supplies, business letters, agreements, proof of status of recipient as VAT-taxable person.

In Germany, VAT books and records must be held within the country. Generally, all records (electronic or on paper) must be kept in Germany. However, electronic storage outside of Germany is possible but requires permission by the tax authorities in advance. Storage of paper documents abroad is generally not possible.

Record retention period. Taxable persons must retain invoices for 10 years. Private persons who receive invoices for certain supplies in connection with real estate must retain the invoices for two years. Otherwise, private persons are not required to retain invoices.

Taxable persons must furthermore keep their bookkeeping records under regular bookkeeping regulations pursuant to the German Fiscal Code (*Abgabenordnung*). However, all aforementioned retention periods may be extended under certain conditions.

Electronic archiving. Electronic archiving is allowed in Germany. It is mandatory for data received or produced electronically. Electronic archiving must meet the "GoBD" standard, e.g., the taxable person must be able to provide electronic real-time access to all tax-relevant data with all functions of the system and for unrestricted processing, as well as providing such data on a data medium. Data must be stored in Germany. Exceptions are possible but must be granted by the competent tax authorities.

Archiving of documents on paper is also allowed but must meet certain requirements. For example, access to the original must be possible without delay.

I. Returns and payment

Periodic returns. In general, preliminary VAT returns are filed quarterly, but monthly returns must be filed if the VAT payable for the preceding year exceeded EUR7,500. However, if the VAT payable for the preceding year did not exceed EUR1,000, the taxable person may be exempted from filing preliminary returns. Newly established taxable persons must file monthly VAT returns for the first and second year of registration.

In general, preliminary VAT returns must be filed electronically.

The preliminary VAT return must be submitted by the 10th day after the end of the filing period. The VAT authorities must receive payment in full by the same day.

Periodic payments. VAT payment periods follow the period for the submission of the preliminary and annual VAT returns. Basically, a preliminary VAT return as well as any VAT payable must be

submitted monthly or quarterly to and must be received by the tax authorities until the 10th day of the following month.

Payments are made by regular bank transfer. Cash payments are not allowed.

Electronic filing. Electronic filing is mandatory in Germany for all taxable persons. German VAT returns must be filed electronically with authentication verified by an electronic certificate that the taxable person receives by registering on the ELSTER Online-Portal (http://www.elsterformular.de/).

Following the successful transmission of data, the transmission protocol needs to be retained for the taxable person's files to fulfill the documentation requirements of Sec. 147 AO (*Abgabenordnung,* the German Fiscal Code).

Payments on account. Payments on account are generally not required in Germany, except for certain taxable persons. As the regular filing deadline is relatively short, the VAT authorities allow a permanent, one-month filing and payment extension on a written application. However, taxable persons that must submit monthly preliminary VAT returns must pay a special prepayment equal to 1/11th of the preceding year's VAT liability by the due date. This special prepayment is deducted from the VAT payable in the preliminary VAT return submitted for the month of December. Taxable persons that file returns on a quarterly basis are not required to make a special prepayment when they apply for a permanent filing extension.

Special schemes. *Secondhand goods.* A special scheme applies to supplies of secondhand goods, e.g., if a commercial car dealer acquires a car from a private person. If a taxable person sells goods or services he previously purchased for taxable purposes in his business, he must charge VAT on the resale of such goods or services.

Tour Operator's Margin Scheme. A special scheme also applies for EU-based tour operators, the Tour Operator's Margin Scheme (TOMS). On 1 December 2021, the German Federal Ministry of Finance declared via a decree that non-EU travel operators will no longer be subject to TOMS from 1 January 2023. The transitional period has been extended. As such, for non-EU tour operators, the TOMS is granted until 31 December 2026.

Cash accounting. Small businesses with a taxable turnover of not more than EUR600,000 in the prior year may account for VAT on a cash basis (*Istbesteuerung*). The same applies to small businesses that have been exempted from the obligation to keep books and records (Article 148 of the Fiscal Code) as well as to freelancers mentioned in Article 18(1)(1) of the Income Tax Act. This method of VAT calculation must be approved by the tax office.

Farmers and foresters. Not a special scheme as such, but for farmers and foresters special tax rates apply.

Annual returns. All taxable persons must file an annual VAT return by 31 July of the year following the end of the VAT year. If a German tax advisor is engaged to prepare the VAT returns, the filing deadline is the end of February of the second year after the end of VAT year. As a consequence of the COVID-19 pandemic, various extensions apply for the tax years 2020 and 2023.

Essentially, the annual return must contain the same information that is required to be stated in the monthly preliminary returns, but on an annual and partially more detailed basis. Annual tax returns must be filed electronically.

Supplementary filings. *Intrastat.* A taxable person that trades with other EU countries must complete statistical reports, known as Intrastat, if the value of its sales or purchases exceeds certain thresholds. Separate reports are used for intra-Community acquisitions (Intrastat Arrivals) and intra-Community supplies (Intrastat Dispatches). Apart from deemed intra-Community supplies,

any movement of goods to or from other Member States is also subject to Intrastat reporting (for example, goods sent for repair).

The threshold for Intrastat Arrivals in 2023 is EUR800,000. The threshold for Intrastat Dispatches in 2023 is EUR500,000. *At the time of preparing this chapter, the thresholds for 2024 have not been announced*.

The Intrastat returns are generally filed monthly, but they may be submitted more frequently. The submission deadline is the 10th working day of the month following the month in which the intra-Community movement of goods takes place. Intrastat returns must be filed in EUR.

EU Sales Lists. If a German taxable person carries out intra-Community supplies, it must submit an EU Sales List (ESL) in addition to its VAT return. No ESLs are required for periods in which no intra-Community supplies are made. ESLs must be filed for supplies of both intra-Community goods and intra-Community services. Under prior law, ESLs were required only for supplies of goods.

The filing period for the ESL for supplies of goods is changed from quarterly filing to monthly filing. For supplies of services, the filing period is quarterly. For entrepreneurs who must file monthly ESLs for supplies of goods, an option is available to also file monthly ESLs for intra-Community supplies of services.

In addition, the possibility of a one-month extension of the filing deadline is abolished. However, the due date for filing is changed from the 10th day of the following month to the 25th day of the following month.

A taxable person that is exempt from filing preliminary VAT returns and has taxable turnover not exceeding EUR200,000 a year may request permission to file annual ESLs if its intra-Community supplies do not exceed EUR15,000 and do not include supplies of new means of transport to purchasers using VAT identification numbers. In this case, the submission deadline is the 10th day of the month following the calendar year.

Correcting errors in previous returns. Detected errors in previous returns must be corrected without undue delay. Corrections can be made via amended (electronic) tax returns or on paper stating the corrections.

As errors in previous returns can be regarded as tax fraud, a voluntary self-disclosure of acting persons should be considered depending upon the single case at hand. A valid voluntary self-disclosure can protect the said persons from punishment under criminal law.

Digital tax administration. There are no transactional reporting requirements in Germany.

J. Penalties

Penalties for late registration. There is no specific penalty in Germany for the late registration of VAT. However, if as a result of the late registration, a taxable person submits VAT returns belatedly, late-filing penalties may apply.

Penalties for late payment and filings. If VAT return liabilities are paid late, penalty interest is charged at a rate of 1% per month of the rounded amount of outstanding tax liability, rounded down to the nearest amount dividable by EUR50.

If a VAT return is filed late, a surcharge of up to 10% of the assessed tax amount may be imposed, up to a maximum of EUR25,000. In addition, an enforcement fine of up to EUR25,000 may be charged.

Late filing penalties may be assessed up to 10% of the VAT due, and late-payment penalties amount to 1% of the VAT due per month.

In addition, the tax authorities can enforce additional fines against acting persons for a late filing or late payment of the entity's VAT.

Penalties for errors. Apart from penalties for fraud, no specific penalties for errors within a filed return apply. Regular interest of 0.15% per month will accrue for any tax payable filed as late. For further details on the recent legislative changes for interest rates, see *Section G. Recovery of VAT by non-established businesses*, under the subsection *Late payment interest* above.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details (that effectively hampers the duly taxation payment), may trigger penalties or may even be regarded as fraudulent behavior. In that case, the interest rate is 0.5% per month. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In the case of a voluntary disclosure to prevent punishment of tax fraud, a surcharge applies as follows:
- 10% of the tax amount if the respective amount exceeds EUR25,000 up to EUR100,000
- 15% if the amount exceeds EUR100,000 up to EUR1 million
- 20% if the amount exceeds EUR1 million

These penalties can be levied per natural person deemed to have acted fraudulently.

Furthermore, interest of 0.5% per month on any amount subject to such fraud will be levied. Alternatively, regular interest of 0.15% per month may accrue.

Personal liability for company officers. Company officers can only be held personally liable for errors and omissions in VAT declarations and reporting in Germany for fraudulent activities. Refer to the subsection above *Penalties for fraud* for penalties levied under voluntary self-disclosure. Punishment under criminal law is imprisonment up to 10 years or a fine. Persons acting fraudulently, furthermore, can be held liable for the missing tax amount itself. In addition, legal representatives can be held liable for missing tax amounts if they neglected their legal duties such as obligatory supervision (even without behavior punishable under criminal law). Otherwise, directors cannot be held liable.

Statute of limitations. The statute of limitations in Germany is four, five or 10 years. It is generally four years but extends to five or 10 years if tax is subject to fraudulent behavior. The assessment period generally starts with the calendar year that follows the calendar year in which the tax return has been filed. At the latest, it starts with the end of the third year that follows year in which the tax accrued.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	18 March 1998
Trading bloc membership	Economic Community of West African States (ECOWAS) African Continental Free Trade Area (AfCFTA)
Administered by	Ghana Revenue Authority (GRA)
VAT rates	
Standard	15%
Reduced	3%, 5% *(proposed)*
Other	Zero-rated (0%) and exempt
VAT number format	C000XXXXXXX
VAT return periods	Monthly
Thresholds	
Registration	GHS200,000 (annual)/GHS50,000 (quarterly) with expectation to exceed GHS150,000 in next 9 months
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Taxable supplies made in Ghana
- Imported goods or imported services other than goods or services that are exempt

A "taxable activity" is defined as an activity carried on by a person wholly or partly in Ghana that involves or is intended to involve, in whole or in part, the supply of goods or services to another person for consideration, whether or not for a pecuniary profit.

Effective 1 January 2023, the acceptance of a wager or stake in any form of betting or gaming, including lotteries and gaming machines is excluded from being a taxable activity under the VAT Act.

Effective 1 August 2018, the Ghana Education Trust Fund (GETFund) Levy of 2.5% has been separated from VAT and made a straight levy. The National Health Insurance Levy (NHIL), which also moved together with VAT, has been made a straight levy. The GET Fund Levy and NHIL incurred by a person are not recoverable through the input/output mechanism.

On 12 September 2022, the Value Added Tax (Amendment) Act, 2022, Act 1082 was passed. The Act provides, amongst others, that a person who imports taxable goods, but is not registered for VAT, is required to make an up-front payment of 12.5% of the customs value of the taxable goods in addition to any penalty to be paid. A person may recover an up-front payment made after the person registers and files a return. Notwithstanding the above, the tax authority issued an administrative guideline on 30 May 2023 stating that the effective date of implementation for the up-front VAT would be 6 June 2023.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Ghana the following services are subject to the "use and enjoyment" provisions (for both business-to-business [B2B] and business-to-consumer [B2C] supplies):

- An unregistered, nonresident person who provides telecommunication services or electronic commerce to persons for use or enjoyment in Ghana, other than through a VAT-registered agent, is required to register and pay for VAT if that person makes a taxable supply
- Digital service includes social networking, online gaming, cloud services, video or audio streaming, digital marketplace operations and online advertisement services
- Electronic commerce includes a business transaction, including a digital service, that takes place through the electronic transmission of data over a communication network such as the internet
- Telecommunication services include those related to (i) the transmission, emission or reception of signals; (ii) writings, images and sounds of information of any nature by wire, radio, optical or other electromagnetic systems, including the provision of access, transmission, emission, or reception; and (iii) political, social, cultural, artistic, sporting, scientific or entertainment broadcasts, or events

The place of supply of a digital service is the place where the service is supplied, used or enjoyed in Ghana if any two of the following circumstances exist:

(a) The recipient of the service is a resident person.
(b) The payment, including mobile money, credit card, debit card or bank account, for the supply of a digital service originates from a payment platform in Ghana or a registered or authorized financial institution as provided for under the Banks and Specialized Deposit-Taking Institutions Act, 2016 (Act 930).
(c) The recipient of the supply of a digital service has either a business, residential or postal address, internet proxy address or phone number in Ghana.
(d) The service is received on a terminal located in Ghana, including a computer, tablet, mobile phone or similar device.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Ghana, the application of a TOGC is subject to the following conditions:

- The business being transferred must not be a dormant or prospective business but an income generating activity capable of separate operation that is, in fact, operational and capable of operating without interruption after the transfer.

- The transfer must constitute the entire taxable activity of the person or a portion of such taxable activity capable of being carried on as a going concern.
- The supply is not zero-rated unless a notice in writing in the prescribed form, signed by both the transferor and transferee, is filed with the Commissioner-General (CG) within 14 calendar days prior to the date of the transfer. The notification should be done at least 14 calendar days before the (1) sale closes, (2) purchaser acquires any legal interest in the assets to be acquired or (3) assets of the going concern are transferred; whichever date is earliest.

Transactions between related parties. In Ghana, for a transaction between related parties, the value for VAT purposes is calculated at an arm's-length value. Ghana's Transfer Pricing Regulations require that transactions between related parties must accord with the arm's-length principle. A related-party transaction accords with the arm's-length principle if the terms of that arrangement do not differ from the terms of a comparable arrangement between independent persons. Supply of goods means an arrangement under which the owner of the goods parts with possession of the goods by way of sale, barter, lease, transfer, exchange, gift or similar disposition. Supply of services means a supply that is not a supply of goods or money and, in the nature of the performance of services for another person, the making available of a facility or advantage or tolerating a situation or refraining from doing an activity. Both types of supply are required to be arm's-length when dealing with a related party.

C. Who is liable

Persons liable to pay VAT are as follows:
- In the case of taxable supplies made in the country, the person making the supply
- In the case of imported goods, the importer
- In the case of imported services, the recipient of the services

In general, all taxable persons who engage in a taxable activity wholly or partly in Ghana in the course of a business are liable to register for VAT if they meet the VAT registration threshold. The Ghana Revenue Authority (GRA) has instituted an 11-digit common taxable person identification number (TIN) for all tax types (C000XXXXXXX).

Upon registering a taxable person, the CG must notify the taxable person that it has been registered for VAT and must issue a certificate of registration to the taxable person.

Exemption from registration. The VAT law in Ghana does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Where a person is not registrable for VAT purposes, the law generally permits a taxable person to apply to the CG of the GRA for voluntary registration, subject to the satisfaction of certain conditions. The CG may refuse to voluntarily register a person where the person has no fixed place of business or has reasonable grounds to believe that the person may not:
- Keep proper accounting records related to its business activity
- Submit regular and reliable returns

  Or
- Is not a fit and proper person to be registered

Group registration. Ghana allows for group registration where the following conditions are satisfied:
- Each member of the group is a registered corporate body in Ghana and has an established place of business in Ghana
- One of the group members controls the others in the group, or one company controls all of the members of the group

There is no minimum time period required for the duration of a VAT group.

Each group member is jointly and severally liable for any VAT debts and penalties that may arise.

Fixed establishment. In Ghana, there is no legal definition of a fixed establishment for VAT purposes. There is also no requirement for a fixed establishment to trigger a VAT registration. However, the carrying out of any taxable supply in Ghana will trigger a VAT registration requirement. Once a taxable supply is made in Ghana and the threshold for registration is satisfied, the person is required to register and charge VAT. Thus, the place of supply rules determine whether a person has a VAT registration obligation in Ghana rather than a fixed establishment.

In addition to the above, having a permanent establishment in Ghana may result in a VAT registration where the person engages in a taxable activity and satisfies the threshold for registration. A Ghanaian permanent establishment includes the following:

- A place in Ghana where a nonresident person carries on business or that is at the disposal of the person for that purpose
- A place in Ghana where a person has, is using or is installing substantial equipment or substantial machinery
- A place in Ghana where a person is engaged in a construction, assembly or installation project for 90 days or more, including a place where a person is conducting supervisory activities in relation to that project
- The provision of services in Ghana
- A place in Ghana where an agent performs any function on behalf of the business of a nonresident person
  - Including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in Ghana
  - Excluding a case involving a general agent of independent status with its own legal personality acting in the ordinary course of business

Non-established businesses. Except as stated herein, a "non-established business," which is a business that does not have a fixed establishment in Ghana, cannot register for VAT purposes in Ghana. A nonresident person is not required to register for VAT unless it undertakes a taxable activity in Ghana and satisfies the threshold for registration and, in the case of a nonresident person that provides telecommunication services or electronic commerce services, provides those services through a VAT-registered agent who makes taxable supplies of goods and services in Ghana.

VAT on imported goods is generally paid by the importer of record at the point of customs clearance.

Tax representatives. Ghana provides for the appointment of a representative by a taxable person. The representative so appointed shall be responsible for payment of any tax payable by the taxable person and take responsibility for other duties of the taxable person. The CG, where he deems it necessary, may also declare a person to be a representative of a taxable person.

Where a taxable person appoints a representative, the appointment shall not relieve the taxable person from performing any duty that the representative fails to perform.

Reverse charge. The reverse-charge mechanism of accounting for VAT is applicable to importation of services into Ghana. A VAT-registered person that imports services from a nonresident person is required to reverse-charge itself VAT at a rate of 15%. However, there is no requirement to reverse charge where the imported services are to be used to make taxable supplies.

The output tax charged shall be paid to the CG within 21 days after the end of the month within which the transaction occurred. The payment shall accompany a service import declaration in a prescribed form stating the details of the import. The input tax on imported services is not claimable.

Domestic reverse charge. There are no domestic reverse charges in Ghana.

Digital economy. A nonresident person who is not registered for VAT and supplies telecommunication services or electronic commerce (e-commerce) to persons for use or enjoyment in Ghana is required to register where the threshold for registration is satisfied. However, where the services are provided through a VAT-registered agent, the nonresident person is not required to register.

An unregistered, nonresident person who provides telecommunication services or electronic commerce to persons for use or enjoyment in Ghana (other than through a VAT-registered agent) must register for VAT. The GRA commenced the enforcement of the above from 1 April 2022. Nonresident persons who provide telecommunication services or electronic commerce for use in Ghana must submit a return to the Commissioner General (CG) not later than the last day of the month immediately following the month to which the return relates, whether or not tax is payable for the period, and pay the tax due to the CG by the same day that the return is due. A nonresident person who contravenes a provision of the VAT Act and Regulations made under the Act is (in addition to any other penalty imposed under the VAT Act or Regulations) liable to a restriction of access in the country until the person fulfills the obligations under the VAT Act and VAT Regulations. The Act defines "digital service" to include:

- Social networking
- Online gaming
- Cloud services
- Video or audio streaming
- Digital marketplace operations
- Online advertisement services

"Electronic commerce" is defined in the Act to include a business transaction, including a digital service, that takes place through the electronic transmission of data over a communication network such as the internet.

"Telecommunication services" include services that relate to:

- The transmission, emission or reception of signals
- Writings, images and sounds of information of any nature by wire, radio, optical or other electromagnetic systems, including the provision of access, transmission, emission or reception
- Political, social, cultural, artistic, sporting, scientific or entertainment broadcasts, or events

In addition, effective 12 September 2022, the place of supply of a digital service is the place where the service is supplied, used or enjoyed in the country if any two of the following circumstances exist:

- The recipient of the service is a resident person.
- The payment, including mobile money, credit card, debit card or bank account, for the supply of a digital service originates from a payment platform in the country or a registered or authorized financial institution as provided for under the Banks and Specialized Deposit-Taking Institutions Act, 2016 (Act 930).
- The recipient of the supply of a digital service has either a business, residential or postal address, internet proxy address or phone number in the country; and
- The service is received on a terminal located in the country, including a computer, tablet, mobile phone or similar device. There are no other specific e-commerce rules for imported goods in Ghana.

Online marketplaces and platforms. A nonresident person who is not registered for VAT and supplies electronic commerce to persons for use or enjoyment in Ghana is required to register where the threshold for registration is satisfied. However, where the services are provided through a VAT-registered agent, the nonresident person is not required to register.

Registration procedures. A person who qualifies as a taxable person and meets the registration threshold is required to submit an application for registration within 30 days of becoming a registrable person to the CG. The taxable person shall complete the requisite VAT form and submit it to the CG along with copies of the following documents:
- Certificate of Incorporation issued by the Registrar of Companies
- Form 3 and Form 4 delivered to the Registrar of Companies for registration
- Regulations of the company delivered to the Registrar of Companies for registration

The application for registration and the accompanying documents must be submitted to the CG in hard copies.

Deregistration. A VAT-registered person may apply in writing to the CG for cancellation of registration as a taxable person. The CG may cancel the registration of the person where he is satisfied that the taxable person:
- No longer exists
- Is not carrying on a taxable activity
- Is not required or entitled to apply for registration
- Has no fixed place of business or abode
- Has not kept proper accounting records related to a business activity carried on by that person
- Has not submitted regular and reliable tax returns required under the Act

A taxable person who voluntarily registers for VAT can only apply for cancellation of registration after two years of registration as a taxable person.

Changes to VAT registration details. A taxable person is required to notify the CG in writing where any of the following take place:
- The taxable person ceases to operate, sells or relocates the business engaged in the taxable activity
- There is a change in the ownership of the business engaged in the taxable activity
- There is a change in the name or address of the taxable person
- There is a change in the circumstances that disqualify the taxable person for registration
- There is a change in the taxable activity or in the nature of taxable supplies being made

The notice shall be given within 14 calendar days after the cessation, sale, relocation, change in ownership or any other change as the case may be.

The notification must be filed physically at the GRA.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15% *(increased from 12.5% to 15% as of 1 January 2023)*
- Reduced rate: 3%, 5% *(proposed)*
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption. The 2023 Budget Statement enacted an increase in the standard VAT rate from 12.5% to 15%. VAT is calculated based on the taxable value of the supply, that is, inclusive of levies. The levies are not deductible input tax. The levies are the National Health Insurance Levy (2.5%), the Ghana Education Trust Fund Levy (2.5%) and the COVID-19 Health Recovery Levy (1%).

The COVID-19 Health Recovery Levy is imposed on the supply of goods and services and imports to raise revenue to support COVID-19 expenditures and provides for related matters. The

levy is chargeable at a rate of 1% and is applicable in the same manner as the NHIL and GET Fund Levy. It is applicable to taxable persons operating under both the standard rate and flat rate schemes.

Examples of goods and services taxable at 0%

- Exports of taxable goods
- Exports of taxable services
- Goods and services supplied to Free Zone Enclaves or a Free Zone Company
- Goods shipped as stores (stocked for own use) on a vessel or aircraft leaving the territories of Ghana.
- Supply of locally assembled vehicles under the Ghana Automotive Development Program from 1 September 2022 to 31 December 2023 (effective 12 September 2022). *At the time of preparing this chapter, the Minister of Finance indicated in the 2024 Budget Statement that an extension of two years will be made to the deadline of 31 December 2023. However, the proposed extension is subject to approval by Parliament.*

Examples of goods and services taxable at 3%

- A taxable person who is a retailer of goods with annual turnover of GHS200,000 to GHS500,000 (including importers) is required to account for VAT at a flat rate of 3%. This means that taxable persons covered by the VAT Flat Rate Scheme (VFRS) cannot claim input tax deduction on purchases. It must form part of their costs. The application of the flat rate of 3% does not apply to the supply of any form of heat, refrigeration or ventilation.

Examples of goods and services taxable at 5%

- Supply of commercial property. *At the time of preparing this chapter, the 2024 Budget Statement and Economic Policy of the Government of Ghana was presented to Parliament on 15 November 2023 and indicated that a flat VAT rate of 5% would be applicable to persons engaged in the supply of commercial property. Parliament is expected to pass an Act to bring this into effect in 2024.*

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Unprocessed agricultural and aquatic products in a raw state, including agricultural and aquatic food products that undergo preservation, such as freezing, chilling, smoking, stripping, polishing, etc.
- Domestic transportation by bus and similar vehicles, and by train or boat
- Medical services and supplies
- Agricultural inputs, animals, livestock and poultry
- Provision of accommodation in a residential property
- Acceptance of a wager or stake in any form of betting or gaming, including lotteries and from gaming machines

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Ghana.

E. Time of supply

In Ghana, the time when VAT becomes due is referred to as the "time of supply" or the "tax point." The following rules apply to the determination of the time of supply:

- If the goods or services are applied to the taxable person's own use, the tax point is the date on which the goods or services are first applied to the taxable person's own use.
- If the goods or services are supplied by way of a gift, the tax point is the date on which ownership of the goods passes or the performance of the service is completed.

For all other cases, the time of supply is the earliest of the following events:
- The goods are removed from the taxable person's premises or from the premises where the goods are under the taxable person's control.
- The goods are made available to the taxable person to whom they are supplied.
- The services are supplied or rendered.
- Payment is received.
- A tax invoice is issued.

Deposits and prepayments. The time of supply for which deposits and prepayments are made is when the deposit or prepayment is forfeited unless the goods/services are returnable. Where the goods/services are returnable, the tax point follows rules outlined in the *Goods sent on approval for sale or return* subsection below. This time of supply rule is the same if the deposits and prepayments are refundable or nonrefundable and also if the supply does not take place. The time of supply rules for deposits and prepayments are the same for goods and services.

Continuous supplies of services. The time of supply for continuous supplies for each successive supply is the earlier of the date for which payment is due or received or the invoice is issued. This applies to both goods and services.

Goods sent on approval for sale or return. The tax point is the earliest of the following:
- The date when the purchaser chooses to keep the goods
- The issue of tax invoice by the seller
- The receipt of payment by the seller, other than a deposit
- The expiry of the period within which the customer may return the goods
  Or
- 12 months after the date of dispatch by the seller.

Reverse-charge services. A taxable person who buys a service from outside Ghana is required to account for VAT by way of the reverse-charge mechanism, unless the services are used to make taxable supplies. The tax point is the earlier of the date the supply occurs, an invoice is issued, or payment is made for the services. The VAT is required to be paid within 21 calendar days after the month in which the services were imported.

The reverse-charge mechanism does not apply on the purchase of goods from outside Ghana.

Leased assets. The supply of goods under a finance lease, hire purchase or operating lease agreement occurs on the date the goods are made available under the agreement or lease. The time of supply for goods supplied under a rental agreement is the date payment is due or received or the invoice issued for each successive supply, whichever date is earlier.

Imported goods. The time of supply for imported goods is either the date on which customs clear or the date on which the goods leave a bonded warehouse (in the case of goods warehoused without the payment of duty).

F. Recovery of VAT by taxable persons

A taxable person may usually recover input tax incurred on goods and services purchased for business purposes. Input tax is claimed by deducting the input tax credits from output tax, which is VAT charged on taxable supplies. Taxable persons must claim input tax within six months after making an expenditure.

The input tax credit includes VAT charged on goods and services purchased in Ghana and VAT paid on imports of goods.

The time limit for a taxable person to reclaim input tax in Ghana is six months.

Nondeductible input tax. A taxable person may not usually recover VAT on the purchase of goods and services that are not used exclusively for business purposes. In addition, input tax may not be recovered with respect to certain business expenditure. If necessary, an apportionment of input tax between taxable goods and services and nontaxable goods and services is made. The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply.

Examples of items for which input tax is nondeductible

- The supply or import of a motor vehicle or spare parts, unless the taxable person is in the business of dealing in or hiring motor vehicles or selling vehicle spare parts
- Entertainment including restaurants, meals and hotel expenses, unless the taxable person is in the business of providing entertainment
- A taxable supply to, or an import of goods by, a taxable person partly for business use and partly for personal or other use (the amount of input tax allowed as credit is restricted to that part of the supply that relates to business activity)
- The payment of subscriptions or fees by a taxable person for membership in a club, association or society of a sporting, social or recreational nature
- A supply of immovable property by estate developers
- A nonresident person who provides telecommunication service or electronic commerce and registers does not qualify for deductible input tax for the supply of a digital service (this is effective from 12 September 2022); the CG may, however, determine the procedure for the deduction of input tax by a resident person who uses or enjoys a digital service from a nonresident person
- Effective 1 January 2023, an amount equal to the tax fraction of an amount paid during the tax period by the taxable person as a prize or winnings to the recipient of services of the taxable person operating the game of chance has been excluded from being a deductible input tax

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business expenditure incurred in the production process (for example, VAT paid on material purchased for resale)
- Raw material that is used for production
- Office equipment
- Advertising

Partial exemption. VAT paid that relates directly to goods and services that are exempt is not recoverable. If a taxable person makes both exempt and taxable supplies, the VAT incurred in respect of the exempt supply cannot be recovered. This situation is referred to as "partial exemption."

The VAT Act provides the following rules with respect to partial exemption:

- A taxable person that makes both taxable and exempt supplies may deduct the input tax on its taxable purchases and imports that can be directly attributed only to the taxable supplies made.
- Where a taxable person makes both taxable and exempt supplies but cannot directly attribute the input tax to the taxable and exempt supplies, it may deduct as input tax an amount that bears the same ratio as the taxable supplies bear to the total supplies, applying an apportionment formula provided by the VAT Act.
- If the percentage calculated using the above formula is less than 5%, the taxable person may not claim credit for any input tax for the period.
- If the percentage calculated using the above formula is more than 95%, the taxable person may claim credit for all input tax for the period.

Approval from the tax authorities is not required to use the partial exemption standard method in Ghana. There are no special methods available in Ghana.

Capital goods. There are no special rules for the recovery of input tax on capital goods. As such, normal input tax recovery rules apply. The VAT law in Ghana does not define what capital goods are. Where goods are used for both taxable and exempt supplies, input tax deduction is allowed on the taxable purchases and imports that can be directly attributed only to the taxable supplies made. Where it is difficult to directly attribute taxable purchases and imports to taxable supplies made, an amount that bears the same ratio as the taxable supplies bear to the total supplies shall be allowed, using an apportionment formula.

Refunds. A taxable person who has a VAT credit with the GRA is permitted to apply for a refund of the excess VAT subject to the conditions that:
- The credit is attributable to exports
- The exports exceed 25% of the total supplies within the tax period
- The total export proceeds have been repatriated by the importers' banks to the taxable person's authorized dealer banks in the country

The application for a refund must be made within three years of the date the event that led to the overpayment of the VAT occurred.

The CG is required to decide on the application within 60 days of receiving the application. The CG may reject the application when they are of the opinion that the applicant has not overpaid VAT. The CG is also empowered to request for additional information from the applicant when they deem it necessary for the purpose of deciding. The decision on whether the application is accepted or not or whether further information is required by the CG is required to be communicated to the taxable person within 30 days.

Where the CG is satisfied that a taxable person is entitled to a refund, they may apply the amount involved to reduce any outstanding tax liability of that taxable person and pay the remainder (if any) to the taxable person within 90 days of making the decision.

Pre-registration costs. Generally, a taxable person cannot recover VAT that it incurs prior to registration. However, a newly registered taxable person can claim or recover input deduction for non-capital goods acquired, supplied or imported within four months prior to being registered. For capital goods, the taxable person can claim the input tax within six months prior to being registered for the purpose. To be allowed, however, the goods must be on hand at the effective date of registration.

Bad debts. A taxable person is allowed an input tax deduction for bad debt where the taxable person issues a tax invoice for the supply of taxable goods or services and the whole or part of the consideration for the supply was not received by the taxable person and subsequently treated as a bad debt. The amount of the deduction allowed is the amount of the tax paid in respect of the taxable supply that corresponds to the amount of the debt treated as a bad debt. The amount of the deduction in respect of bad debts becomes due on the date on which the bad debt was written off in the accounts of the taxable person and is available only if the taxable person satisfies the CG that reasonable efforts have been made to recover the amounts due and payable.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Ghana.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Ghana is not recoverable. Registration is not available to such entities for the purpose of recovering input tax incurred in Ghana. Ghana does not have a regime for the recovery of VAT paid by nonresidents leaving the country. However, the VAT Regulations provide that a refund of VAT charged on goods purchased by a taxable person not resident or domiciled in Ghana for consumption outside Ghana may be authorized by the CG subject to such written conditions that the CG may impose.

H. Invoicing

VAT invoices. On making a supply of goods and services, a taxable person must issue to the recipient of the goods or services a preprinted VAT invoice in a form prescribed by regulations, unless the CG permits otherwise. A taxable person that issues VAT invoices must retain copies of them in serial order for inspection by the GRA. The invoice must contain specific information detailed in the VAT Act.

Certified invoicing system. Effective 12 September 2022, a taxable person is required to issue a tax invoice through a certified invoicing system (CIS) and to ensure that the CIS of the taxable person is integrated into the invoicing system of the CG. The CG may access the CIS of a taxable person to ensure compliance with the provisions of the VAT Act.

A taxable person is required to issue only one tax invoice or sales receipt for each taxable supply. Where a recipient who is a taxable person has not received a tax invoice, the recipient may, within 48 hours after the date of the supply, obtain a copy of the invoice from the CIS of the taxable person. A taxable person is required, within 24 hours, to inform the CG and ensure that the CIS of the taxable person is restored online and accessible by the CG where the CIS of a taxable person goes offline or is inaccessible by the CG.

Where a recipient who is a taxable person has lost a tax invoice for a taxable supply, the recipient may obtain a copy of the tax invoice from the invoicing system of the CG.

Effective 29 December 2022, a taxable person is required, to comply with the provisions relating to the CIS.

Credit notes. A VAT credit note may be issued where any of the following circumstances leads to the output tax actually accounted for exceeding the output tax that should have been properly charged for the supply:

- When the supply is canceled.
- The nature of the supply has been fundamentally varied or altered.
- The previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason.
- The goods or services or part have been returned to the supplier.

Electronic invoicing. Electronic invoicing is mandatory in Ghana for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Ghana. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Ghana. E-invoicing is mandatory for all taxable persons making taxable supplies.

Electronic invoicing is being implemented in three phases. Phase one, for large taxable persons, has been rolled out. Phase two focuses on 600 large taxpayers and more than 2,000 small and medium taxable persons. Phase three is expected to be completed by the end of 2024 and will cover all other taxable persons. *However, at the time of preparing this chapter, a taxable person may apply to the CG to be signed onto the CIS voluntarily.*

The definitions of the size of the taxable persons are as follows:
A large taxable person is a company or individual that has an annual turnover of GHS5 million (approx. USD434,500) and above

- A medium taxable person is a company or individual with annual turnover between GHS90,000 and GHS5 million (approx. USD7,800 to USD434,500)
- A small taxable person is a company or individual with annual turnover of less than GHS90,000 (approx. USD7,800)

Taxable persons are required to issue a tax invoice through a CIS and to ensure that the CIS of the taxable person is integrated into the invoicing system of the CG. All VAT-registered persons are required to comply with e-invoicing (or CIS). The CIS approved by the CG include the following:

- E-invoicing software (certified ERPs or POS) – which applies to persons who have their own accounting software in place
- Free invoicing software (mobile, online, desktop) – applies to persons who do not have an accounting software of their own

A taxable person may make an application to the CG for their permission to use the business's own computer-generated VAT invoice. This application will trigger an inspection of the company's accounting generating invoicing system. Permission may only be given upon the CG satisfying themselves of the robustness of the system.

Once the application is made to the CG, the CG shall reply to the application acknowledging receipt of the said application. Thereafter, the CG shall send a letter indicating the time period for the inspection and the appointed officer to carry out the assignment. Where the CG is satisfied, they shall grant the business permission in writing to proceed with the use of its own computer-generated VAT invoices.

Taxable persons issuing the manual VAT invoices will be provided with the CG's free invoicing software at no cost. The CG will access the online invoicing system through the taxable person's own internet and devices such as desktops, laptops and smart electronic devices, such as phones, iPads, etc.

Simplified VAT invoices. The CG may authorize a taxable person who makes a taxable supply to issue a sales receipt instead of a tax invoice. The dispensation is available to taxable persons who make low-value, high-volume supplies; supplies are paid for in cash and taxable persons who use electronic devices approved by the CG for the issue of the sales receipt. The authorization shall be for a period determined by the CG and may be renewed. A sales receipt does not qualify for input tax deduction.

Self-billing. Self-billing is not allowed in Ghana.

Proof of exports. Exports are zero-rated. To zero-rate exports, all exports must be supported by evidence proving that the goods have left Ghana. The GRA requires detailed documentation for exports. Documentation required includes:

- Customers' orders
- Sales contracts
- Intercompany correspondence
- Export invoices
- Advice notes/consignment notes/packing lists
- Insurance and freight charges
- Evidence of payment
- Evidence of receipt of goods abroad

This is without prejudice to checks on any other business records.

Foreign currency invoices. Ghana does not have a mandatory rule regarding foreign currency invoices that have been converted into the domestic currency, which is the Ghanaian cedi (GHS). The general practice is to use the interbank exchange rate prevailing on the date of the transaction for the conversion. The tax office may check the exchange rate used to convert the GHS into the foreign currency or vice versa if some doubt exists. If no doubt exists, the tax office accepts the taxable person's conversion of a foreign currency-denominated invoice into GHS.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Ghana. As such, full VAT invoices are required.

Records. In Ghana, a taxable person is required to maintain all necessary records in Ghana to provide information in respect of documents to be filed and for the determination of tax payable and for such other purposes that may be prescribed by regulations or by the CG.

In Ghana, examples of what records must be held for VAT purposes include underlying documents, such as receipts, invoices, vouchers and contracts. Additionally, VAT documents, such as filed returns, VAT booklets and VAT Relief Purchase Orders (VRPOs) are also required to be retained. In Ghana, VAT books and records must be held within the country.

Record retention period. VAT documents are required to be retained for a period of at least six years from the relevant date or such other longer period up to the following:
- The determination of an objection to a decision or of an appeal against a tax decision by the taxable person
- The determination of an application made by the taxable person
- The refund of tax applied for by the taxable person
- The date the CG notifies the taxable person that an investigation being conducted is completed

Electronic archiving. Electronic archiving is allowed in Ghana. Records may be kept and archived electronically but are subject to rules prescribed by the CG. *At the time of preparing this chapter, no rules regarding electronic archiving have been put in place by the CG. However, electronic records are required to be in a medium in which information can easily be extracted.*

That said, even though the Electronic Transactions Act, 2008, Act 722 permits documents stored electronically to be used as evidence of a transaction, the CG is not amenable to the use of electronically stored VAT invoices as evidence of VAT payment. Therefore, even though electronic documentation can be maintained, the original copies must not be destroyed.

Records may be maintained in paper form so long as they are kept in good condition.

I. Returns and payment

Periodic returns. VAT returns must be filed on a monthly basis. All returns other than those for imported services and nonresident persons providing e-commerce services are due by the last working day of the month following the one in which the tax point occurred. Nonresident persons filing e-commerce VAT returns are required to file the returns by the last day of the month immediately following the month to which the returns relate. The return for imported services is due within 21 days after the end of the month in which the tax point occurred. Payment is due in full by the date on which the respective return is due.

Nil returns must be filed if no VAT is payable or claimable.

If the normal filing date falls on a public holiday or on a weekend, the VAT returns must be filed on the last working day before that day. This excludes nonresident persons filing e-commerce VAT returns, as they can file on all days, including Saturdays, Sundays and public holidays.

Periodic payments. Payment of the VAT due must be made in full by the date on which the respective return is due, i.e., no later than the last working day of the month immediately following the month to which the return relates. This applies for all cases, except for imported services, which must be made within 21 days after the end of the month in which the tax point occurred.

Payment of VAT can be made through any of the following means:
- Bank transfer
- Automatic clearing house (ACH) transfer
- Debit or credit cards
- Mobile money

- USSD mobile
- Mobile apps
- Internet banking

Where a taxable person pays through a bank transfer, a copy of the bank advice must be submitted to the designated tax office. Official receipts are issued when payment is received by the GRA.

Electronic filing. Electronic filing is mandatory in Ghana for all taxable persons. Taxable persons are required to file their tax returns through an online portal. Taxable persons are required to register an account with the GRA to enable them to file their returns online.

The legislation in respect of electronic filing was enacted in 2016 and is now being implemented. The GRA indicated that certain categories of taxable persons are required to file their returns via the online portal effective from 1 April 2022. However, in practice, all taxable persons are required to file their tax returns electronically.

The online portal can be accessed via www.taxpayersportal.com. Once registered, a taxable person may file its returns as they fall due. Acknowledgement receipts and payment receipts may be downloaded from the portal as proof of filing and proof of payment respectively.

Payments on account. Payments on account are not required in Ghana.

Special schemes. *Flat rate scheme.* Retailers (including importers) of goods account for VAT at a flat rate of 3%, plus the COVID-19 Levy of 1%. The government reviewed the existing VAT Flat rate scheme in 2022. Thus, the VAT Flat rate scheme of 3% is restricted to retailers of goods with annual turnover of GHS200,000 to GHS500,000. According to the Minister, this policy is intended to address the inequalities that domestic producers of local substitutes face vis-à-vis importers of similar products. Wholesalers of goods will now be required to charge and account for VAT at the standard rate of 15%.

Annual returns. Annual returns are not required in Ghana.

Supplementary filings. No supplementary filings are required in Ghana.

Correcting errors in previous returns. Generally, a taxable person may not correct a filed tax return without the permission of the CG. Where a taxable person discovers that information submitted to the CG in a tax return is incorrect or misleading in any material particular, the taxable person shall submit further information to the CG in respect of the matter. The CG may take into account the information received in making an assessment or adjusted assessment.

A taxable person who is not satisfied with a submitted return may apply to the CG in writing for authority to make an addition to or alteration to the return. The application shall state in detail the grounds on which the application is made and be submitted not more than three months after the submission of the original return.

Digital tax administration. There are no transactional reporting requirements in Ghana.

J. Penalties

Penalties for late registration. A taxable person that is not registered but is required to apply to be registered under the VAT Act is considered to be a taxable person from the beginning of the tax period immediately following the period in which the duty to register arises. A taxable person that fails to apply for registration commits an offense.

A taxable person that fails to register is liable to a penalty of not more than two times the amount of tax on the taxable supplies payable from the time the taxable person is required to apply for registration until the taxable person files an application for registration.

Penalties for late payment and filings. A taxable person who fails to submit tax returns to the CG without justification by the due date is liable to a pecuniary penalty of GHS500 and a further penalty of GHS10 for each day after the due date that the return is not submitted.

A taxable person who fails to pay tax by the due date on which the tax is payable is liable to pay interest for each month or part of a month for which any part of the tax is outstanding. The interest is calculated as 125% of the statutory rate, compounded monthly, applied to the amount outstanding at the start of the period.

Nonresident persons. A nonresident person who contravenes a provision of the VAT Act and Regulations made under the Act is (in addition to any other penalty imposed under the VAT Act or Regulations made under the Act) liable to a restriction of access in Ghana until the person fulfills the obligations under the VAT Act and Regulations.

Penalties for errors. Failure to issue a VAT invoice may result in a penalty not more than GHS1,440 or a term of imprisonment of not more than six months or both.

A taxable person who makes a statement to an officer of the GRA that is false or misleading, omits from a statement any matter or item without which the statement is misleading, is liable to a penalty of:
- 100% of the tax shortfall where the statement was made without reasonable excuse
  Or
- 30% of the tax shortfall in any other case

Effective 1 January 2023, in addition to the above penalty for failing to issue a tax invoice, a taxable person who meets any of the below conditions for the CIS will be subject to pay a penalty of an amount of no more than GHS50,000 or three times the amount of tax involved, whichever is higher:
- Issues a false tax invoice or sales receipt
- Fails to issue a tax invoice or sales receipt
- Fails to issue a tax invoice through a CIS
- Tampers, manipulates or interferes with the proper functioning of a CIS
- Fails to integrate the CIS of the taxable person into the invoicing system of the CG
- Fails to reconnect the CIS of that person to the invoicing system of the CG

For further details on the CIS, see the subsection *Section H. Invoicing, VAT invoices, Certified invoicing system* above.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty. Such penalty would fall under the general penalty provision, i.e., the failure to comply with the tax law. This is an offense and, where a specific penalty is not provided for, a fine of no less than GHS12,000 and no more than GHS30,000 shall be payable upon summary conviction. The taxable person may also be sentenced to a term of imprisonment of between two to five years, or to both a fine and a term of imprisonment. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Making a statement to an officer of the GRA that is false or misleading, omitting from a statement any matter or item without which the statement is misleading, may result in a penalty where the inaccuracy if undetected, would have resulted in an underpayment of tax exceeding GHS50, to a fine of not less than GHS300 and not more than GHS2,400 or to a term of imprisonment of not less than three months and not more than two years or to both. In any other case, the taxable person shall be liable to a fine of not less than GHS60 and not more than GHS600 or to a term of imprisonment of not less than one month and not more than three months or to both.

Falsification and alteration of documents may result in a penalty where the inaccuracy if undetected, would have resulted in an underpayment of tax exceeding GHS50, to a fine of not less than GHS300 and not more than GHS2,400 or to a term of imprisonment of not less than three months and not more than two years or to both. In any other case, the taxable person shall be liable to a fine of not less than GHS60 and not more than GHS600 or to a term of imprisonment of not less than one month and not more than three months or to both.

Evasion of tax payments may result in a fine not exceeding three times the tax that is being evaded or imprisonment for a term not exceeding five years or both.

Obstruction of officer of the GRA, where the offense involves fraud or undue force, to a fine of twice the amount sought to be evaded or recovered or GHS2,400, whichever is greater or a term of imprisonment not less than two years and not more than four years or to both. In any other case, to a fine of not less than GHS120 and not more than GHS2,400 or to a term of imprisonment not less than three months and not more than two years or to both.

Personal liability for company officers. Where an entity commits an offense, a manager (which includes directors) of the entity is also treated as having committed the same offense and vice versa.

However, this does not apply to a manager who has exercised the degree of care, diligence and skill that a reasonably prudent taxable person in the position of the manager would have exercised in preventing the commission of the offense.

In addition, as outlined above under the subsection *Penalties for errors*, a taxable person who makes a statement to an officer of the GRA that is false or misleading or omits from a statement any matter or item without which the statement is misleading, is liable to a penalty of:

- 100% of the tax shortfall where the statement was made without reasonable excuse
  Or
- 30% of the tax shortfall in any other case

In extreme cases, prison terms may be imposed with or without the fine.

Statute of limitations. The statute of limitation in Ghana is six years. The CG may, however, go beyond the said period where there is fraud, willful default or serious omission by or on behalf of a taxable person. For taxable persons, there is no statute of limitation to correct a return. For VAT purposes, however, it should be noted that the six-month limitation in respect of claiming an input deduction remains.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Foros prostithemenis aksias (FPA)
Date introduced	1 January 1987
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.minfin.gr/)
VAT rates	
Standard	24%
Reduced	4%, 6%, 13%
Other	Zero-rated (0%) and exempt
VAT number format	EL 1 2 3 4 5 6 7 8 9
VAT return periods	Monthly and quarterly
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	None
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Greece by a taxable person
- Reverse-charge services received by a taxable person in Greece

- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- The importation of goods and certain services from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of Greece excludes Mount Athos.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The Quick Fixes scheme has been transposed into Greek legislation with a retrospective effect as of 1 January 2020. The areas the rules have impacted are as follows:
- Call-of-stock arrangements – The transport by a taxable person of their business goods to another EU Member State is not considered as a supply of goods, in the context of the stock arrangements at the disposal of an identified purchaser, under certain conditions (Article 7a of the Greek VAT Code).
- Chain transactions – In case of a successive supply of the same goods, which are dispatched or transported from one Member State to another, directly from the first supplier to the last customer in the chain, then the dispatch or transport is ascribed only to the supply made to the intermediary operator (Article 13 par. 6a of the Greek VAT Code).
- VAT exemption of intra-Community supplies of goods – Holding a valid VAT identification number by the acquirer of the goods in another Member State, as well as the accurate submission of the recapitulative statement by the supplier of goods, are considered as substantive conditions for the application of the VAT exemption in intra-Community supplies of goods (Article 28 of the VAT Code as amended and currently in force).
- Rules for the proof of transport of goods – The Greek tax authorities have issued Circular E.2019/2022, per which the rules for the proof of physical transport of goods by transportation means of public use are harmonized with Article 45a of the VAT Implementing Regulation No. 282/2011.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Greece, the following services are subject to the use and enjoyment provisions:
- Short-term lease of means of transport services.
- Telecommunication services or electronically supplied services or radio or television broadcasting services provided on a B2C basis.
- Lease of movable goods provided on a B2C basis. In such cases, the place of taxation shifts back to Greece when the use and enjoyment of the services takes place in Greece.

In the case of short-term leasing of professional pleasure boats, which are made available to (taxable or nontaxable) customers in Greece, the place of taxation is outside the European Union, insofar as those pleasure boats are used outside the European Union.

Transfer of a going concern. A transfer of a going concern (TOGC) is not considered a transfer/supply within the scope of VAT to the extent that the business is transferred as a whole, unit/segment or part of it between taxable persons with full right of deductions, and the recipient continues the business of the transferor.

Transactions between related parties. The Greek VAT Code has incorporated Article 80 of the EU VAT Directive, regarding the imposition of VAT at the open market value for transactions performed between related parties, using as criteria whether the consideration is lower or higher than the open market value in conjunction with the supplier's and recipient's right to input tax deduction.

C. Who is liable

A taxable person is any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions, imports of goods into Greece or distance sales (if the relevant annual threshold is exceeded), in the course of business in Greece.

Exemption from registration. The VAT law in Greece does not contain any provision for exemption from registration, as there is no registration threshold.

Voluntary registration and small businesses. The VAT law in Greece does not contain any provision for voluntary registration, nor special VAT registration rules for small businesses.

Group registration. Group VAT registration is not allowed in Greece.

Holding companies. In Greece, a pure holding company cannot be a member of a VAT group, as group VAT registration is not allowed in Greece. A pure holding company will still be required to be registered for VAT in Greece, even if it makes no taxable supplies. This would be declared at the time of registration. A VAT registration must be made irrespective of the level of taxable supplies.

Cost-sharing exemption. The VAT cost-sharing exemption, in accordance with VAT Directive 2006/112/EEC Article 132(1)(f), has not been implemented in Greece.

Fixed establishment. The Greek tax authorities have not issued any guidelines as to the concept of a fixed establishment for VAT purposes; thus, reference is made only to the VAT Implementing Regulation No 282/2011 as in force.

Non-established businesses. A "non-established business" is a business that does not have an establishment in Greece. A foreign or non-established business should register for VAT in Greece, if it engages in any of the following taxable activities:
- Supply of goods that are located in Greece at the time of supply
- Intra-Community acquisitions
- Distance sales in excess of the annual threshold (EUR10,000)
- Imports
- Services, to which the reverse charge does not apply

Apart from the above cases, the reverse charge generally applies to supplies of services made by non-established businesses to taxable persons (subject to the default business-to-business (B2B) rule). Under this measure, the taxable person that receives the supply should account for the Greek VAT due. If the reverse charge applies, the non-established business is not required to register for Greek VAT.

The reverse charge does not apply to supplies of goods or services made to private persons.

Tax representatives. A foreign business, non-established and non-registered in Greece, should obtain a Greek VAT registration number before making taxable supplies in Greece.

In general, a non-EU business must appoint a tax representative, called locally a VAT fiscal representative, to register for VAT. (An exemption applies for registration under the non-Union scheme of OSS.) The VAT fiscal representative should be given, among other documents required by law, a power of attorney to act on behalf of the non-established business.

The VAT fiscal representative should be appointed and obtain registration before the non-established business begins to make taxable supplies. The VAT fiscal representative may be any person engaged by the business who is a resident and VAT liable in Greece, such as a legal entity or an accountant. The VAT fiscal representative undertakes compliance procedures and may be held jointly liable for VAT debts with the foreign business that it represents.

An EU business is not required to appoint a VAT fiscal representative to register for VAT in Greece but may opt to do so. If a VAT fiscal representative is appointed at the foreign EU business's option, such VAT representative undertakes compliance procedures and may be held jointly liable for VAT debts of the foreign EU business.

Reverse charge. In general, VAT due on cross-border B2B supplies of services shall be due at the place where the customer is situated. Where the reverse-charge procedure applies, the Greek recipient must act as both supplier and recipient of the services for VAT purposes. That is, the Greek customer should account for both output and input tax on the VAT return.

Domestic reverse charge. Domestic reverse charge applies in case of supplies of scrap, recyclable goods and gas emission rights pursuant to Article 39a of the Greek VAT Code on certain conditions.

Moreover, a domestic reverse-charge mechanism applies to construction works on real estate provided by private contractors to local municipalities or other public bodies, where the latter are acting as taxable persons for VAT purposes. In some of these cases, no Greek VAT is charged on the invoice issued by the private contractor (supplier) to the municipality or other public body, and the supplier is not required to account for VAT but is required to indicate on the invoice a special wording indicating application of this regime as follows: "Article 39A of the Greek VAT Code – domestic reverse charge." The supplier has a full right to deduct input tax incurred in relation to such supplies.

In addition, a domestic reverse charge applies to B2B supplies of mobile phones, game consoles, PC tablets and laptops. For such supplies, the Greek supplier must issue an invoice as a domestic supply and not charge VAT and include special invoice wording indicating application of this regime. The buyer must account for VAT via the reverse-charge mechanism. The identity of the buyer as taxable person with the right to deduct input tax should be verified through a specific online process powered by the Independent Authority of Public Revenues.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Greece, the competent authority for the registration of persons in the special schemes is "Section C2 – Special VAT schemes of the Tax Office of Foreign Residents and Alternative Taxation of Domestic Tax Residents".

Non-Greek residents are obliged to submit, by electronic means, a declaration of the commencement and cessation of their activities under the special schemes described below or of a change thereof, in such a way that it no longer fulfills the conditions for their inclusion in these special schemes. Online applications are provided for the fulfilment of this purpose by the Independent Authority of Public Revenue (IARP).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier, or a deemed supplier, decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Greece, the non-Union OSS is a special scheme for services supplied to nontaxable persons who are established or have their place of residence or habitual residence in Greece or in any other Member State by taxable persons non-established within EU; the provisions are stated by Article 47B of the Greek VAT Code.

In Greece for suppliers that fall under the scheme of non-Union OSS, the information to be provided upon the time of registration, must include the following:
- Name or surname
- Postal address
- Email addresses and websites it makes available on the internet
- Tax identification number (TIN) allocated to them in their country, if the legislation of their country provides for the issuance of a TIN
- Statement that it does not have the head or registered office of economic activity nor has a permanent establishment in a Member State; a VAT number is issued in this case

After submitting the declaration of commencement of the taxable activity, a VAT number is issued with the prefix EU, for the application of this scheme, which is notified by electronical means. These persons are registered in a special register of the OSS scheme.

In Greece, the OSS is a special scheme for intra-Community distance sales of goods for supplies of goods within a Member State made by electronic interfaces facilitating those supplies and for services supplied by taxable persons established within EU, but not in the Member State of consumption; provisions are stated by the Article 47C of the Greek VAT Code.

In the case of suppliers that fall under the scheme of OSS, they are registered by using the VAT number that is already granted to them by an EU Member State.

Those not allowed to register under the above special schemes are taxable persons and intermediaries who:
- Are registered in the corresponding special scheme of another Member State
- Have been registered in OSS of other Member States and their mandatory commitment period for the selection of a Member State of registration has not expired
- Are in a period of exclusion from the use of all special schemes, in all Member States, in accordance with the provisions of Article 58b of Implementing Regulation (EU) 282/2011, as in force from 1 July 2021.
- Are small enterprises subject to the special scheme of Article 39 of the VAT Code either directly or through tax intermediaries, unless they choose to be deleted from the special scheme of small enterprises

The Greek tax authorities may reject the application for registration if the conditions are not met and specifically where:
- The information provided at the time of application is incomplete.
- The information provided cannot be verified.
- The taxable person or intermediary is not allowed to apply for the special arrangements.
- The Greek VAT number of the taxable person who wishes to register in the Union OSS of the VAT Code is invalid or deactivated or is suspended or is in a state of inactivity. The same applies in cases where the taxable person or the intermediary wishes to register in the special scheme of IOSS.

The application of the OSS schemes is optional.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Greece, the following may be entered under the special scheme of IOSS of the Article 47d of the VAT Code:
- Taxable persons established in Greece who sell goods imported from outside the EU
- Taxable persons not established within the Union and established in a non-EU country with which the EU has concluded an agreement on mutual assistance of a similar extent to that of the Council Directive 2010/24/EU and by Council Regulation (EU) No 904/2010
- Intermediaries established in Greece who wish to join the scheme to act as intermediaries
- Taxable persons, whether established within the EU or not, and are represented by an intermediary established within the territory of the country

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final

destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

The taxable person who uses this special scheme is granted a unique individual VAT tax registration number for the application of the special scheme with the prefix IM, which is notified by electronic means.

The intermediary is granted a unique individual tax registration number with the prefix IN, by electronic means and a unique individual VAT tax registration number with the prefix IM for the application of this special regime for each taxable person for whom it has been set. The VAT tax registration number or tax registration number issued shall be used exclusively for the purposes of this special scheme.

The user of the OSS and IOSS submits, by electronic means, a VAT return for each calendar quarter, whether supplies under this special regime have been provided or not. The VAT return is submitted by the end of the month following the end of the tax period covered by the return. Required modifications of the declared data are included in the next VAT return, within three years from the expiration of the deadline for submission of the initial return.

The tax is paid simultaneously with the submission of the return and at the latest at the expiration of the deadline for its submission, in euros, to a bank account designated specifically for this purpose and kept at the Bank of Greece, with reference to the relevant VAT return. There is no right to deduct the input tax paid in Greece, but there is a right to refund. Exceptionally, if the subject in question is required to account for VAT in Greece for activities not covered by this scheme, then it is entitled to a deduction of input tax paid in Greece and relates to their taxable activities under this scheme.

For more details about the IOSS, see the chapter on the EU.

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Greece, the Postal Services and Couriers Scheme is known as "Special Arrangements" scheme can be used when the IOSS scheme is not used and only if the Member State of destination of the goods coincides with the Member State of import.

- The parcel consignee becomes liable to pay the respective import VAT. However, VAT is paid by the person who brings the goods before the customs office on behalf of the consignee, i.e., as a rule, the international courier companies and the domestic postal service provider (ELTA).
- The VAT payment is deferred until the 16th day of the month following the one when it was assessed, whereas no special permission and/or guarantee is required.
- Persons using Special Arrangements are obliged to maintain import records for a period of 10 years.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Greece, there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. As of 1 January 2019, vouchers, which can have physical or electronic form, are acceptable as consideration in exchange for the supply of goods or services.

The goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

Vouchers are distinguished between "single-purpose vouchers" (SPVs), where the place of supply of the goods or services to which the voucher relates and the VAT due on those goods or services are known at the time of issue of the voucher, and "multi-purpose vouchers" (MPVs), which are vouchers other than SPVs.

The essential difference between the two categories of vouchers is their VAT treatment. In SPVs, the taxable event is their distribution and not the subsequent supply of goods or services. In MPVs, VAT is due at the time of their redemption, when the goods or services to which the voucher relates are supplied, whereas any prior transfer of them should not be subject to VAT.

Intermediary services for the distribution of vouchers that are supplied by taxable persons should be subject to VAT.

Transport tickets, admission tickets to cinemas and museums, postage stamps and instruments entitling the holder to a discount upon purchase of goods or services but carryingm c no right to receive such goods or service should not be treated as vouchers.

Registration procedures. Businesses established in the EU that are required to register locally in Greece can do so and obtain a Greek VAT registration number:

- By directly applying electronically in a simplified process aimed at EU businesses with no prior registration or establishment in Greece, in which case the appointment of a VAT fiscal representative is not required
  Or
- By filing in hard copy an application form along with all required documents (power of attorney, standard tax forms provided by the Greek tax office, a memorandum of association and a certificate of taxable status) and by appointing locally a VAT fiscal representative.

Businesses established outside the EU that are required to register locally for VAT purposes in Greece are required to appoint a local VAT fiscal representative. No electronic registration is available.

In some cases, the appropriate local tax office shall not grant the requested Greek VAT registration number to the applicant (foreign business), for example, if the business had already obtained a Greek VAT registration number.

Deregistration. A taxable person that ceases to be required to account for Greek VAT may opt to deregister. If such taxable person is not deregistered, he must continue complying with all relevant filing obligations.

Changes to VAT registration details. Changes relating to the VAT registration details must be notified before the Registry Department of the competent tax office within 30 days from the time the change was made.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 24%
- Reduced rates: 4%, 6%, 13%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Super reduced VAT rates (by 30% compared to the standard VAT rates) apply to the islands of Lesvos, Chios, Samos, Kos and Leros all affected by the refugee crisis without time limitation, subject though to revocation by Ministerial Decision. As of 2020, Greece has a temporary reclassification of specific products and services from the standard rate to the reduced VAT rate in the context of the measures undertaken for COVID-19. These are noted below under the applicable VAT rate sections.

Examples of goods and services taxable at 0% (i.e., exempt with credit)

- Exports of goods outside the EU and related services
- Intra-Community supplies of goods
- Services supplied to a taxable person established in and outside the EU under the B2B default rule in the provision of services
- Vaccines against COVID-19, approved by the EMA or the EU Member States (*a temporary zero-rating from 1 July 2021 and until 31 December 2023*)

Examples of goods and services taxable at 4%

- The supply of services under contract for works exclusively intended to overcome or remove architectural barriers that limit the mobility of disabled people in public or private buildings or buildings of a public interest (*applicable as of 1 November 2023*)

Examples of goods and services taxable at 6%

- Books and music books, under the tariff code classification 4904
- Newspapers
- Magazines
- Theater and concert tickets
- Cinema tickets
- Supply of electricity and gas, as well as district sales
- Protective masks and gloves, antiseptic products, wipes and relevant products, soap and other products used for personal hygiene purposes, ethyl alcohol, if used as raw material for the production of antiseptics
- Residues and waste of industrial foodstuffs and animal feed, excluding dog or cat food *(applicable from 1 October 2021)*
- Defibrillators
- Dialysis, hemofiltration, hemodiafiltration and plasmapheresis filters, and hemodialysis, hemofiltration, hemofiltration and plasmapheresis (tariff code 9018)
- Electronic publications of visual and audio books, except for publications intended solely or primarily for advertising purposes and publications consisting entirely or exclusively of video or audio music content *(applicable from 1 July 2021)*

Examples of goods and services taxable at 13%

- Hotel accommodation services
- Food services supplied by restaurants, grills, taverns, coffee shops, cafeterias, patisseries and other related businesses (other than entertainment centers)
- Provision of services for boarding schools, structures for disabled persons and structures providing accommodation to people with mental disabilities, mental disorders and use of drugs
- Oil types
- Meat and fish preparations
- Sugars and sugar confectionery
- Miscellaneous edible preparations based on cereal, flour, starch or milk
- Preparations of vegetables, fruit, nuts, and fruit and vegetable juices
- Coffee, cocoa, tea, chamomile, and other preparations based on these products and coffee substitutes until 30 June 2024
- Pastes, preparations for sauces and sauces, preparations for soups and broths, ice creams, vinegar and salt
- Bathroom seats, iron deficiency pump for Mediterranean anemia, tracheostomy system tracheal tubes filters, walker, tripod, A.G. or K.G. socks, colostomy socks, filters for blood purification, blood donation, blood transfusion, and plasma exchange, blood purification lines, blood donation, blood transfusion, and plasma exchange, bags for collecting liquid filter preparation, Y-connectors, sets for vein puncture during blood purification, carbon dioxide cartridges, titanium connector, connection and drainage line, drainage bags, connection cassettes, Clamp (clamps), peritoneal cleansing case (SMART PD CASE), consumables for colostomies, intended for the service of people with disabilities.
- Nonalcoholic beverages, without addition of alcohol in any proportion (tariff code classification 2202) and gaseous water (tariff code classification 2201)
- Services provided by cafes, confectioneries, restaurants, grills, wineries and other related businesses (except for entertainment businesses) with the exception of beverages containing alcohol in any proportion *(a temporary reduction applies to the supply of coffee, cocoa, tea, chammile, and other preparations based on these products and coffee substitutes until 30 June 2024)*
- Transportation of persons and their luggage carried out by Public Passenger Vehicles (TAXI) *(a temporary reduction, applicable from 1 June 2020 to 30 June 2024)*
- Imported art objects, associations or antiquities and objects of artistic value when delivered by their creator or successors
- Zoo tickets
- Services from gyms
- Services from dance schools and provided that they are not exempt
- Agricultural tractors and forestry tractors, motors, devices and tools, pumps for liquids, air pumps and air compressors for fish tanks, mobile silos, greenhouses, fish farms made of glass, accumulator shells, floating fish farming structures intended mainly or exclusively for agriculture, animal husbandry or forestry *(applicable as of 1 November 2023)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Postal services
- Finance
- Insurance
- Certain sales and rental of immovable property under conditions
- Medical services supplied by public law and other not-for-profit organizations
- Health care

Option to tax for exempt supplies. Optionally, commercial lease of real estate may be subject to VAT instead of stamp duty, upon mutual agreement of the lessor and the lessee. The lessor must submit a specific request to the appropriate tax office.

E. Time of supply

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

The basic time of supply for goods is when the goods are put at the purchaser's disposal. If the supplier undertakes the obligation to forward the goods to the buyer, the time of supply is at the beginning of the transportation. For installed goods, the time of supply is when installation is completed. If the supplier issues an invoice before the basic time of supply, the time of supply becomes the invoice date.

In general, the time of supply for services is when they are performed. If the supplier issues an invoice before the basic time of supply, the time of supply is the invoice date.

Deposits and prepayments. Payments received before the supply of goods or services, or the issuance of a VAT invoice are known as advance payments. Advance payments do not generally create a tax point (they create a tax point only in the event of an intra-Community supply of services).

Continuous supplies of services. If services are provided continuously, the tax point is the time that any amount is considered as payable.

Goods sent on approval for sale or return. The tax point for a local supply of goods sent on approval for sale or return is when the goods are approved for receipt and sold. If the goods are returned, there is no supply.

Reverse-charge services. There are no special time of supply rules in Greece for supplies of reverse-charge services. As such, the general time of supply rules applies (as outlined above). This means that the time of supply of services is when the services are performed unless an invoice is issued before the basic time of supply.

By way of derogation in case any advance payment is collected prior to the completion of the EU cross-border services, the tax point is considered to be at that time. A special tax record (titled "special tax record for VAT purposes in case of intra-EU supplies of services") is issued at the time of the advance payment collection and has the same content as a VAT invoice.

For continuous supplies of intra-EU cross-border services, the VAT becomes due by the end of the tax year, to the extent that no installments have been paid during the period of the supply. A special tax record should be issued.

The reverse-charge mechanism only applies to B2B cross-border services, not goods. For intra-EU acquisition of goods, refer to the *Intra-Community acquisitions of goods* subsection below.

Leased assets. Lease of assets is considered to be a supply of services; thus, the tax point is the time that any amount is considered to be payable. If at the expiration of the lease agreement, the lessee takes ownership of the assets, this should be considered to be a supply of goods and the tax point shall be the time when the sale is performed.

Imported goods. The time of supply for an importation is when the importation occurs or when the goods leave a duty suspension regime.

Intra-Community acquisitions. For intra-Community acquisitions, the time of supply is when the goods are put at the purchaser's disposal. If the supplier undertakes the obligation to forward the goods to the buyer, the time of supply is the beginning of the transportation. VAT is due on the

issuance of an invoice or by the 15th day of the month following the month in which the supply took place, whichever is the earlier.

Intra-Community supplies of goods. For intra-Community supplies, VAT is due upon the issuance of the respective invoice and at the latest on the 15th day of the month following the one on which the supply was affected.

Distance sales. The time of supply rule for the supply of distance sales is at the beginning of the transportation.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied within Greece, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods, reverse-charge services and domestic reverse charge of goods.

A valid tax invoice or customs document should generally accompany an input tax refund claim.

The time limit for a taxable person to reclaim input tax in Greece is five years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Hotel accommodation
- Business gifts valued at more than EUR10
- Lease, purchase, hire and maintenance of cars
- Fuel for cars
- Business entertainment
- Home telephone bills
- Taxis
- Public transport
- Food, drink and tobacco

Examples of items for which input tax is deductible (if related to a taxable business use)

- Books
- Attending conferences and seminars
- Lease, purchase, hire and maintenance of vans and trucks
- Fuel for vans and trucks
- Mobile telephones
- Utilities

Partial exemption. Input tax directly related to making exempt supplies is not generally recoverable. If a Greek taxable person makes both exempt and taxable supplies, it may not recover input tax of common expenses in full. This situation is referred to as "partial exemption." Exempt with credit supplies are treated as taxable supplies for these purposes.

The amount of input tax that may be recovered is calculated in the following two stages:
- The first stage identifies the input tax that may be directly allocated to taxable supplies and exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, on general business overhead) that may be allocated to taxable supplies and recovered. The calculation is based on the value of taxable supplies made compared with total turnover. The partial exemption recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 75.1% is rounded up to 76%).

Approval from the tax authorities is not required to use the partial exemption standard method in Greece. Special methods are allowed in Greece but require approval from the Head of the Tax Office, upon meeting certain conditions. However, it is not common for taxable persons to use a special method in Greece.

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

In Greece, the capital goods adjustment applies to the following assets for a period of five years:
- Buildings (in case of leased buildings, the adjustment period expands to 10 years at the level of the lessor).
- Other movable capital assets and certain intangible goods (i.e., the rights to use patents, designs, trademarks).
- Capitalized expenses, which are considered to be, inter alia, the expenses for the services related to the construction of capital goods, which are added to the value of the capital good (i.e., they are capitalized) and they are subject to adjustment together with the initial value of the goods. Note that for VAT purposes, the granting of use of an intangible asset is considered as provision of services.

In the tax period of first use, the input tax is deducted according to whether, and to what extent, the goods are used for taxable activities. One fifth of the total input tax is attributed to each year of the adjustment period. At the end of each year, an adjustment of the input tax has to be made according to the use of the goods (exempt/taxable) in that particular year. When the use of the goods in an adjustment year has changed compared to the use of the goods in the tax period of first use, part of the input tax must be paid to or can be recovered from the authorities.

The final input tax adjustment is performed annually on the basis of the overall data of the tax year, derived from the respective VAT returns filed throughout the year.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. If a VAT return results in an input tax credit, the amount may be carried forward to offset output tax payable in subsequent periods. Alternatively, the taxable person may request for the VAT refund by completing the relevant tax box in the VAT return (no separate filing of an application is required in this respect).

Theoretically, a tax audit is not a prerequisite for the refund. However, under certain circumstances, a taxable person may be selected for a tax audit prior to being granted the refund, based on a risk analysis performed by the Directorate of the Ministry of Finance. Input tax amounts claimed for refund as of 1 July 2017 by taxable persons who have been granted an "authorized economic operator" license or a "simplified procedure license" or taxable persons engaged in

exports or intra-EU deliveries of goods, may be refunded, under certain conditions, without any VAT audit to be performed.

Pre-registration costs. Input tax incurred on pre-registration costs in Greece is not recoverable.

Bad debts. Generally, no adjustment can be made concerning bad debts. Any amount of VAT charged must be paid to the Greek State, even if it has not been collected by the taxable person from their customer. As an exception to this general rule, relief may be sought by taxable persons in case the customer has been subject to a special "rehabilitation" or "special liquidation" or "bankruptcy" procedures as provided by Greek Insolvency Code bankruptcy legislation and provided that a court order has been issued beforehand; however, this exception has rarely been applied in practice.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Greece.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Greece is recoverable. Greek VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Greece. Non-established businesses may claim Greek VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Greece during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Greece:

- Claims should be submitted electronically in either Greek or English and should be accompanied by scanned copies of relevant invoices placed in an electronic archive or file.
- The appropriate Greek authority for this purpose is the following:

  Independent Authority for Public Revenue
  General Directorate of Tax Administration
  Directorate for the Implementation of Indirect Taxation Section C – VAT Refund to companies having their registered office within and outside the EU.
  Sina Street 2-4
  10672 Athens
  Greece

- If the refund application is approved, refund of the approved amount should be paid within 10 working days after the expiration of the deadline to respond. Interest is payable to the applicant on the amount of the refund to be paid if the refund is paid after the last date for payment. Interest due is calculated according to the rules applicable for payment of default interest to Greek taxable persons.

Non-EU businesses. For businesses outside the EU, Greece does not refund VAT under the terms of the EU 13th Directive. This includes the United Kingdom (UK). However, this is with the exception of businesses established in Norway, Switzerland and Northern Ireland. A Norwegian or Swiss business may claim Greek VAT refunds to the same extent as a Greek taxable person. Transactions involving the movement of goods between Northern Ireland and the EU Member States are treated as intra-Community acquisitions and supply of goods, for a four-year period from 1 January 2021.

Find below specific rules for Greece:
- The refund application must relate to the supply of goods and services or imports covering a period of at least three months and not exceeding one calendar year.
- The period may be less than three months when it represents the remainder of a calendar year.
- Refund claim is submitted in the Member State of establishment by 30 September of the calendar year following the return period.
- Claims relating to UK, Norwegian and Swiss businesses must be filed in hard copies before the VAT Division of the Greek Ministry of Finance.

Late payment interest. In Greece, interest is not paid on late refunds to non-established businesses (for both EU and non-EU non-established businesses).

H. Invoicing

VAT invoices. A taxable person should generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. For retail transactions, retail receipts should be issued.

A valid original VAT invoice is required to support a claim for input tax deduction or a refund under the EU 8th Directive refund scheme (*see the chapter on the EU*).

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note should be cross-referenced to the original VAT invoice. It is possible to issue a credit invoice only for the VAT amount in cases where VAT has been erroneously charged under certain conditions.

Electronic invoicing. Electronic invoicing is mandatory in Greece for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Greece. This is in line with EU Directive 2014/55/EU *(see the chapter on the EU)*. This is with effect from 2020.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Greece. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*.

For B2G supplies, the obligation of contracting authorities and contracting bodies was extended to receive and process e-invoices issued in the context of Public Procurement Contracts of L.3978/2011, L.4412/2016, and L.4413/2016 regardless of their estimated value. The obligation of the economic bodies for e-invoicing applies to:
- Contracts concluded in the sectors of defense and security, in accordance with L.3978/2011
- Public procurement contracts and contracts relating to works, designs, technical and other related scientific services as well as supplies and general services, in accordance with L.4412/2016
- Concession agreements, in accordance with L.4413/2016
- Any expense category incurred by contracting authorities or bodies

As a general rule, the time point for the commencement of the mandatory regime of e-invoicing appears to be the date by when the process for the conclusion of the relevant contract commences (said time point is determined on a case-by-case basis by the provisions of L. 3978/2011, 4412/2016 and 4413/2016) and not the date of issuance of the invoice.

A gradual inclusion to the mandatory e-invoicing regime is provided depending on the body to which the contracting authorities belong, as well as the legal framework governing the relevant expenses, starting from 12 September 2023.

An explicit provision referring to the economic body's obligation for issuance of e-invoices should be included in the relevant contract.

There is no obligation for e-invoicing for:
- Public contracts of minor value, i.e., value equal to or less than EUR2,500 excluding VAT
- Public contracts concluded between entities of the public sector, when these entities are acting in a noncompetitive manner and outside of any procedure addressed to the market (i.e., when they are not acting as economic bodies)
- Other general government expenditure up to EUR2,500, which do not fall within the scope of L.3978/2011, L.4412/2016 and L.4413/2016
- Contracts that fall within the scope of L.3978/2011 (procurements related to defense and security) and are classified as secret

For electronic invoices in general, the authenticity of the origin and the integrity of the content may be safeguarded in various ways, which are provided indicatively and not restrictively and are the following:
- An advanced electronic signature created by a secure signature creation device based on a qualified certificate for electronic signatures within the meaning of P.D. 150/2001
- Electronic Data Interchange (EDI), as defined in Article 2 of Annex 1 to Commission's Recommendation 1994/820/EC of 19 October 1994, where the agreement relating to the interchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data
- The use of a licensed service provider
- The use of Special Electronic Secured Registration Mechanisms "black box," mainly used in B2C sales

In addition, the readability of the electronic invoices should also be safeguarded. Greek-established companies shall ensure by any appropriate means that the content of an invoice is in a readable format by a person, without the need of excess investigation or interpretation, for the time of its issuance until the end of the retention period required by law. In particular for electronic invoices, that condition is fulfilled when upon request and with appropriate conversion process they can be presented in a format that can be read either on screen or in printed format in due time. This process should permit verification that the information of the original electronic file and the item presented in a format that can be read is not modified.

The readability of invoices is deemed to be ensured where an appropriate and reliable access mechanism of the electronic format is available during the retention period.

From the tax year 2021, Greek established taxable businesses are liable to use electronic maintenance of their accounting books (e-books).

In a nutshell, all Greek established taxable persons are liable to digitally transmit their transactions' data (revenues invoices/sales receipts), as well as the classification of both their revenues and expenses, to the Independent Authority of Public Revenues (IAPR) through a specific digital platform (myDATA) as of 1 January 2021. The deadlines for the data transmission and for the classification thereof are defined in Decision A.1138/2020. The data transmission deadlines vary depending on the type of the suppliers, the transactions, etc., and should be examined on a case-by-case basis. However, this is not applicable for foreign taxable persons that have acquired solely a Greek VAT number (without operating through a Greek permanent establishment).

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified invoices. Simplified invoices are allowed when either the amount of the invoice does not exceed EUR100, or the issued invoice is a document that modifies and refers specifically and indisputably to an original invoice. The main difference with the regular invoice is that the simplified invoice does not contain the recipient's/customer's data. Simplified invoices must contain at least the following details:
- The date of issue
- Identification of the taxable person supplying the goods or services

- Identification of the type of goods or services supplied
- The amount of VAT payable or the information needed to calculate it
- If the simplified invoice intends to amend an initial invoice, a reference to the initial invoice and the specific details that are amended must be made

Self-billing. Self-billing is allowed in Greece. The seller is allowed, subject to prior (written or oral) agreement, to ensure the issuance of an invoice from the recipient of the goods or services (self-billing) or by a third party on behalf of the seller. The agreement to issue an invoice by the recipient of goods or services or from another third party does not exempt the taxable person from the legal obligation to ensure that an invoice is issued, as well as from any relevant liability.

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods. However, to qualify as VAT-free exports and intra-Community supplies, they should be supported by evidence confirming that the goods have left Greece. Acceptable proof includes the following documentation:

- For an export, copies of the export document reporting the electronic message "IE 599: Export Completion Notification" indicating the supplier as the exporter, the bill of lading issued by the transporter, the sales invoice and bank proof of payment (if applicable).
- For an intra-Community supply, a range of commercial documentation, such as dispatch notes, the bill of lading and proof of payment.

No special documentation applies in Greece for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. However, for goods transported via means of transport of public use, article 45a of the VAT Implementing Regulation No. 282/2011 applies. As per this article, a written statement from the acquirer, stating that the goods have been dispatched or transported by the acquirer, or by a third party on behalf of the acquirer, and identifying the Member State of destination of the goods is one of the documents that evidence the VAT exemption for intra-EU supplies. However, there is no official template for this document, published by the Greek tax authorities.

Foreign currency invoices. If an invoice is received in a foreign currency, the VAT amounts should be converted into the domestic currency, which is the euro (EUR). The exchange rate to be used is issued by the IAPR. An invoice may be issued in foreign currency if Greece is the place of supply of goods or services and if the amount of VAT payable is indicated at least in euros.

Supplies to nontaxable persons. For supplies to nontaxable persons, a sales receipt must always be issued. Sales receipts (as well as any other tax records issued in the framework of B2C sales) must be issued through use of Special Electronic Secured Registration Mechanisms (SESRMs)/ black box, as provided by L.1809/1988 or through the use of third-party licensed service providers. However, the Greek legislation provides for specific exemptions in this respect, for example, in cases of toll receipts or electricity and telephone bills.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued (to the extent the seller operates under a Greek VAT number). However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested. Persons registered to IOSS scheme in Greece shall issue the relevant documents for the sale of goods in accordance with the invoicing rules of Greek Accounting Standards (L. 4308/2014).

Records. In Greece, examples of what records must be held for VAT purposes include tax records, accounting books and relevant supporting documents. This applies for Greek established entities. In Greece, VAT books and records can be kept outside of the country. This is on the condition that they can be submitted to the Greek tax authorities, in case of an audit, within a reasonable time period.

Non-established businesses operating in Greece through a Greek VAT number should ensure to maintain all the tax records issued and received through its Greek VAT number, signed CMRs and transport documents, bank statements, and import and export documents, as well as any other supporting document that could be used in case of a VAT audit by the Greek tax authorities. Such records can be kept outside the country; however, in case of an audit, the records must be submitted to the Greek tax authorities, within a reasonable time period.

Record retention period. The records retention period is linked to the statute of limitations period, within which the tax authorities can lawfully impose taxes. Tax Procedures Code (law 4174/2013) sets out a five-year statute of limitation period, commencing from the end of the tax year in which the deadline to submit tax return expires.

Electronic archiving. Electronic archiving is allowed in Greece. It is allowed as long as there is a system for searching, displaying and printing or reproducing the records, in order to assist a potential audit by the tax authorities. Records created in a printed format can be digitized and stored in the new format even during the current tax year. For each invoice, the data that ensures the authenticity and integrity of the content of the document must be safeguarded.

I. Returns and payment

Periodic returns. The VAT return due should be filed by the last business day of the month following the end of the return period. Greek periodic VAT returns are submitted electronically as follows:

- Monthly, if the taxable person maintains double entry accounting books
  Or
- Quarterly, if the taxable person maintains single entry accounting books (this is also the case of foreign VAT-registered persons)

No VAT return is required if a taxable person has suspended its business activity and has declared such suspension with the appropriate tax office. This refers to either the termination of the business activity or the "deactivation" of a non-established business' Greek VAT number. If said taxable person wishes to perform in the future taxable transactions in Greece, it may "reactivate" the same Greek VAT number.

Periodic payments. In principle, filing of VAT returns and full payment of the VAT due should be made by the last business day of the month following the end of the return period. However, in the case of VAT returns filed on time, taxable persons have the option of paying the VAT due in two equal installments provided that the total VAT amount payable exceeds EUR100. If they choose installments, the first installment is due by the last business day of the month during which the VAT return was submitted, and the second installment is due by the last business day of the following month. Payment of VAT must be made electronically (see the *Electronic filing* subsection below).

Electronic filing. Electronic filing is mandatory in Greece for all taxable persons. VAT returns should be filed electronically through TAXISnet (that is, the electronic application of the IAPR). This is mandatory for all VAT taxable persons, Greek-established companies and foreign VAT-registered companies.

Payments on account. Payments on account are not required in Greece.

Special schemes. *Small enterprises.* Taxable persons whose turnover exclusive of VAT during the previous tax year did not exceed the EUR10,000 threshold are exempted from the obligation to file VAT returns and from VAT payment, provided that they apply for and are registered as "small enterprises falling under the regime of Article 39 of Greek VAT Code." The EUR10,000 threshold must neither include disposals of capital assets nor exempt supplies with no right of deduction.

Newly Greek VAT-registered businesses may also apply for the special scheme. In addition, it is also no longer obligatory to retain the special scheme for two years.

This exemption shall not apply to special scheme farmers, non-established taxable persons or supplies of new means of transport.

Application of this special regime requires filing of a relevant declaration to the tax office registry.

Tax records issued by these enterprises are issued with no VAT and must display prominently: "Without VAT: special scheme for small enterprises." Taxable persons under this special scheme have no right to deduct input tax.

Upon exceeding the threshold, the business is immediately (and not as of the next tax year) obliged to charge VAT on their supplies and apply the regular VAT regime, regardless of the time when notification to the tax authorities is filed.

Cash accounting. A "cash accounting system" has been introduced in Greece for local taxable supplies of goods or services and is aimed at businesses with an annual turnover not exceeding the EUR2 million threshold.

Application of this regime is only optional and can be activated after filing an application to the tax authority before the beginning of the tax year concerned. For businesses registered under this new regime:
- Output tax shall become due upon collection of the consideration or part thereof.
- Input tax incurred is deductible at the time when the taxable person pays the consideration or a part thereof for goods or services received.

The tax records issued by entities applying this scheme should indicate the following: "Cash accounting scheme: Article 226.7a Directive 2006/112/EC – Article 39B VAT Code." Issuance of a special record for prepayments is provided for, in cases of prepayments' collection in the context of special scheme's transactions.

Annual returns. Annual returns are not required in Greece.

Supplementary filings. *Intrastat.* A Greek taxable person that trades with other EU countries should complete statistical reports, known as Intrastat, if the value of its intra-Community sales or purchases exceeds certain thresholds. Separate reports are used for intra-Community acquisitions (Intrastat Arrivals) and intra-Community supplies (Intrastat Dispatches).

The threshold for Intrastat Arrivals in 2023 is EUR150,000. The threshold for Intrastat Dispatches in 2023 is EUR90,000. *At the time of preparing this chapter, the thresholds for 2024 have not been announced.*

The Intrastat return is filed electronically through the website of the Hellenic Statistical Authority on a monthly basis. The submission deadline is by the 26th day of the month following the end of the Intrastat return period (i.e., the same deadline as the EC Listings filing obligation). It is not necessary to file nil Intrastat for a month in which no cross-border transfer take place. Intrastat returns must be filed in EUR.

EC Listings. EC Listings for cross-border supplies of both goods and services within the EU are filed on a monthly basis.

Separate forms should be filed for intra-Community dispatches (sales or supplies of services or goods) and for intra-Community acquisitions or receipt of services. EC Listings should be filed electronically through TAXISnet (that is, the electronic application of the IAPR) by the 26th day of the month following the reporting period.

It is not necessary to file nil EC Listings for a month in which no intra-Community transactions take place. EC Listings should include B2B services supplied on a cross-border basis only if these services are taxable in the country of the recipient.

On the contrary, EC Listings should not include services that are exempt from VAT in the country of the recipient business. Taxable persons required to file EC Listings should verify through the VAT Information Exchange System (VIES) the VAT identification number of their customers before engaging in intra-Community transactions.

Correcting errors in previous returns. Corrections can be made through the electronic submission of an amended VAT return. Administrative penalties and interest in excess VAT payable amounts may arise depending on the case (see the section *Penalties* below for further details).

Digital tax administration. *Electronic bookkeeping.* The Greek State has implemented the mandatory electronic bookkeeping obligation to all Greek established companies as of January 2021. For further details see the subsection *Electronic invoicing* above. However, this is not applicable for a non-established taxable person that has acquired solely a Greek VAT number (without operating through a Greek permanent establishment).

J. Penalties

Penalties for late registration. In the case of a business operation commencing without the appropriate registration with the tax authority, a penalty equal to 50% of the VAT amount that should have been paid to the tax authority during the operation of the business is imposed.

Penalties for late payment and filings. Penalties are charged for late or inaccurate VAT returns, for the failure to file VAT returns and for the failure to account for VAT properly, as follows:

Procedural violation penalties in the EUR100–EUR500 range may be imposed for late VAT return.

In the case of filing of an inaccurate VAT return or failing to file a VAT return, which results in a full or partial failure to account for VAT or results in the deduction or refund of additional input tax, a penalty equal to 50% of the unpaid VAT amount or of the relevant difference (i.e., additional input tax amount deducted or refunded) is imposed.

Finally, in cases of late payment, inaccurate underpayment or nonpayment of VAT, the taxable person is obliged to pay interest in arrears calculated on this amount on a monthly basis for the time period from the end of the payment deadline until the date of the payment. *At the time of preparing this chapter, the current monthly rate is 0.73%.*

For Intrastat, a penalty amounting to EUR100 may be incurred for inaccurate or late or missing filings.

For EC listings, a penalty amounting to EUR100 may be incurred for inaccurate or late or missing filings.

Penalties for errors. In the case of failure to issue an invoice or in the case of issuance or acceptance of inaccurate invoices for a transaction that should have been burdened with VAT, a penalty equal to 50% of the unpaid VAT amount or of the relevant difference (i.e., additional input tax amount deducted) is imposed.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of EUR100. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Criminal sanctions may be imposed in cases where the crime of tax evasion is committed by persons who intentionally avoid the payment taxes by virtue of inaccurate payment or set-off or VAT. The respective punishment varies from 2 to 20 years depending on the amounts involved in the tax evasion. In particular:

- Imprisonment of at least two years and up to five years is imposed in case the annual non-paid VAT amount is up to EUR50,000.
- Imprisonment for at least 5 years and up to 20 years is imposed in case the annual non-paid VAT amount exceeds EUR100,000.

In addition, the law states that any person who knowingly signs an inaccurate tax return as a proxy or any other person who knowingly contributes or provides direct support to the commission of tax evasion (including company's officers) is punished as a direct accomplice.

Personal liability for company officers. The penal sanctions stated above can also apply to a company's officers if an intention of fraud is identified.

Statute of limitations. The statute of limitations in Greece is five years. This commences from the end of the tax year in which the deadline to submit tax return expires.

Guatemala

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	1 July 1992
Trading bloc membership	None
Administered by	Tax Administration Superintendence (SAT) (http://www.sat.gob.gt)
VAT rates	
Standard	12%
Reduced	4%, 5%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (NIT)
VAT return periods	Quarterly, monthly, biannual
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The sale or exchange of movable goods or rights derived from movable goods
- The rendering of services within Guatemala
- Imports
- Leasing of movable and immovable property
- The award (transfer) of movable and immovable goods as a payment

- Consumption by the taxable person and consumption by the employees, executives, directors and shareholders of a company or their family members
- Certain shortages of inventory such as those derived from missing goods (e.g., shrinkage) or damaged goods, as well as destruction of inventory, if complied with the legal requirements
- The first sale or exchange of immovable assets
- Certain donations
- Contributions of immovable property to legal entities if the assets have been previously contributed to a real estate entity

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Guatemala, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Guatemala. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Guatemala, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the Income Tax Law (ITL) will apply for VAT, and as such transactions between related parties should be valued using the arm's-length principle. In addition, transfer pricing obligations may arise when two entities are considered as related parties.

According to the ITL, the following scenarios must be analyzed to determine if entities are considered as related parties:

A. Two persons are considered related parties, between a person resident in Guatemala and a person resident abroad, when the following cases occur:
   1. When one of them directs or controls the other, or owns, directly or indirectly, at least 25% of its capital stock or voting rights, whether in the national or foreign entity.
   2. When five or fewer persons direct or control both related parties, or own as a whole, directly or indirectly, at least 25% of participation in the capital stock or voting rights of both persons.
   3. In the case of legal entities, whether resident in Guatemala or foreign, that belong to the same business group. In particular, it is considered for these purposes that two companies are part of the same business group if one of them is a partner or participant of the other and is in relation to it in any of the following situations:
      a) Holds the majority of the voting rights.
      b) Has the power to appoint or dismiss the members of the administrative body or, through its legal representative, decisively intervenes in the other entity.
      c) Can dispose, by virtue of agreements entered into with other partners, of the majority of the voting rights.
      d) Has appointed exclusively with its votes the majority of the members of the administrative body.
      e) The majority of the members of the administrative body of the dominated legal entity are officers, managers or members of the administrative body of the dominant company or of another company dominated by the latter.

When two companies each form part of a corporate group with respect to a third company in accordance with the provisions of this subsection, all these companies form a corporate group.

A natural person is also considered to have an interest in the capital stock or voting rights when the ownership of the interest or shares, directly or indirectly, corresponds to the spouse or person related by blood up to the fourth degree or by affinity up to the second degree.

B. The following are also considered related parties:
   1. A resident in Guatemala and a distributor or exclusive agent of the same resident abroad
   2. A distributor or exclusive agent resident in Guatemala of an entity resident abroad and the latter
   3. A resident in Guatemala and its permanent establishments (PEs) abroad
   4. A PE in Guatemala and its parent company resident abroad, another PE of the same or a person related to it

In this sense, the ITL determines that the scope of application of the valuation rules for transactions between related parties reaches any transaction between the person resident in Guatemala and the person resident abroad and that has effects on the determination of the taxable income for the period in which the transaction is carried out and in the following periods. Additionally, TP regulations do not establish a difference between supplies of goods and services.

C. Who is liable

Any business entity or self-employed individual that carries out taxable activities on a regular or periodic basis must register for VAT. Taxable persons whose annual turnover does not exceed GTQ150,000 (approx. USD19,380) may elect to be taxed under a simplified VAT regime.

Exemption from registration. The VAT law in Guatemala does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Guatemala does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Small taxable persons with annual turnover of up to GTQ150,000 (approx. USD19,380) may apply for a simplified regime. Under the simplified regime, taxable persons pay tax at a rate of 5% based on their gross taxable sales without a right to credit or deduct input tax (see *Section F. Recovery of VAT by taxable persons* below). Small taxable persons will be subject to VAT withholding when engaging in commercial activities with VAT withholding agents. In all cases where VAT is not withheld, small taxable persons must declare and pay the VAT within the next calendar month. In addition, taxable persons operating under this regime are exempt and shall not declare or pay income tax.

Group registration. Group VAT registration is not allowed in Guatemala.

Fixed establishment. In Guatemala there is no legal definition of a fixed establishment for VAT purposes. However, the ITL determines PE rules would also apply for VAT as follows:

It is understood that an individual, legal person, international organization, entity or property specified operates with a PE in Guatemala when the following are met:
1. In any capacity or form performs within the country, from a fixed place of business, facility or workplace of any kind, any or part of its activities. The definition of the preceding paragraph encompasses, in particular:
   a) Management headquarters
   b) Branches
   c) Offices
   d) Factories
   e) Workshops
   f) Stores, departments, shops or other establishments

g) Agricultural, forestry or livestock exploitation
h) Mines, oil or gas wells, quarries or other place of extraction or exploration of natural resources

2. Any work, construction or installation project or supervisory activities in connection with are included in the definition, but only if the that work, project or supervisory activities are performed during a period greater than six months.
3. Notwithstanding the above, when a person other than an independent agent is acting in Guatemala on behalf of a nonresident enterprise, that enterprise shall be deemed to have a PE in Guatemala in respect of any activities that person undertakes for the enterprise, if that person holds and habitually exercises in Guatemala an authority to conclude contracts on behalf of the company, or does not hold such powers, but habitually maintains in Guatemala, stocks of goods for delivery on behalf of the nonresident.
4. Except for activities related to reinsurance or counter guarantee, an insurance company is considered to have a PE if it collects premiums within the territory or insures risks situated therein through a Guatemalan resident.
5. A nonresident is deemed to have a PE when more than 51% of the activities of an agent are carried on behalf of the nonresident and the conditions accepted between the nonresident and the agent and imposed in its ordinary course of business differ from those which would occur between independent parties.
6. An enterprise shall not be deemed to have a PE in a Guatemala merely because it carries on business in Guatemala through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Guatemala. A non-established business must register for VAT if it supplies goods or services in Guatemala. To register for VAT, a non-established business must take the following actions:

- Appoint a tax representative.
- Provide the tax authorities with a copy of its Articles of Incorporation, legalized by a Guatemalan consulate or duly apostilled, together with an official translation in Spanish to obtain registration before the Mercantile Registry.

Tax representatives. To register for VAT, non-established businesses must appoint a tax representative.

Reverse charge. If a non-domiciled individual renders an occasional, temporary service in Guatemala (or performs another taxable activity) without being registered for VAT, the local beneficiary of the service may be able to issue a "special invoice" for VAT withholding.

Large taxable persons may be designated as VAT withholding agents for payments made relating to the acquisition of goods and services. This measure also applies to other special taxable persons expressly qualified as withholding agents (for example, exporters, government entities and credit card operators). VAT withholding generally applies to the following (exemptions regarding minimum amounts may apply):

- Regular exporters (minimum monthly average exports of GTQ100,000 [approx. USD12,920]): 65% of VAT generated from the purchase of agricultural and cattle products, and 15% of VAT generated for other acquisitions
- Drawback entities: 65% of the VAT generated
- Government entities (excluding municipalities): 25% of the VAT generated
- Credit and debit card operators: 15% of the VAT generated on transactions carried out by affiliated entities
- Gas stations: 1.5% withholding on the gross amount of acquisitions of gasoline
- Special taxable persons: 15% of the VAT generated
- Other withholding agents: 15% of the VAT generated

In principle, the VAT withholding mechanism does not apply to transactions between withholding agents, unless the acquisition is made by credit or debit card (in such a case, the taxable person applies the VAT withholding as described above).

Domestic reverse charge. Taxable persons that acquire goods or services from local taxable persons who do not issue an invoice for such transactions (i.e., if the supplier is not registered for VAT or by any other reason), are able to issue "special invoices" on behalf of said individuals to document the operations and should withhold the applicable VAT rate. The customer then self-accounts for the VAT.

Special invoices should not be issued when the local individuals are duly registered as Guatemalan taxable persons, nor in transactions of habitual nature that are performed between individuals. Notwithstanding, an exception exists over the aforementioned prohibition when the issuer of the "special invoice" determines in such document that the seller of goods or services refused to issue the corresponding invoice.

Additionally, such domestic reverse-charge mechanism should also apply in cases where taxable persons have been designated as VAT withholding agents in the local acquisition of goods and services, except in transactions between withholding agents.

Digital economy. There are no specific rules regarding the taxation of digital economy for VAT purposes in Guatemala. The general taxable events indicated in *Section B. Scope of the tax* should be observed whether or not they are transacted by digital means.

For electronically supplied services, supplied by a non-established business, for both business-to-business (B2B) and business-to-consumer (B2C), place of supply would not be in Guatemala, and as such no obligation for the customer to account for VAT.

For the supply of a license, no VAT is expected to apply if it is not considered as granted within the Guatemalan territory. However, the tax authorities have issued official criteria for licenses over software, which provide that such licenses granted abroad to be used in Guatemala should be subject to VAT and customs duties.

Guatemalan legislation does not distinguish between B2B vs. B2C transactions. In this regard, the same considerations are expected to apply, irrespective of whether the customer is an individual or an entity. For both types of supply, there would be no VAT due on electronically supplied services in Guatemala.

Online marketplaces and platforms. The Guatemalan tax legislation does not provide specific provisions or rules regarding the application of VAT over online marketplaces and platforms. In any case, to the extent goods are located or services are rendered within Guatemala, VAT should apply.

In June 2021, the tax authorities presented the new Digital Economy Tax Compliance Software, through which it is intended that taxable persons who engage in electronic commerce (streaming services, transport through digital applications, etc.) can have the mechanisms to fulfill their tax obligations in Guatemala, mainly from the perspective of consumption taxes (i.e., VAT). This is based on the Digital VAT Toolkit for Latin America and the Caribbean, which was developed by the Organisation for Economic Co-operation and Development (OECD), the Inter-American Development Bank (IDB), the Inter-American Center of Tax Administrations (CIAT) and the World Bank Group. *However, at the time of preparing this chapter, this platform is under development and in the implementation phase, therefore, taxable persons who perform e-commerce activities are not currently obliged to register.*

Registration procedures. The VAT registration process varies for entities that are newly incorporated or are branches of entities incorporated abroad.

Newly incorporated legal entities. Registration with the tax authorities should be performed simultaneously to registration before the Mercantile Registry. The tax ID certificate should be issued along with the certificate of registration. This process should be carried out directly by the notary public engaged for the incorporation of the entity, either in person at the Mercantile Registry or electronically online (https://minegocio.gt/). A tax ID number should be assigned once the new entity has been registered, a process that takes approximately five business days once a complete application has been filed.

Also, newly incorporated legal entities can register personally or electronically before the tax authorities and, to that effect, the following documents are required:
- Personal identification document *(documento personal de identificación [DPI])* of the legal representative or passport in case that they are non-established
- Notarized copy of the public deed that contains the articles of incorporation
- Appointment of the legal representative

Branches of entities incorporated abroad. Registration should be carried out directly at one of the agencies authorized by the tax authorities. The following documents are required:
- Document that proves a minimum assigned capital of USD50,000
- Certified copy of the last balance sheet and profit and loss statement of the company
- ID of a legal representative of the company
- Letter signed by the accountant accepting their registration with the tax authorities as the taxable person's accountant
- Document that proves the individual's authority to represent the company
- Notarized copy of the articles of incorporation of the company
- Information regarding the income tax regime election, inventory method, Solidarity Tax election and quarterly payments election, if applicable

Whenever the information in these documents or any information that is part of the VAT registration changes, the taxable person must amend its registration within 30 days.

Deregistration. Taxable persons that will no longer develop commercial activities in Guatemala should, after the legal procedure to liquidate the entity has been completed, deregister for VAT purposes by filing form SAT-2175 and any other required documentation with the tax authorities.

Changes to VAT registration details. Per the Guatemalan Tax Code, Decree 6-91 of the Guatemalan Congress, any modification to the general tax registration details should be notified to the tax authorities in person or electronically, depending on the type of change, within the 30 days following the corresponding modification.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 12%
- Reduced rate: 4%, 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and services

Examples of goods and services taxable at 4%

- A 4% rate applies to taxable persons under the electronic scheme for small taxable persons and special electronic scheme for agricultural taxable persons (for further information, see the subsection *Special schemes* below)

Examples of goods and services taxable at 5%

- A 5% rate on gross sales applies to small taxable persons and for taxable persons registered under the regime for agricultural contributions (for further information, see the subsection *Special schemes* below)

Examples of goods and services taxable at 12%

- Sales of vehicles and motorcycles when the transaction and the model of the vehicle or motorcycle corresponds to one of the following:
  - The current year
  - The year prior to the current year
  - The year following the current year

For used vehicles, including motorcycles, a fixed amount of VAT applies ranging from GTQ200 to GTQ1,000 (approx. USD26 to USD129), depending on the year of manufacture. The first registered sale of a real estate property is subject to 12% VAT, but not to a stamp tax; the second and subsequent sales are exempt from VAT but subject to a 3% stamp tax.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Transfer of assets in a merger
- In-kind contributions of movable property to a legal entity
- In-kind contributions of immovable property if the property had not been previously contributed to a real estate entity
- Supplies by cooperatives to their members
- Low-value retail sales of meat, fish, seafood or shellfish, fresh fruits and vegetables, cereals and basic grains in cantonal and municipal markets with a maximum sale value of GTQ100 (approx. USD13)
- Certain financial services
- Education
- Certain insurance and reinsurance transactions

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Guatemala.

E. Time of supply

The time when the taxable event is considered to be completed and VAT becomes due is called the "tax point." For a supply or exchange of goods, the tax point is the earlier of the issuance of the invoice or the delivery of goods. For a supply of services, the tax point is when the invoice, receipt or other document related to the transaction is issued. If no invoice is issued, the tax point is at the time of payment.

The tax point for insurance and bonds is when the premiums or quotas are received, and for shortages of inventory, it is when the shortage is discovered.

Deposits and prepayments. There are no special time of supply rules in Guatemala for deposits and prepayments. As such, the general time of supply rules apply, and the time of supply is when any payment is made from the purchaser to the supplier.

Continuous supplies of services. For leasing and a continuous supply of services for which the customer pays periodically, the tax point is the due date for each periodic payment.

Goods sent on approval for sale or return. For goods sent on approval, the tax point is when the goods are effectively delivered. If goods are returned to the seller after being sold, the seller is required to issue a credit note to reverse the sale operation, provided that the credit note is issued within the time frame permitted by the VAT law (i.e., two months).

Reverse-charge services. The time of supply rules for supplies of reverse-charge services, i.e., the case of special invoices (see the subsection *Reverse charge* above) is when the invoice is issued by the local acquirer of goods or beneficiary of the services.

Leasing assets. For leased assets, the tax point is the due date for each periodic payment.

Imported goods. The time of supply for imported goods is when the goods clear all customs formalities for importation.

F. Recovery of VAT by taxable persons

Input tax is the VAT paid on the purchase of goods and services used to generate other goods and services subject to tax. A taxable person can generally recover input tax, subject to certain rules. Input tax is generally offset against output tax, which is VAT charged or collected on the sale of goods and the rendering of services. To deduct or credit input tax, certain conditions must be met.

The time limit for a taxable person to reclaim input tax in Guatemala is the month when the invoice is received or in the following two months. This is when the input tax should be recognized and reported to the tax authorities for the VAT credits to be recoverable. In this sense, duly recognized VAT credits should be recoverable until their exhaustion.

In general, input tax paid on imports or purchases of goods and services is creditable when directly related to the taxable person's business activity.

A valid tax invoice or customs document must generally accompany a claim for input tax credit. Purchases supported by invoices issued by small taxable persons do not generate input tax credits.

Payments greater than GTQ30,000 (approx. USD3,875) must be made through the banking system or using a deed from a notary public in which the payer and the beneficiary are clearly identified.

Nondeductible input tax. Input tax may not be recovered on imports or purchases of fixed assets not directly related to the taxable person's business activity.

Examples of items for which input tax is nondeductible

- Items (expenses or purchases) without proper supporting documentation
- Items (expenses or purchases) not registered in the VAT purchases book

Examples of items for which input tax is deductible (if related to a taxable business use)

- Any item that is related to the taxable person's taxable business activities, which is duly documented with the proper legal documents that comply with local requirements, provided the purchase has been included in the VAT purchases book, the balance of the tax credit has been registered in the accounting books as an account receivable, and the payment in excess of GTQ30,000 (approx. USD3,875) for the purchase has been made through a financial/banking institution.

Partial exemption. Special regulations regarding the treatment of overhead expenses are not provided by the VAT law. However, in cases where a business performs both taxable and exempt

activities, input tax may be fully credited against output tax generated by taxable activities. Any remaining credit may be refundable if the legal conditions are met.

Approval from the tax authorities is not required to use the partial exemption standard method in Guatemala. However, the taxable persons should keep an organized record of taxable and exempt activities performed to avoid risk of questioning or inconveniences with such authorities over the compensation of input tax with output tax.

Special methods are not allowed in Guatemala.

Capital goods. In Guatemala, there are no specific provisions regarding the definition of capital goods for indirect tax purposes. However, the VAT law determines that VAT credits generated by the acquisition, import or construction of fixed assets should be recognized and subject to compensation with VAT debits, to the extent that such assets (i.e., capital goods) are duly linked to the process of production or marketing of goods or services of the taxable person.

In this sense, if capital goods will be used for both taxable and exempt activities, VAT credits should be recognized for both activities, and the taxable person should submit VAT refund requests with the tax authorities over any excess VAT credits.

Refunds. If the amount of input tax recoverable in a month exceeds the amount of output tax payable, the taxable person obtains an input tax credit. The credit may be carried forward to offset output tax in subsequent VAT periods.

Qualified exporters may claim a refund of VAT paid on inputs. The Bank of Guatemala (central bank) maintains a registry of qualified exporters.
- To qualify for the registry of exporters, the taxable person must provide the Bank of Guatemala with documents that prove it satisfies one of the following conditions:
- It exports 50% or more of its gross sales.
- It exports less than 50% of its gross sales, but it is not able to fully offset its input tax credit related to its exports against its output tax generated from domestic supplies.

Taxable persons registered as exporters may file a refund request with the Bank of Guatemala within 30 business days following the end of the period for which the refund is claimed. No refunds are granted for amounts of up to GTQ10,000 (approx. USD1,292). For refund requests greater than GTQ10,000, the Bank of Guatemala partially refunds the VAT paid by exporters in the following percentages:
- 75% of refund amounts of up to GTQ500,000 (approx. USD64,600)
- 60% of refund amounts greater than GTQ500,000

The remaining 25% or 40% is carried forward to the future periods, or the exporter may request a refund directly from the tax authorities.

Qualified taxable persons may also request VAT refunds based on an opinion issued by a registered certified public accountant.

A nonqualified exporter may request a 100% VAT refund from the tax authorities directly if the exporter is not able to credit VAT on inputs against VAT on outputs. This method is applied to VAT refunds requested by service exporters.

An "electronic refund regime" entails the presentation of monthly VAT refunds requests for 100% of the accrued VAT credit. The business should comply with the following requirements:
(i) Carries out export activities
(ii) Adheres to the electronic invoice regime *(Factura Electrónica en Linea [FEL])*
(iii) Transfer accounting information to the tax authorities regarding the 100% of its activities
(iv) Obtains qualification to apply for this regime

Pre-registration costs. Input tax incurred on pre-registration costs in Guatemala is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Guatemala.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Guatemala.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Guatemala is not recoverable.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable supplies made. VAT invoices, credit notes and debit notes must be authorized by the tax authorities. An invoice is generally necessary to support a claim for an input tax credit. If the nature of the business makes it impractical for a taxable person to issue tax invoices, the tax authorities may authorize the use of cash registers and other computerized systems to issue invoices in which the goods or services acquirer may insert its name and tax ID for tax purposes.

Credit notes. A VAT debit note must be used to increase the VAT chargeable if the value of a supply increases for any reason. A VAT credit note must be used to reduce the VAT charged and claimed on a supply if the value is reduced for any reason (e.g., the granting of a discount, a change in the price or a return of the goods). A debit note or credit note must include the same information as a tax invoice. Credit notes and debit notes only modify VAT charged when issued within the two months following the issuance of the invoice it modifies.

Electronic invoicing. Electronic invoicing is mandatory in Guatemala, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Guatemala.

The tax authorities have enabled an online electronic invoicing regimen (i.e., FEL) that allows the tax authorities to obtain invoicing and VAT information in real time. Taxable persons may be required to adhere to said regime; however, they may also voluntarily apply and implement as desired.

Specifically, the agreement provides the following procedures for taxable persons to use the FEL regime:

- *Taxable persons required by the tax authority:* Progressively, the tax authority will define the taxable person segments and the deadline for their mandatory incorporation into FEL through the issuance of administrative dispositions, which will be duly notified to the taxable persons. Upon expiration of the deadline established in the administrative provision for such taxable persons, the current authorizations of other resources or forms other than issuance of tax documents will no longer be valid.
- *Voluntary incorporation:* Taxable persons may voluntarily apply to join the FEL regime using the Virtual Agency *(Agencia Virtual)*, in which case they have six months to comply with the FEL requirements provided in the agreement. Once this period has expired, the authorizations of other resources or forms of issuing tax documents will no longer be valid.

The regulations of the VAT law determine that as of 1 July 2021, the FEL regime will be the only authorized mechanism for the issuance of tax documents to legal entities or individuals who register for the first time as a taxable person, which means that taxable persons duly registered before 1 July 2021 should be already incorporated to the FEL regime on such date. Also, resolutions issued by the tax authorities indicate that taxable persons operating under the previous

electronic invoice regime, FACE, should migrate to the FEL regime before 31 December 2020. With effect from 1 July 2022, individuals and legal entities registered in the General VAT Regime must join the FEL. Incorporation of taxpayers to the FEL is mandatory when taxpayers are notified by the tax administration either directly or through the publication of resolutions.

The obligation for small taxpayers to issue electronic invoices came into effect on 2 June 2023. During a meeting with certain commercial sectors and the tax authorities, they agreed that the use of paper invoices will continue as long as taxpayers demonstrate "material inability for electronic invoicing". It was emphasized that this extension is for one year and only applies to small taxpayers that comply with the condition of having material impossibility to issue electronic invoices.

In accordance with Section 30 of the Regulations of the VAT Law, Governmental Agreement Number 5-2013, invoices, special invoices, debit and credit notes, must comply at least with the following requirements, data and characteristics:

- Identification of the type of document
- Series and correlative number of the document
- As applicable to each type of document, according to the legislation in force, the following phrases:
  - It does not generate right to tax credit
  - Direct payment, resolution number and date
  - Subject to quarterly payments
  - Subject to definitive withholding
  - For the special agricultural taxpayer regime, as applicable, the phrases:
    - "With form of payment on gross sales"
    - "With form of payment on profits, not withholding"
  - For the small taxpayer electronic regime and the special agricultural taxpayer electronic regime, the phrase: "Do not withhold" and the number of the resolution of incorporation to the regime. Full name and surname and trade name of the issuing taxpayer, if any, in the case of an individual; corporate name and trade name, in the case of a legal entity
- Tax identification number *(Número de Identificación Tributaria [NIT])* of the issuing taxpayer
- Address of the establishment or office where the document is issued
- Date of issuance of the document
- Full name and surname of the acquirer, if an individual; name or company name, if a legal entity
- NIT of the acquirer; if the latter does not have a NIT, the issuer must include the unique identification code *(Código Único de Identificación [CUI])* of the personal identification document (DPI) or the identification number of a foreign natural person or foreign legal entity; the words final consumer or the acronym "CF" may be included in documents evidencing sales of goods or rendering of services of less than Q2,500. In cases of force majeure and duly justified by the issuers, upon their request, the tax authorities may authorize that the application of the provisions of this numeral may be carried out progressively, establishing for such purpose the corresponding mechanisms and terms
- Details or description of the sale, service rendered or leases and their respective values
- Discounts granted, if any
- Charges applied in connection with the transaction
- Total price of the transaction, including tax where applicable

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Guatemala. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Guatemala. Taxable persons that acquire goods or services from local individuals who do not issue an invoice for such transactions are able to issue "special invoices" on behalf of said individuals to document the operations and should withhold the applicable VAT rate.

Special invoices should not be issued when the local individuals are duly registered as Guatemalan taxable persons, nor in transactions of a habitual nature that are performed between individuals. Notwithstanding, an exception exists over the aforementioned prohibition when the issuer of the "special invoice" determines in such document that the seller of goods or services refused to issue the corresponding invoice.

Due to the nature of the operations subject to the issuance of "special invoices," it is not required to perform a written agreement between the seller and the buyer.

Proof of exports. Exports of goods and services are exempt. However, to qualify as exempt, exports must be supported by customs documents that give evidence of the outbound process. Suitable evidence also includes export invoices and bills of lading.

Foreign currency invoices. VAT invoices must be issued either in the domestic currency, which is the Guatemalan quetzal (GTQ) or in US dollars (USD). However, invoices issued in USD must show the exchange rate used on the date of the transaction. The exchange rate to be used is the one that is issued on a daily basis by the Guatemalan Central Bank.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Guatemala. As such, full VAT invoices are required.

Records. In Guatemala, examples of what records must be held for VAT purposes include transactions in the book of sales, book of purchases and other applicable accounting books. Also, taxable persons must file invoices and other tax documents through physical and electronic means (when applicable) to support their operations in case of audits by the tax authorities.

In Guatemala, VAT books and records can be held outside the country. The records must be kept within the country of the tax domicile that is duly registered before the tax authorities or in the offices of the taxable person's accountant, which should also be registered before such authorities.

Record retention period. The Guatemalan Tax Code indicates that the tax authorities have a four-year period to make audits, adjustments and verifications over the operations of all taxable persons, which means they should keep records over such a period of time to be prepared for possible audits by the tax authorities. Furthermore, records should be kept for as long as they are having tax effects even when the four-year period has elapsed.

The Guatemalan Commerce Code also provides that traders/merchants should retain legal correspondence and records for a period of five years.

Electronic archiving. Electronic archiving is allowed in Guatemala. For VAT purposes, the book of purchases and book of sales may be kept and archived physically or electronically through the electronic system of the tax authorities (i.e., *AsisteLibros*). Also, tax documents (i.e., invoices) could be archived physically or by electronic means when applicable.

Under the Online Electronic Invoice regime (FEL for its Spanish acronym), registered taxable persons will be obliged to use the electronic system for the registration of their accounting books, purchasing and sales books, and other auxiliary records determined by the tax administration for 100% of their operations. However, the authorities are currently working on the mechanisms and regulations to determine the requirements and procedures to keep the electronic accounting, and they will be progressively incorporating taxable persons to such e-accounting scheme.

I. Returns and payment

Periodic returns. VAT returns should be submitted on a monthly basis through Form SAT-2237, using the electronic system of the tax authorities (i.e., *Declaraguate*) within the month that follows the expiration of each monthly tax period.

VAT generated through special invoices should be reported through Form SAT-2085 within the month that follows the expiration of each tax period.

Periodic payments. VAT due must be paid in full by the end of the month following each tax period. Exceptions to this rule apply for real estate and vehicle supplies, in which case the supply should be documented through a public deed and VAT should be paid in cash or through the means made available to the taxable person by the tax authority within the next 15 days following the date of the transaction.

Electronic filing. Electronic filing is mandatory in Guatemala for all taxable persons. Tax forms must be prepared and filed through the electronic system of the tax authorities (*Declaraguate*) (https://declaraguate.sat.gob.gt/declaraguate-web/). Once tax returns are filed, the payment can be made either through an online banking system tool (i.e., *BancaSAT*) or physically through authorized banks.

Payments on account. Payments on account are not required in Guatemala.

Special schemes. *Small taxable persons.* The Guatemalan legislation provides a special regime for "small taxable persons." In this sense, taxable persons with an annual turnover of up to GTQ150,000 (approx. USD19,380) may apply for a simplified "small taxable person regime," in which they pay tax at a rate of 5% based on their gross taxable sales without a right to credit or deduct input tax. Small taxable persons will be subject to VAT withholding when engaging in commercial activities with VAT withholding agents. In all cases where VAT is not withheld, small taxable persons must declare and pay the VAT within the next calendar month. In addition, taxable persons operating under this regime are exempt and shall not declare or pay income tax.

A 4% rate applies to taxable persons under this scheme but for the electronic option. In addition to the lower rate, the taxable person must register a bank account and authorize the tax authorities to automatically debit from such account on the 10th business day of each calendar month the amount equivalent to applying the tax rate of 4% on the total income reported in the immediately preceding month, in accordance with the electronic invoices issued for such purpose.

Agricultural taxable persons. The Guatemalan Congress recently enacted several amendments to the VAT law, through the new Decree 7-2019. The new special regime for agricultural taxable persons and its specific regulations were created. This new regime applies to all taxable persons that develop production and commercialization activities in the agricultural sector and whose annual income does not exceed GTQ3 million within a fiscal year. For cattle breeders the tax rate of 5% is on gross sales; and for traders of cattle a 5% on profits, being in turn relieved from the payment of income tax.

A 4% rate applies to taxable persons under this scheme but for the electronic option. In addition to the lower rate, the taxable person must register a bank account and authorize the tax authorities to automatically debit from such account on the 10th business day of each calendar month the amount equivalent to applying the tax rate of 4% on the total income reported in the immediately preceding month, in accordance with the electronic invoices issued for such purpose.

Annual returns. Annual returns are not required in Guatemala.

Supplementary filings. No supplementary filings are required in Guatemala.

Correcting errors in previous returns. Errors contained in previous VAT returns must be rectified or amended electronically through the online system of the tax authorities (i.e., *Declaraguate*) and a fine of GTQ100 (approx. USD13) should apply. Also, any subsequent rectification to the same VAT return should be subject to a fine of GTQ100 (approx. USD13).

Digital tax administration. *Electronic invoicing.* In Guatemala, the tax authorities have enacted an online electronic invoicing regime (i.e., FEL) through Directorate Agreement 13-2018. The FEL

allows the tax authorities to obtain invoicing and VAT information in real time. Taxable persons may be required to adhere to said regime; however, they may also voluntarily apply and implement as desired.

Also, the FEL regime establishes the obligation for registered taxable persons to use the electronic system for the registration of their accounting books, purchasing and sales books, and other auxiliary records determined by the tax administration for 100% of their operations. For further details, see the subsection *Electronic invoicing* above.

Purchases and sales report. Section 57 "D" of the VAT law determines that taxpayers classified by the tax authorities as special must submit electronically at least every six months a detailed report in chronological form of the purchases and sales made in said six-month period. Said report shall contain, at least, the following requirements:
- NIT of the buyer or seller
- Name of the buyer or seller
- Amount of the purchase or sale stated in the invoices
- Date of the purchases or sales stated in the invoices

To support these regulations, the tax authorities previously implemented the electronic tool (i.e., *AsisteLibros*).The purpose of which is to carry out the operation and electronic delivery of books of purchases and services acquired, and sales and services rendered. The tool automatically registers invoices issued to local taxpayers and must be used by taxpayers qualified as: large special, medium special and regional special. However, the tool has recently been modified and no longer allows the segmentation or separation of invoices that are considered as belonging or not to such taxpayers.

Regarding this issue, the tax authorities acknowledge that the *AsisteLibros* tool is still under development and have recognized that several day-to-day scenarios of taxpayers were not considered, such as segmenting invoices that do not correspond to them, for certain reasons. For this reason, the tax authorities have unofficially communicated to some taxpayers that currently it is not relevant or necessary that there is congruence between what is indicated in the tax returns and the report of purchases and sales of *AsisteLibros*. In this sense, the tax authorities stated that temporarily taxpayers must only comply with submitting such report of purchases and sales through the tool and receive the proof of submission of the corresponding information, to support compliance with this formal obligation.

J. Penalties

Penalties for late registration. A taxable person that fails to register for VAT on a timely basis cannot offset VAT credits generated from purchases that are included in inventory at the time of registration. The tax authorities may impose penalties and interest for late VAT registration.

Penalties for late payment and filings. Nonpayment of VAT results in a penalty equal to 100% of the unpaid amount. If the penalty is paid voluntarily by the date required by the VAT authorities, the penalty is reduced to 50%.

The late filing of VAT returns is subject to a penalty ranging from GTQ50 (approx. USD6.50) per day, up to a maximum of GTQ1,000 (approx. USD129). If the return is filed voluntarily, the late-filing penalty may be reduced to 85% of the original amount.

Penalties for errors. If the tax authorities detect that the taxable person made an error in the determination of its tax liability, they could summon such taxable person to remedy the corresponding mistake by paying the omitted tax plus interest at the maximum rate determined by the Monetary Board. The penalties for late payment should be calculated by applying the amount of tax to be paid, per the 0.0005 factor, per the days of delay. This is the formula used by the tax

authorities to determine the factor of tax due. Such penalties are for late payments of VAT and any other errors at the time of reporting.

If the taxable person accepts the calculation error, a 40% discount will apply over interest payments and an 80% discount will apply over the late payment penalty.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details will be subject to a fine equivalent to GTQ50 (approx. USD6) for each day of delay, with a maximum penalty of GTQ1,500 (approx. USD190). For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax fraud occurs when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of tax due. The penalty consists of 100% of the amount of the tax plus imprisonment from one to six years.

The tax fraud penalty may not be imposed together with penalties for late payment.

Personal liability for company officers. For tax purposes, company officers or directors cannot be liable for errors and omissions in VAT declarations and reporting. However, the legal representative, partners and other officers of a company could be subject to criminal implications and penalties for tax fraud if they are duly convicted by judicial authorities.

Statute of limitations. The statute of limitations in Guatemala is four years. This is the period during which the tax authorities may be able to review and audit the tax information and documentation of a taxable person (tax returns, invoices, etc.) and identify errors or payment omissions.

Additionally, there is no time limit regarding voluntary error correction in tax returns. However, fines and penalties may be reduced if the errors are corrected before an inspection or audit process is carried out by the tax authorities. On the contrary, if the tax authorities determine such errors during an inspection or audit process, fines and penalties should be higher as previously provided.

Guinea

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	28 December 1995
Trading bloc membership	Economic Community of West African States – ECOWAS (Communauté Economique des Etats d'Afrique de l'Ouest – CEDEAO)
Administered by	National Tax Office (Direction Nationale des Impôts)
VAT rates	
Standard	18%
Other	Zero-rated (0%) and exempt
VAT number format	987654321-4V
VAT return periods	Monthly
Thresholds	
Registration	GNF1 billion
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Deliveries or sales of goods
- Supplies of services or assimilated operations carried out or used in Guinea, even if the taxable person is not located in Guinea
- Importations of goods in Guinea

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Guinea, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Guinea. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Guinea, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, Guinean legislation provides that companies are required to maintain documentation to justify the transfer pricing methods used.

C. Who is liable

Individuals or legal entities that usually or occasionally realize taxable operations with an annual turnover equal or superior to Guinean franc (GNF) 1 billion (approx. USD105,000) for the sales of goods and supplies of services are subject to VAT. A taxable person that reaches this threshold must register itself for VAT purposes.

Exemption from registration. In Guinea, the following are exempted from VAT registration:
- Entity or person with a turnover of less than GNF1 billion during the previous year
- Entity or person who, having realized a turnover equal to or greater than GNF1 billion, has recorded a decrease in their GNF1 billion and has recorded a decline in their turnover below this threshold for two consecutive years.

Voluntary registration and small businesses. When companies' turnover does not reach the mandatory registration threshold, companies may, with the authorization of the Head of the Tax Office, place themselves in the scope of VAT if their annual turnover, or that their investments made or estimated for the current fiscal year reach a turnover of GNF500 million.

Group registration. Group VAT registration is not allowed in Guinea.

Fixed establishment. In Guinea there is no legal definition of a fixed establishment for VAT purposes. However, the Guinean tax code specifies the conditions necessary to determine the presence of a permanent establishment (PE) with regard to corporate income tax in Guinea (which also applies for VAT). The presence of a PE, within the framework of the usual exercise of an activity, is characterized by two noncumulative criteria as follows:
- The exercise of its activities through a place of business
- Carrying out transactions in Guinea through a dependent agent

A dependent agent is an agent who acts on behalf of a resident taxable person for tax purposes in another state and who has powers in Guinea that it usually exercises there allowing it to conclude contracts in the name of the taxable person or without having these powers usually operates in Guinea a stock of goods or merchandise on behalf of the taxable person.

Moreover, a set of criteria (beam of indices) makes it possible to qualify the existence of a PE (i.e., fixed installation, exercise of activities, permanence of the installation). So, the law provides that the following may constitute a PE:
- A place of management
- A branch
- An office
- A factory
- A workshop

- A mine, an oil or gas well, a quarry or any other place of extraction of natural resources
- A construction site, an assembly or installation project or supervision activities related to the project, when the construction site, the project or the activities last more than six months
- The provision, by a taxable person, of services, including consultancy services, through employees or personnel engaged by the taxable person for this purpose, when activities of this nature are continuing (for the same project or a related project) in Guinea for a period or periods totaling more than 183 days in any 12-month period commencing or ending in the relevant year.

Non-established businesses. A "non-established business" is a business that has no PE in the territory of Guinea. All the transactions performed in Guinea are subject to VAT, even if the taxable person is not domiciled in Guinea. In this respect, transactions are deemed performed in Guinea with regard to services when they are carried out (performed) or used in Guinea, even if the supplier does not have a PE in Guinea.

As such, a non-established business must register for VAT through a tax representative when it exceeds the registration threshold (see above). The exemption from registration rules also applies for non-established businesses.

Tax representatives. Non-established businesses must appoint a Guinean tax representative. Failing that (meaning if no tax representative is appointed), it is the Guinean or local client that shall be considered as tax representative and shall be liable for the VAT and corresponding penalties.

A tax representative must meet the following requirements:
- Subject to and registered for VAT
- Established in Guinea
- Up to date with their tax obligations
- Duly authorized by the taxable person represented by a written mandate

The sole tax representative must:
- Draw up invoices in the name and on behalf of the foreign company represented
- Indicate on the invoices that it acts as a tax representative
- File VAT returns in the name and on behalf of the taxable person represented
- Complete all other tax formalities of the taxable person represented

In addition, the sole tax representative is jointly and severally liable with the person liable for the payment of VAT. In the absence of the designation of a tax representative, the VAT and the related penalties must be paid by the beneficiary of the taxable transaction.

Reverse charge. For services provided by non-established businesses, VAT is paid through the reverse-charge mechanism. The reverse-charge mechanism is only used if the supplier has no permanent establishment in Guinea.

The nonresident service provider will establish its invoices, VAT excluded, and it will be up to the tax representative or local client to then calculate the corresponding VAT amount, declare and pay it on behalf of the service provider.

Domestic reverse charge. There are no domestic reverse charges in Guinea.

Digital economy. Nonresident providers of electronically supplied services in Guinea for business-to-consumer (B2C) supplies are required to register and account for VAT on the supplies in Guinea.

Nonresident providers of electronically supplied services in Guinea for business-to-business (B2B) supplies are not required to register and account for VAT on the supplies in Guinea. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in Guinea.

Online marketplaces and platforms. The tax code outlines provisions regarding a regime for services performed via e-commerce platforms. The regime outlines that, when a service is provided via an e-commerce platform, whether or not the provider is established in Guinea, where the service provider is in contact with the customer, whether or not they are a taxable person (i.e., for both B2B and B2C supplies), and the customer is established in Guinea, the platform is deemed to act as both purchaser and seller of the service provided, even if it acts as a transparent intermediary. This means that the platform and service providers are jointly and severally liable for the VAT due on the supply made. The platform is therefore required to register and account for VAT in Guinea. However, where the supplier is not established in Guinea and the platform is established in Guinea, the latter is liable for the VAT on this transaction through the reverse-charge mechanism (see the *Reverse charge* subsection above).

Registration procedures. The application for the VAT registration should be made by a written request accompanied by a copy of the following documents: The opening balance sheet or copy of its financial statements, company's articles of association, the last three-monthly tax returns and corresponding receipts of payment, the tax registration certificate, the registration certificate with the Trade Register and the proof of the company's location or address. Moreover, it must prove to have realized during the previous or current year a turnover of at least GNF500 million.

Deregistration. Taxable persons must notify to the tax administration the termination of their activities and proceed with the cancellation of their tax registration number in the register of the tax office after compliance of the legal formalities.

Changes to VAT registration details. The taxable person that modifies its registration details (name, address, business activity, etc.) must report it in writing (paper) to the tax administration.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a VAT rate, including the zero-rate.

The VAT rates are:
- Standard rate: 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports
- International transport of goods and persons from or to foreign countries
- Certain operations involving commercial vessels
- Operations on aircraft used by airlines whose services to or from foreign countries represent at least 80% of the services they operate (i.e., deliveries, repairs, alterations, maintenance, charters and rentals of such aircraft, etc.)

The term "exempt" refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Sales and imports of stamps
- Operations within the scope of the tax on financial activities

- Operations within the scope of the tax on insurance• Operations relating to the transmission of real properties and tangible personal properties subject to registration fees, except from the operations of the same nature conducted by the real estate merchants of goods or those of leasing
- Sale of used goods
- Transfers of shares, stocks and bonds
- Rental of buildings for residential use excluding, among others, accommodation operations carried out within the hotel sector.
- Sales, imports, prints and compositions of periodical publications printed whatever their names (newspaper or magazine) mainly composed of text relating to news and information of general interest excluding the advertising incomes
- Services or operations of a social, educational, sporting, cultural, philanthropic or religious character delivered by non-lucrative organizations of which the management is voluntary and selfless. However, the operations conducted by these organizations are taxable when they are in a competitive sector
- Certain foodstuffs:
  - Rice
  - Wheat
  - Flour and additives used in its production
  - Bread
  - Nutritious oils
  - Palm oil
  - Non-frozen fish
  - Heavy fuel oil used in boilers for the production of electricity
  - Inputs for the production of fertilizers and the packaging used for their conditioning
  - The social slice of water and electricity consumption charged to households
  - Sales by their authors of original works of art
- Pharmaceutical products
- Fertilizers and pesticides
- Books and school supplies
- Sales of used goods made by the people who have used them for the needs of their exploitation
- Care services provided to persons by members of the medical and paramedical professions approved by the Minister of Health
- Hospitalization and medical care provided by public or private hospitals or similar organizations, provided that such establishments or organizations are approved by the Minister of Health
- Transportation of sick or injured persons, by means of specially equipped vehicles, by professions licensed by the Minister of Health of Health
- Delivery of human organs, blood and milk
- Sale of specialized equipment for medical activities
- School or university teaching services provided by public or private establishments or similar bodies, provided that these establishments or bodies are approved by the Minister of Education
- Agricultural materials and equipment, the list of which is established by joint order of the Ministers of Finance and Agriculture, with the exception of vehicles for transporting people or for mixed use

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Guinea.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." As a general rule in Guinea, VAT tax point occurs for:

- Goods – at the delivery time for sales and deliveries

- Services and business carried out with the state or local authorities – at the time of payment of the price or installments
- Discount of a negotiable instrument/commercial bill – on the expiry date of the bill

The new general tax code provided details on the liability for VAT for certain categories of transactions, such as the discounting of commercial bills (the tax point is the due date), transfer of receivables (the tax point is the payment of the receivable) and services provided against payment in kind (the tax point is at the time of the chargeable event), etc.

Deposits and prepayments. For advance payments and deposits, the tax point is the date on which the advance payment is received for services.

Continuous supplies of services. There are no special time of supply rules in Guinea for continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Guinea for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The time of supply for reverse-charge services is at the time of payment.

Leased assets. There are no special time of supply rules in Guinea for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is at the time of release for consumption in Guinea.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred in relation to the acquisition of goods and services necessary for the business. In this respect, VAT amounts paid to suppliers (including under the reverse-charge mechanism) are deductible the month following their occurrence and are offset against output tax. So, a taxable person recovers input tax by deducting it from output tax charged on the supplies of goods or services carried out, as well as tax paid on the import of goods. The right to deduct arises when the tax becomes chargeable to the taxable person.

The time limit for a taxable person to reclaim input tax in Guinea is no later than 31 December of the year following the date of the omission. The new tax code states that the taxable person who has forgotten to report the VAT invoiced to it on its return, can regularize the situation on subsequent returns no later than 31 December of the year following that of the omission, provided it provides proof of payment of the invoices in support of its claim.

Nondeductible input tax. The Guinea tax code outlines the detail for what input tax is nondeductible in Guinea. Any of the VAT related to the expenses listed below cannot be recovered for VAT purposes.

Examples of items for which input tax is nondeductible

- Expenditure on housing, accommodation, catering, reception, entertainment, car rentals, passenger transport (except for the expenses incurred in respect of their taxable activity by the professionals in hotels, catering and entertainment)
- Goods transferred without compensation or for fees that are lower than the normal price
- Services relating to goods excluded from the deduction right
- The services of renting vehicles for the transport of people or for mixed use
- The services of transport of persons
- Purchases of petroleum products. However, the VAT borne on petroleum products is deductible up to 90% when the latter are used for the needs of the transactions entitling the taxable person to deduction as fuel by fixed appliances or as manufacturing agents in an industrial process.

Also, VAT on petroleum products imported by authorized distributors and intended for resale in the same state is fully deductible
- The delivery to oneself under certain conditions
- Telephone and internet expenses, with the exception of businesses and companies whose purpose is directly related to telephone and internet services
- The tax charged on vehicles or machine whatever their nature, designed or adapted for the carriage of persons or for mixed uses, as well as the spare parts and accessories of such vehicles and equipment with the exception of:
  – Road vehicles, including also the driver's seat, more than eight seats used by companies exclusively for the carriage of their staff
  – Fixed assets of companies performing vehicle rental or public transport of persons

Examples of items for which input tax is deductible (if related to a taxable business use)

- Cars intended for business use only (i.e., company cars)
- Office supplies or equipment
- Petroleum products used by fixed appliances such as fuels or processing agents in industrial enterprises (up to 90%)
- Fixed assets of companies performing vehicle rental or public transport of persons
- Imported goods

Partial exemption. Input tax directly related to supplies of goods or services not subject to VAT is not generally recoverable. If a Guinean taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." This fraction is determined via a pro rata method according to which VAT is only deductible in the same ratio as the total transactions subject to VAT (whether they are actually taxed or exported) vs. the total turnover realized by the company (composed by taxable and exempt operations).

The deduction percentage is as follows:
- 100% if the ratio is greater than 0.90
- 80% if the ratio is greater than 0.70 or equal to 0.90
- 60% if the ratio is greater than 0.50 or equal to 0.70
- 40% if the ratio is greater than 0.30 or equal to 0.50
- 0% if the ratio is less than 0.30

Approval from the tax authorities is not required to use the partial exemption standard method in Guinea. Special methods are not allowed in Guinea.

Capital goods. Capital goods for VAT purposes are defined under Guinean tax code as follows:
- The goods must be necessary for the exploitation and used exclusively for its needs
- The goods acquired must be allocated to operations subject to VAT (effectively taxed or exempted)

Failing this (if the goods are also used for operations that are outside the scope of VAT), the tax will not be recoverable or deductible. There is no specific time limit provided by the law for input tax recovery.

To monitor input tax recovery claims on capital goods, taxable persons are required to submit at the same time as the single monthly tax return, a VAT deduction summary table, which includes the following items:
- The date and reference of the capital goods and services invoices
- The identification of the suppliers
- The nature of the goods or services provided
- The following amounts: VAT excluded, VAT and VAT included
- And the payment date of the invoices

Refunds. When, for a given tax period, the input tax exceeds the output tax, it results in a VAT credit repayable by the tax authorities. Only certain companies are entitled to a refund of their VAT credit (mining companies, oil companies, exporting companies and all companies subject to the 0% rate)

Pre-registration costs. Input tax incurred on pre-registration costs in Guinea is not recoverable.

Bad debts. There is no specific provision in the Guinean tax code that relates to the write off of bad debts. However, in practice, in the case of deliveries of goods (which the tax point is the time of delivery), some taxable persons regularize the VAT amount declared and keep all the supporting documents justifying that the debt has not been recovered and the corresponding VAT amount has been already paid.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Guinea.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Guinea is not recoverable.

H. Invoicing

VAT invoices. It is a legal requirement for a taxable person to issue a VAT invoice for each sale or supply that they make to a customer. The VAT invoice should be issued in duplicate. The original must be given to the recipient and a copy of the invoice retained by the supplier.

In addition, the invoice must clearly state, among other information, which items are taxed, the tax rate and the amount of tax being charged.

Credit notes. A credit note is sent by the supplier to notify the customer that he has been credited a certain amount due to an error in the original invoice; or decrease the agreed amount of the supply previously agreed. The information given on the credit note is the basis for establishing the adjusted VAT amount on the invoice. It also enables to adjust the figures for VAT that has been billed.

Electronic invoicing. Electronic invoicing is allowed in Guinea, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Guinea. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Guinea. The requirements related to electronic invoicing are the same as those for paper invoicing.

There is no formal prohibition of electronic invoicing in Guinea, however, Guinean tax law does not make any specific reference to the implementation rules of electronic invoicing. As such, generally only paper invoices are allowed in Guinea. However, in the event of a tax audit, Guinean tax authorities may exceptionally use electronic invoices (i.e., scanned copies in this instance) when the company carries out a very large number of transactions.

At the time of preparing this chapter, the 2024 Finance Act is expected to provide more clarity on the electronic invoicing rules in Guinea and what supplies it will specifically cover. No further updates have been released.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Guinea. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Guinea.

Proof of exports. VAT is not chargeable on exports of goods or services. To qualify as VAT-free, exports must be supported by evidence that the goods have left Guinea. However, the Guinean Tax Code does not describe the required document information.

Based on the provisions of the customs code, the documents required for exports are copies of contracts, invoices, goods registration books and dispatch slips.

Foreign currency invoices. For the provision of services and the supply of goods on Guinean territory, a currency conversion requirement is in place in accordance with the local exchange regulations under which payments must be only made in the domestic currency, which is the Guinean franc (GNF), at the daily rate of the Guinean Central Bank.

When invoices are linked to transactions with foreign countries, payments in a foreign currency are allowed, subject to bringing proof of such transactions.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Guinea. As such, full VAT invoices are required.

Records. In Guinea, examples of what records must be held for VAT purposes include accounting documents, and the supporting documents (notably, purchase invoices and customs documents) of the operations carried out by the taxable person. There are no specific record-keeping requirements for VAT in Guinea.

In Guinea, VAT books and records must be held within the country. While there are no specific provisions provided by the law for where the records should be held, it is advisable to keep them local in Guinea to address any requests from the local tax authorities.

Record retention period. Records must be kept for a period of 10 years after the year in which the transactions were recorded in the books.

Electronic archiving. Electronic archiving is allowed in Guinea. However, the law does not refer to specific record keeping requirements for VAT for Guinea. However, the law mentions that the data can be archived digitally on the condition of ensuring the tax authorities, for audit purposes, have online access to download and use the stored data.

I. Returns and payment

Periodic returns. VAT is reported on a monthly basis (by the 15th of the month following the transaction) via the single unified tax return (*Déclaration Unique des Impôts et Taxes*).

Periodic payments. VAT amount due should be paid in local currency (Guinean franc) via bank transfer and the payment proof lodged together with the monthly tax return, i.e., by the 15th of the month following the transaction.

Electronic filing. Electronic filing is allowed in Guinea, but not mandatory. The VAT return can be submitted via the e-tax platform. It can also still be submitted in paper through the form "Single unified tax return." For electronic filing, the taxable person must complete the requested information related to the following sections: output tax, input tax, VAT credit of the previous month, third party VAT (output and input) and the net VAT amount payable. Also, the recapitulative statement of the input tax must be joined to the tax return.

Payments on account. Payments on account are generally not required in Guinea, except for certain taxable persons. An advance payment is only required for the supply of goods to the State, local authorities and public institutions. This means that the VAT is due for these supplies at the time of the partial or total collection of the price or the down payments, even if this collection occurs before the realization of the generating event.

Special schemes. The new tax code outlines details on new special regimes relating to traders in secondhand goods, the regime for distance selling of goods imported into Guinea and the regime for the provision of services rendered via electronic commerce platforms. These special schemes are subject to VAT on a case-by-case basis.

Annual returns. Annual returns are not required in Guinea.

Supplementary filings. No supplementary filings are required in Guinea.

Correcting errors in previous returns. In practice, errors or omissions in declarations from prior periodic filings can be spontaneously corrected on the tax returns of the following months. Corrections should be submitted via the e-tax platform.

Digital tax administration. There are no transactional reporting requirements in Guinea.

J. Penalties

Penalties for late registration. The taxable person must start accounting for VAT the first day of the month following the issuance date of tax registration number. Also, the VAT declaration must be filled within the 15 days of the following month. However, there are no penalties for late filling registration provided by the tax legislation in force.

Penalties for late payment and filings. VAT returns not submitted in time nor VAT payments made on time trigger penalties for late filings and late payment.

Penalties for errors. Inaccuracies or omissions in a VAT return shall result in the application of the following:

- 40% in the case of deliberate failure to comply, where the taxable person could not normally have been unaware of the inaccuracies or omissions of which it is accused
- 80% in case of abuse of rights, but this penalty is reduced to 40% when it is not established that the taxable person was as follows:
  - Had the principal initiative of the act or acts constituting the abuse of law
    Or
  - Was the principal beneficiary of the act or acts constituting the abuse of the law
- 80% in the case of fraudulent maneuvers, where the taxable person intentionally resorts to procedures or actions likely to mislead the tax authorities in order to evade taxes or to obtain unjustified refunds from the State
- 80% in the case of concealment of a portion of the price stipulated in a contract

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Notwithstanding the tax penalties and interest on arrears, the offense of tax fraud is punishable by a fine of GNF1 billion and imprisonment for one to three years, to be imposed by the competent court.

The amount of the fine is increased to GNF3 billion- and five years' imprisonment when:

- The fraud has been committed in an organized gang
- The fraud was carried out or facilitated by means of:
  - Accounts opened or contracts taken out with organizations established abroad
  - A false identity or false documents
  - Purchases or sales without an invoice or invoices that do not relate to real transactions
  - A fictitious tax domicile abroad
  - A fictitious act
  - The interposition of a fictitious entity
  - The interposition of a natural or legal person abroad

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Guinea.

Statute of limitations. The statute of limitations in Guinea is three years. The tax administration has three years to go back and review the returns to identify the errors. Taxable persons have 15 days to voluntarily correct errors in VAT returns.

Guyana

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 2007
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Guyana Revenue Authority (GRA) (https://www.gra.gov.gy)
VAT rates	
Standard	14%
Other	Zero-rated (0%) and exempt
VAT number format	011111111 (9 digits)
VAT return periods	Monthly
Thresholds	
Registration	
Mandatory	GYD15 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the supply of goods and services by a taxable person in Guyana and to the importation of goods and services. The term "taxable supplies" is defined in the VAT Act as a supply of goods or services in Guyana in the course or furtherance of a taxable activity, other than an exempt supply.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Guyana, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the standard rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated in Guyana where a notice in writing signed by the transferor and transferee is provided to the Commissioner General within 15 days after the supply takes place and such notice includes the details of the supply.

Transactions between related parties. Where a supply is made by a taxable person for no consideration or for a consideration that is less than the fair market value of the supply and the supplier and the recipient are related persons, the value of the supply for VAT purposes is the fair market value of the supply. This is the consideration in money for which the supply or import or a similar supply or import of goods or services would generally fetch if supplied or imported in similar circumstances at that date in Guyana, being a supply or import freely offered and made between persons who are not related persons. Where the fair market value cannot be determined based on the above, the fair market value is determined in accordance with any method approved by the Commissioner General that provides a sufficiently objective approximation of the consideration in money that could be obtained for that supply or import had the supply or import been offered and made between persons who are not related persons.

C. Who is liable

In Guyana, the VAT law imposes a registration requirement on every person who carries on a taxable activity in Guyana making taxable supplies greater than GYD15 million in a 12-month period.

A person that expects to make taxable supplies greater than GYD15 million at the beginning of any period of 365 calendar days can also apply for VAT registration in Guyana. However, the application must be supported by additional information indicating that the value of the person's taxable supplies will exceed GYD15 million in a 12-month period. Suitable evidence includes incorporation documents, contracts showing evidence that the VAT registration threshold will be met, and invoices issued.

Exemption from registration. Generally, a person that makes only exempt supplies in Guyana is not required to register for VAT. Also, if a person makes or will make taxable supplies during a 12-month that will not exceed GYD15 million, then that business will not be required to be registered.

Voluntary registration and small businesses. A person who makes or intends to make taxable supplies in Guyana may voluntarily register for VAT in Guyana where their taxable turnover is below the VAT registration threshold. *However, at the time of preparing this chapter, voluntary registration is not allowed in practice.*

Group registration. Group VAT registration is not allowed in Guyana.

Fixed establishment. There is no definition of a fixed establishment in the VAT Act. A nonresident business that carries on a taxable activity would be required to register for VAT purposes if it meets the registration threshold as outlined below.

Non-established businesses. A non-established business is a business that does not have a fixed establishment in Guyana. A non-established business must register for VAT in Guyana where it carries on a taxable activity in Guyana and meets the registration requirements as outlined above (i.e., exceeds the registration threshold). However, to register for VAT, a non-established business must set up an external company or branch in Guyana. A branch of a non-established business is registered in the same manner as a resident taxable person.

Tax representatives. Where a non-established business is registered for VAT in Guyana any person controlling the non-established business entity's affairs in Guyana, including any manager

(e.g., whoever is physically in Guyana who is responsible for the activities of the non-established business' activities in Guyana), is treated as the tax representative in relation to the taxable person. The tax representative is responsible for performing any duties imposed by the VAT Act on the taxable person. The Commissioner General may also declare a person to be agent of a taxable person where the Commissioner General considers it necessary to do so. Where this is done, the agent is deemed to be a representative of the non-established business.

A tax representative can be held responsible where the VAT registrant fails to perform its obligations required under the Act. The Commissioner General will ultimately determine whether to pursue the representative and/or the registrant. Note that there is no provision in the VAT Act stipulating that the appointment of a tax representative is mandatory in Guyana. Rather, the reference in the Act to a tax representative is solely with respect to the fact that the Commissioner General may hold a representative responsible for taxes not recovered from a taxable person, whether resident or nonresident.

Reverse charge. The reverse charge applies to the importation of taxable services if the imported service is used to make exempt supplies or is used for a private or domestic purpose. Where this occurs, the taxable person importing the service is responsible for the payment of the VAT chargeable to the service. Otherwise, the non-established business must register for VAT and charge VAT locally.

Domestic reverse charge. There are no domestic reverse charges in Guyana.

Digital economy. Nonresident providers of electronically supplied services for both business-to-business (B2B) and business-to-consumer (B2C) supplies are not required to register and account for VAT in Guyana where such nonresident providers are not carrying on a taxable activity in Guyana. Where this is the case, no VAT is accounted for on the supplies.

The test is whether the nonresident provider is carrying on a taxable activity. The term "taxable activity" is defined as follows: an activity carried on continuously or regularly by a person in Guyana or partly in Guyana, whether or not for profit, that involves or is intended to involve, in whole or in part, the supply of taxable goods or services to any other person for consideration. Therefore, where a nonresident provides services to customers electronically and does so wholly outside Guyana, it is highly unlikely that the entity would be treated as carrying on a taxable activity. Therefore, there would be no need to be VAT registered.

If a nonresident provider has no taxable activity in Guyana the supply would fall outside the scope of VAT and the nonresident provider would not be required to be registered and account for VAT. Note that the reverse-charge mechanism could apply where the purchaser acquires the services for a purpose other than the making of taxable supplies. In such a case, the purchaser could be required to account for VAT related to the supply. *However, at the time of preparing this chapter, there is currently no mechanism to monitor and collect this for electronically supplied services and as such, is not applied in practice.*

There are no other specific e-commerce rules for imported goods in Guyana.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Guyana.

Registration procedures. Taxable persons are required to register in the prescribed form (by paper) with the Guyana Revenue Authority (GRA). The application must be supported by evidence to show that the value of taxable supplies will exceed GYD15 million in a 12-month period. Such evidence may include incorporation documents, contracts, invoices and other documents as may be required by the GRA.

An applicant will be VAT registered within two to four weeks after the receipt of the application, provided that all the relevant documentation has been provided.

Deregistration. A taxable person who has ceased to carry on taxable activities may apply to the GRA to have their registration canceled. The GRA may refuse to cancel the registration on the grounds that the person will, within a 12-month period, make supplies requiring them to be registered.

A registrant should be deregistered where the registrant ceases to carry on all taxable activities in Guyana.

Changes to VAT registration details. A taxable person is required to notify the tax authorities in writing within 15 days of the occurrence of the following:
- Any change in the name, address, place of business, constitution, or nature of the principal taxable activity or activities of the person
- Any change of address from which, or name in which, any taxable activity is carried on by the taxable person
- Any change in circumstances if the person ceases to operate or closes on a temporary basis

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 14%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods and services
- Medical supplies
- Utilities – supplies of electricity and water for consumption
- Certain poultry and farming supplies (e.g., uncooked birds' eggs; uncooked fresh, chilled or frozen chicken; hatching eggs; baby chicks and live chicks; a supply of poultry feed and ingredients of poultry feed; a supply of packaging material for use in the poultry industry; fertilizers; agrochemicals and pesticides)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- International transport services
- Gasoline
- Residential accommodation
- Certain basic food stuffs (e.g., raw brown sugar, baby formula, cooking oil (vegetable, corn and coconut oil) and fresh fruits (not including apples, grapes, dates, prunes, peaches, plums, strawberries and other assorted berries)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Guyana.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In general, the tax point for goods and services supplied by a taxable person is the earliest of the following events:

- The date on which the goods are delivered or made available, or the performance of services is completed
- The date on which an invoice for the supply is issued by the supplier
- The date on which any consideration for the supply is received

A taxable person must account for VAT in the VAT period in which the tax point occurs, regardless of whether payment is received. A taxable person may recover input tax indicated on the tax invoices received.

Deposits and prepayments. For deposits and prepayments, the tax point occurs when payment is made or an invoice is issued, whichever is earlier. The rule does not vary for refundable or nonrefundable amounts or if the supply does not take place.

Continuous supplies of services. Goods supplied under a rental agreement or services supplied under an agreement that provides for periodic payments are treated as having been successively supplied for successive parts of the period of the agreement. As such, the tax point for each successive supply occurs when a payment becomes due or is received, whichever is earlier.

Where supplies of thermal or electrical energy, heat, gas, refrigeration, air conditioning or water are made or goods or services are supplied directly in the construction, major reconstruction, manufacture or extension of a building or engineering work and the consideration for such supplies are made by installment or periodically, the goods or services are treated as successively supplied for each period to which a payment of goods or services relates. As such the tax point for each successive supply occurs when payment in respect of the supply becomes due, or is received, or any invoice relating only to that payment is issued, whichever is the earliest.

Goods sent on approval for sale or return. Where goods are supplied to a person under an agreement whereby the recipient has an option to return the goods to the supplier, the tax point is the earliest of when the goods are delivered or made available to the recipient, the invoice is issued or the payment is received.

Reverse-charge services. There are no special time of supply rules in Guyana for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Where goods are supplied under an agreement for hire purchase or under a lease with an option to purchase, the tax point is the date of the commencement of the agreement.

Imported goods. VAT on the entry of imported goods becomes due and payable at the time when the goods are entered for the purposes of the Customs Act. The importer is liable to account for the tax and must pay it.

F. Recovery of VAT by taxable persons

The VAT paid by a taxable person on goods and services that are acquired for the purpose of making taxable supplies is deductible as input tax. Input tax is offset against output tax, which is charged on making taxable supplies. Input tax credits may be carried forward and offset against any output tax payable in a subsequent tax period.

Invoices must meet the VAT invoicing requirements as set out in the law, to be valid for input tax recovery.

The time limit for a taxable person to reclaim input tax in Guyana is five years. This is from the date the taxable person has the right to apply for the refund.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable or business purposes.

Examples of items for which input tax is nondeductible

- Entertainment
- Fees for membership in recreational clubs
- Passenger vehicles

Examples of items for which input tax is deductible (if related to taxable business use)

- Rental of premises used in the business
- Inventory used to make finished goods
- Equipment used in the business
- Professional and other services provided to the business

Partial exemption. If all supplies made by a taxable person during a tax period are taxable supplies (i.e., standard-rated and zero-rated supplies), the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are taxable supplies, a partial recovery calculation may be required.

1) All the input tax for the period that is directly related to the making of taxable supplies (regardless of whether the supplies are made during that tax period) is recoverable.
2) None of the input tax for the period that is directly related to the making of exempt supplies (regardless of whether the supplies are made during that tax period) is recoverable.
3) A proportion of the input tax for the period that relates to making both taxable and exempt supplies is recoverable based on the formula specified below. Based on the formula, the recoverable portion is calculated based on the value of taxable supplies made during the period compared with the value of total supplies made during the period.

The formula prescribed is (A*B/C) where A, B and C represent the following:

A = The total amount of input tax payable in respect of supplies and imports received during the period for which a credit allowed, less the input tax related directly to taxable and exempt supplies mentioned under points 1 and 2 above.

B = The total amount of taxable supplies made by the taxable person during the current month of the taxable person.

C = The total amount of all supplies made by the taxable person during the current month of the taxable person.

Nevertheless, note that where exempt supplies made by the taxable person is less than 10% of total supplies, the taxable person may deduct the total amount of input tax on supplies and imports.

If a taxable person makes both taxable and exempt supplies during a tax period, the Commissioner General may determine the amount of input tax allowed for the tax period on such other basis as the Commissioner considers reasonable.

Approval from the tax authorities is not required to use the partial exemption standard method in Guyana. Special methods are not allowed in Guyana.

Capital goods. In Guyana, capital goods are defined as an asset, or a component of an asset, which is of a character subject to an allowance for depreciation or comparable deduction for income tax purposes, and which is used in the course of a taxable activity. In Guyana there are no special input tax recovery rules for capital goods. The normal rules outlined above apply.

Refunds. If the amount of input tax recoverable in a VAT period exceeds the amount of output tax payable for that VAT period, the excess may be carried forward and set off against output tax in a subsequent period. An application for a refund may be made after the excess credit has been carried forward and used as input tax creditable in six consecutive tax periods (i.e., six months). Nevertheless, where at least 50% of the taxable supplies of the taxable person are zero-rated supplies, they may apply for a refund prior to the expiration of the above referenced six-month period. Thereafter, the GRA will ordinarily perform an audit of the claim and refund input tax accordingly, subject to set off against any other outstanding tax liability.

It should be noted that a refund claim must be made within five years after the date the taxable person has the right to apply for the refund.

Pre-registration costs. A credit for input tax incurred prior to registering for VAT is allowed in respect of 1) any taxable supplies of goods, including capital goods, made to the person and 2) any import of goods, including capital goods, by the person. The recovery of input tax incurred on pre-registration costs may only be allowed subject to the following requirements:

- The supply or import must not have occurred more than three months prior to the date the registration takes effect
- The goods are on hand at the date the registration takes effect
- The taxable person has obtained a tax invoice or customs document in relation to the supply or import
- The taxable person is holding the document at the time the VAT return is lodged in respect to the supply or import

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Guyana.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Guyana.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Guyana is not recoverable.

H. Invoicing

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

Credit notes. A credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note generally includes the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Guyana, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Guyana. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Guyana. The issuing of an electronic invoice is not limited to a particular category of taxable persons nor a particular category of supplies.

There are no provisions in the VAT Act for electronic invoicing in Guyana. However, in practice electronic invoicing can be used if an electronic invoice meets the same requirements as the standard paper invoice and can be transposed into a format required by the GRA during its audit process.

Simplified VAT invoices. A sales invoice can be issued instead of a tax invoice if the total supply is less than GYD10,000 and is in cash. The sales invoice should contain the name, address and registration number of the supplier, a description sufficient to identify the good supplied or services rendered, the date of the invoice and the consideration inclusive of VAT.

Self-billing. Self-billing is not allowed in Guyana.

Proof of exports. VAT is charged at the zero-rate (0%) on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence that the goods have left Guyana. Such evidence includes:

- The commercial invoice, which includes a description of the goods exported, quantum and price
- Seaway bill/airway bill as applicable
- Completed Customs Declaration Form, signed and stamped by Customs authorities

Foreign currency invoices. In certain circumstances, tax invoices may be issued in a foreign currency. However, in accounting for the tax payable, the taxable person must account for the tax in the domestic currency, which is the Guyana dollar (GYD). In converting the amounts, the exchange rate used must be the rate applying between the currency and the Guyana dollar at the time the amount is taken into account under the VAT Act.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Guyana. As such, full VAT invoices are required.

Records. In Guyana, examples of what records must be held for VAT purposes include original tax invoices, tax credit notes and customs documentation.

Every taxable person is required to maintain in Guyana such books and records as are appropriate to enable the GRA to ascertain the liability of that taxable person to tax.

In Guyana, VAT books and records must be held within the country.

Record retention period. Books and records are to be kept for seven years after the end of the VAT period to which they relate.

Electronic archiving. Electronic archiving is not allowed in Guyana. Archiving must be made in paper form only.

I. Returns and payment

Periodic returns. The VAT period in Guyana is the calendar month. The VAT return must be filed by the 21st day of the following month after the end of the tax period. This deadline applies whether or not tax is payable in respect of that period. The deadline also applies to import declarations, which must be aggregated and filed for the period and attached with the respective VAT return.

VAT returns are generally submitted in hard copy (via a drop box system) or electronically where the business is registered for the GRA's online services. A "drop box system" is where the GRA maintains a physical box at its location to facilitate the filing of VAT returns. Otherwise, returns should be filed online.

Periodic payments. Any VAT due for the VAT period must be remitted by the same date as the return deadline, i.e., within 15 business days after the end of the tax period.

The tax payable on imports of services by the purchasers of such services during the period must be aggregated and paid on or before the 21st of the following month.

Payment of the VAT to the GRA can be made by bank/wire transfer, check or cash.

Electronic filing. Electronic filing is allowed in Guyana, but not mandatory. VAT returns can be submitted electronically online (https://eservices.gra.gov.gy/Home) once the taxable person is registered for the GRA's online services.

Payments on account. Payments on account are not required in Guyana.

Special schemes. No special schemes are available in Guyana.

Annual returns. Annual returns are not required in Guyana.

Supplementary filings. No supplementary filings are required in Guyana.

Correcting errors in previous returns. If a taxable person discovers an error or an omission from a previous VAT return, the taxable person is required to file an amended return. The amended VAT return must be submitted manually (i.e., by paper) and not electronically. The reasons for the amendments may be requested by the GRA.

Digital tax administration. There are no transactional reporting requirements in Guyana.

J. Penalties

Penalties for late registration. A taxable person who fails to apply for registration may be liable to a civil penalty equal to double the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the GRA.

A person who knowingly or recklessly fails to apply for VAT registration commits an offense and is liable on conviction to a criminal penalty not exceeding GYD25,000 and imprisonment for a term not exceeding two years. Note that the VAT Act provides that the civil penalties (as outlined above) should first be utilized before resort is had to provisions for criminal offenses.

Penalties for late payment and filings. A taxable person who fails to file a VAT return within the stipulated deadline is liable for a penalty which is the greater of GYD1,000 per day for each day or part thereof that the return remains outstanding or an amount equal to 10% of the tax payable for the period of such return, for each month or part thereof that the return remains outstanding.

The penalty shall not exceed the amount of tax payable in respect of the return and no penalty is payable where the person has been convicted of an offense of knowingly or recklessly failing to lodge a return and is liable on conviction to a fine not exceeding GYD15,000.

The penalty for late payment of tax payable on importation of goods or services is an amount equal to the greater of GYD1,000 per day or part thereof that the tax remains outstanding or an amount equal to 10% of the tax outstanding for each month or part thereof that the tax remains outstanding. The penalty must not exceed the amount of unpaid tax.

Note that interest is chargeable for failure to pay VAT by the due date at the rate of 2% simple interest for each month or part of a month that the payment due remains unpaid.

Penalties for errors. There are no specific penalties in Guyana for errors. However, where the taxable person decides to correct the error, an amended return can be prepared and submitted to the GRA.

Failure to notify, or late notification to the tax authorities of changes to a taxable person's VAT registration details could result in a fine not exceeding GYD50,000 and imprisonment for a term not exceeding two years. A failure to notify for any other reason may give rise to a fine not exceeding GYD25,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A person who knowingly or recklessly makes a statement to a taxation officer that is false and misleading in a material particular or omits any matter from a statement that may be misleading to the tax officer, and the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true, the person is liable for a penalty equal to an amount determined by the Commissioner. Nevertheless, this penalty is not payable where the person is convicted of an offense for the same act or omission so as to have been liable to a fine of GYD15,000 and to imprisonment for a term not exceeding two years.

A person who knowingly and recklessly uses a VAT registration number of another person on a return, notices or other documents prescribed for the purpose of the VAT Act is guilty of an offense and is liable on conviction to a fine not exceeding GYD50,000 and imprisonment not exceeding two years.

A person who knowingly or recklessly makes a false claim for a refund commits an offense and is liable on conviction to a fine not exceeding GYD50,000 and imprisonment for a term not exceeding six months.

A person who obstructs a taxation officer in the performance of the taxation officer's duties commits an offense and is liable on conviction to a fine not exceeding GYD15,000 and imprisonment for a term not exceeding two years.

Personal liability for company officers. Where an offense under the VAT Act is committed by a company, every person who at the time of the commission of the offense was a representative officer, director, general manager, secretary, or other similar officer of the company or was acting or purporting to act in such capacity is deemed to have committed the offense unless they prove that the offense was committed without their consent or connivance and that they exercised all such diligence to prevent the commission of the offense.

A person aiding and abetting the commission of an offense is also guilty of that offense and is liable to the same penalties as the person committing the offense.

Statute of limitations. The statute of limitations in Guyana is five years. However, an assessment can be made at any time by the GRA where the Commissioner General is not satisfied with a VAT return filed by a taxable person and has reasons to believe that such default was due to fraud, or gross or willful neglect committed by or on behalf of the person who furnished the return or import declaration. Any other assessment on the basis of the GRA not being satisfied with a VAT return filed must be made within five years after the date the return or import declaration was furnished.

An assessment may be made at any time by the Commissioner General where:
- There has been a failure to lodge a return or import declaration
- The Commissioner has reason to believe that the person will become liable for the payment of an amount of tax but is unlikely to pay such amount
- A person makes supplies of goods and services without being a taxable person or the person charges VAT at the rate of 14% when not qualified to do so
- The Commissioner is satisfied that the taxable person entered into an arrangement and has obtained a tax benefit in a manner that constitutes a misuse of the provisions of the VAT Act

Honduras

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A. At a glance

Name of the tax	Sales tax (ST)
Local name	Sales tax (ST)
Date introduced	1 January 1964
Trading bloc membership	None
Administered by	Tax Administration (http://www.sar.gob.hn/)
ST rates	
Standard	15%
Other	18% and exempt
ST number format	National Tax Registry number (RTN)
ST return periods	Monthly
Thresholds	
Registration	None
Recovery of ST by non-established businesses	No

B. Scope of the tax

ST applies to the following transactions:
- The supply of taxable goods or services made in Honduras by a taxable person
- Self-consumption
- The importation of goods or services from outside Honduras, regardless of the status of the importer, with the exception of exempt goods or services and taxable persons using a special tax regime

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for ST in every jurisdiction where it has customers that are not taxable persons. In Honduras, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a ST-registered or ST-registrable business will be subject to ST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of ST. In Honduras, a TOGC is treated as outside the scope of ST, which includes the sale of a mercantile establishment and the sale of the assets of the mercantile establishment. The sale of the mercantile establishment would be subject to the real estate tradition tax, a rate which is 1.5% on the value of the transaction. However, in the event of a transfer of inventory, the transaction may be subject to sales tax at a rate of 15% of the transaction value.

Transactions between related parties. In Honduras, there are no specific rules that indicate the value for ST purposes for transactions between related parties. However, under local law, transfer pricing rules are applicable in Honduras. The provisions established in the transfer pricing law and its regulations follow in general terms the principles of the Organisation for Economic Co-operation and Development (OECD) and are applicable to national or transnational transactions carried out between related entities.

C. Who is liable

A taxable person for ST purposes is any entity or individual that supplies taxable goods or services in Honduras in the ordinary course of a trade or business. Taxable persons that deal primarily with final consumers may be designated as withholding agents for ST. All businesses must register as taxable persons; no separate registry for ST taxable persons exists. The national tax registry number (i.e., *Registro Tributario Nacional [RTN]*) is used for ST purposes.

Exemption from registration. The ST law in Honduras does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The ST law in Honduras does not contain any provision for voluntary ST registration. However, a simplified sales tax regime is established for natural or legal persons that have a single commercial establishment and whose taxable sales do not exceed HNL250,000 per year; they will not be responsible for the collection of the ST, remaining only obliged to file an annual sales return no later than 31 January of the following fiscal year. Further details can be found under the *Special schemes* subsection below.

Group registration. Group ST registration is not allowed in Honduras.

Fixed establishment. In Honduras, there is no legal definition of a fixed establishment for ST purposes. However, a permanent establishment (PE) definition was included in the transfer pricing regulations issued in 2014 and it was supplemented in September 2015, which also applies to ST. A PE is a fixed place of business where an individual or an entity, resident or domiciled in another country, engages in business activities within Honduras. Note that further to the recent modification of the PE rule, a fixed place of business should be understood as:

- Any place of management of a nonresident
- Branches, agencies or offices acting on behalf of a nonresident
- Factories, workshops, immovable property or other similar installations
- Mines, mineral deposits, quarries, forests, factories, or any other center of exploitation or extraction of natural resources

- Warehouses for domestic trade and not only for shows and exhibitions
- Offices to provide financial, technical or any other kind of advice to develop projects in connection with agreements or contracts performed within or outside Honduras
- Offices to provide services used by people that work on public performances or events

Furthermore, a PE is deemed to exist where a person or an entity is acting on behalf of the nonresident, or habitually carries out a business activity in Honduras, and such person or entity is not acting within the framework of its ordinary trade or business in any of the following circumstances:

- It has the authority to conclude contracts on behalf of the nonresident or to legally bind it
- Activities linked through a contract to carry out business activities on behalf of a nonresident
- It pays on behalf of a nonresident the leasing of premises, services or expenses connected with the performance of a business activity

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Honduras. A non-established entity is required to register as a taxable person if it engages in business activities within Honduras. Foreign taxable persons must fill out and sign the Return of Registration, Start of Activities and Update the National Tax Registry (Form SAR-410-PJ). They must also complete the National Taxpayer Registration "Annex A Professional Relations" Form SAR-410-PJ-A (including the telephone number and email of the legal representative which are mandatory).

In addition, the following documents are also required to be submitted to register in Honduras:

- Fill out and sign the Return of Registration, Start of Activities and Updating of the National Tax Registry, "An-nex B Professional Relations," Form SAR-410-PJ-B (it is mandatory to include telephone number and e-mail of all members)
- Document certifying the creation of the company in Honduras, duly registered in the Mercantile Registry (original and photocopy)
- National Taxpayer Registration "Annex A Professional Relations," Form SAR-410-PJ-A (telephone number and e-mail of the legal representative are mandatory)
- Fill out and sign the Return of Registration, Start of Activities and Updating of the National Tax Registry, "Annex B Professional Relations," Form SAR-410-PJ-B (it is mandatory to include telephone number and e-mail of all members)
- Document certifying the creation of the company in Honduras, duly registered in the Mercantile Registry (original and photocopy)
- National Identification Document *(Documento Nacional de Identidad [DNI])*, passport or residence card of the legal representative and/or other subsidiary of the administration, which must be previously registered in the National Tax Registry (photocopy)
- Document proving the exact address (original and photocopy):
  - In case of own assets: (i) receipt of a public service, (ii) receipt of subscription of private services (e.g., Internet, TV, phone)
  - In case of lease: rental or commercial lease agreement

In case it is requested by a procedural representative or legal proxy, it must accompany the original and photocopy of the following:

- Power of attorney duly authenticated indicating whether it has the following faculties:
  - If it has the authority to carry out the procedure
  - If it has the authority to sign
  - If it has authority only to file and not to sign, it must submit the Form SAR-410 signed by the taxable person
- DNI for Hondurans
- Passport or resident card for foreigners

Tax representatives. Non-established businesses must fill out and sign the Return of Registration and Updating to the National Tax Registry (Form SAR-410-PJ) and include a special power of attorney granted to a legal representative in Honduras, its DNI or passport or resident card for foreigners when registering in the National Tax Registry.

Reverse charge. There is no reverse charge applicable for importation of services in Honduras. A non-established entity is required to register as a taxable person if it engages in business activities within Honduras.

Domestic reverse charge. A domestic reverse charge is applicable for certain transportation services. Additionally, in the case of large taxable persons, they should act as withholding agents for ST purposes when the following payments are made: freight transport; cleaning and fumigation services; printing services; research services; security services; and the rental of offices, machinery and equipment.

Digital economy. There are no specific rules regarding the taxation of the digital economy for ST purposes. However, generally taxable events are treated the same whether or not they are transacted by digital means. The normal ST registration rules apply for such supplies by non-established businesses.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies will not be required to register and account for ST in Honduras. No ST is accounted for on the supplies.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies will be required to register an account for ST in Honduras.

There are no other specific e-commerce rules for imported goods in Honduras.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Honduras.

Registration procedures. Entities or individuals that are subject to any type of tax must register as taxable persons using Form SAR-410. This form must contain the following information: complete name of taxable person, company address, date of incorporation, company registration number, legal representative tax ID, shareholders' names and tax IDs, company's main business activity, expected operating start date, company's year-end closing date, tax obligations and withholding agents, registry on a special scheme, tax exemptions and its current resolution.

Taxable persons must also notify the tax authority of the use of printed invoices or receipts.

Deregistration. For ST purposes: The taxable person must present a written notification (it must contain the statement where the reasons and the fiscal period from which the cancellation of the obligation is notified, as well as the file number where the non-use of tax documents was notified, if applicable). The taxable person must also submit a copy of the last five tax documents used, and the two subsequent ones not used, from the range of documents authorized in the last application. The written notification must be accompanied by supporting documentation (e.g., lease contracts, deed or purchase contract, change of economic activity) if applicable. In addition, the taxable person must provide proof of data update from the National Tax Registry. Finally, the taxable person must present an official receipt of payment for HNL200.

Changes to ST registration details. A taxable person must notify the tax authorities of any change that may result in a modification of its tax liability (e.g., changes to the company's name, address, company's main business activity or whether the company is eligible for tax exemptions).

Such notifications can be made online (on the SAR website, by clicking on the "RTN Update Request" option or by paper (or personally at the tax authorities' offices by filing Form SAR-410-PJ). Such notifications must be made within 10 days of the change taking place.

In addition, the tax administration may exercise its powers of data verification in compliance with the formal obligations of the tax obligors. The data update service in the National Tax Registry through the SAR website allows the tax obligors or representatives to make the pertinent modifications to comply with their formal tax obligation of always keeping their data updated.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of ST.

The ST rates are:
- Standard rate: 15%
- Special rate: 18%

The standard rate of ST applies to all supplies of goods or services unless a specific measure provides for a special rate or an exemption.

Examples of goods and services taxable at 18%

- Alcoholic beverages
- Cigarettes
- Domestic and international air transportation tickets in executive class, first class, business class or similar standards

The term "exempt supplies" refers to supplies of goods and services that are not subject to ST and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Goods that form part of the essential items of popular use
- Pharmaceutical products for human use
- Calcium hypochlorite, sodium hypochlorite and chlorine
- Raw materials and tools for agricultural and agro-industrial production; major and minor poultry species and fish, herbicides, insecticides, pesticides, rodenticides and other anti-rodents, live animals; means of animal reproduction; seed and vegetative material for the sowing and sexual and asexual spreading; raw material for the elaboration of balanced food in its final presentation, except that destined for pets
- Medical services
- Personal insurance and reinsurance
- Gasoline, diesel, bunker "C," kerosene, LPG gas, Av-jet, crude oil or reconstituted oil
- Books, newspapers, scientific, technical and cultural magazines
- Bovine leather and skins destined for small industry and handicraft use
- Electric energy services except for consumption exceeding seven hundred and fifty kilowatts/hour
- Education services
- Passenger land transportation services
- Banking and financial services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Honduras.

E. Time of supply

The time when ST becomes due is called the "time of supply" or "taxable event."

For the supply of goods, the time of supply is on the date of issuance of the invoice and, in the absence of this, at the time of delivery of the goods. For a supply of services, the time of the supply is the issuance of the invoice or the rendering of services or the payment or credit on account, depending on which occurs first.

Deposits and prepayments. There are no special time of supply rules in Honduras for deposits and prepayments. As such, the general time of supply rules apply, and the taxable event occurs at the issuance of the invoice, the delivery of the goods, the rendering of the service or the payment or credit on account, depending on which occurs first.

Continuous supplies of services. There are no special time of supply rules in Honduras for continuous supplies of services. As such, the general time of supply rules apply, and the taxable event is the issuance of the invoice or the date of rendering of services or the payment or credit on account, depending on which occurs first.

Goods sent on approval for sale or return. The taxable event for goods sent on approval or "for sale or return" should be when they are actually sold. If the goods are not sold or returned, ST should not be due.

Reverse-charge services. The reverse charge is not applicable in Honduras, and as such there are no special time of supply rules.

Leased assets. There are no special time of supply rules in Honduras for supplies of leased assets. As such, the general time of supply rules apply (as outlined above), and the tax point is the earlier of the issuance of the invoice or the rendering of services or the payment or credit on account, depending on which occurs first.

Imported goods. The time of supply for imported goods is at the time of nationalization of the asset (i.e., when the goods clear all customs formalities for importation) or settlement and payment of the corresponding policy For the importation of services, the time of supply is the earlier of the issuance of the invoice or the rendering of services or the payment or credit on account, depending on which occurs first.

F. Recovery of ST by taxable persons

A taxable person may recover input tax, which is ST charged on goods and services supplied that are used to generate taxable income. Input tax is generally recovered by a deduction from output tax, which is ST charged on supplies made. Input tax may be deducted in the month in which the invoice is received or in the following three months.

Input tax includes ST charged on goods and services supplied in Honduras, ST paid on imports of goods and reverse-charge ST on domestic self-consumption of services. The input tax credit is available only for goods and services acquired to generate income and for the purchase of machinery and equipment.000

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

Input tax credits cannot be transferred in any case, except in the case of a merger or absorption of companies when the new or surviving company continues the line of business or activity of the original ones. The time limit for a taxable person to reclaim input tax in Honduras is three months.

Nondeductible input tax. No deduction is allowed on input tax charged on goods self-consumed or services rendered for the taxable person's own benefit. Also, the deduction is not allowed when the purchases are not properly documented with the corresponding invoices or receipts that comply with the format requirements established in the Billing Regime and its amendments.

Examples of items for which input tax is nondeductible

- ST paid on items or services for personal consumption
- ST paid on gifts or presents

Examples of items for which input tax is deductible (if related to a taxable business use)

- ST paid on purchases of goods or fixed assets to produce sales subject to ST
- ST paid for services needed to produce goods or other services subject to ST and repair services

Partial exemption. Proportionality rules are applicable according to the Honduran legislation. In this sense, when individuals and entities sell both goods or services exempt and subject to ST, the ST paid in the acquisition of goods and services directly associated with the subject activity should give rise to the right of input tax. In the cases that the acquisition of goods and services cannot be directly linked only to a subject activity from the taxable person, it should give right to input tax in the corresponding percentage of the subject activity, for its part, the credit related to exempt operations will constitute a cost or expense.

Approval from the tax authorities is not required to calculate the input tax deduction credit in Honduras. The guidelines stipulated in the sales tax law must be followed to calculate the tax credit. Special methods of calculation are not allowed in Honduras.

Capital goods. The input tax incurred on the acquisition of a capital good should give rise to the right of input tax, as long as it is associated to an activity subject to ST for the taxable person. If the capital good is used for both subject and exempt activities, the taxable person should have the right of input tax in the percentage correspondent to subject activities. The Honduran legislation does not establish a definition of capital goods. If the ST paid on the acquisition of the capital good is used as input tax, such amount should not be included as part of the cost of the asset for depreciation.

Refunds. If the amount of input tax recoverable in a month exceeds the amount of output tax payable, the taxable person obtains an input tax credit. It should be noted that the right to request a transfer or refund is time-barred. The right to claim the tax credit expires in five years, pursuant to the Section 144 from the Tax Code, therefore the credit may be carried forward to offset output tax in subsequent ST periods, when claimed to be refunded.

Pre-registration costs. Input tax incurred on pre-registration costs in Honduras is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Honduras.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Honduras.

G. Recovery of ST by non-established businesses

Input tax incurred by non-established businesses that are not registered for ST in Honduras is not recoverable. However, diplomatic consular delegations, international organizations and agencies are entitled to reimbursement for ST paid in Honduras. Depending on the claimant's status, the claimant may request a refund of the ST or exercise the right to offset the ST credit by making subsequent purchases subject to ST.

H. Invoicing

ST invoices. Taxable persons who transfer goods and/or provide services of any nature are obliged to issue a ST invoice. An invoice is generally necessary to support a claim for input tax credit.

In the event that invoices cannot be issued, the taxable person may use other tax receipts duly authorized by the tax authorities.

The Honduran invoicing regulations establish that the taxable persons who are interested in printing authorized ST invoices will be able to do so in two methods:
- Printing through printing houses duly registered at the Tax Registry of Printers
- Self-printing through cash registers or computer systems

Self-printed invoices or receipts include a barcode that contains graphic representation of the information contained in the invoice or receipts and/or supplementary documents.

It is important to note that invoices must comply with the requirements established in the Billing Regime to allow the input tax incurred to be deductible.

Credit notes. A credit note can be used to support an accounting adjustment, cancel transactions, accept returns and grant discounts made after the issuance of the corresponding ST invoice (e.g., the granting of a discount or bonus, a change in price or the return of the goods). A credit note must include the same information as the invoice to be modified.

Electronic invoicing. Electronic invoicing is allowed in Honduras, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Honduras. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Honduras. The requirements related to electronic invoicing are the same as those for paper invoicing. While electronic invoicing is allowed in Honduras, in practice it is not used.

Simplified ST invoices. Simplified ST invoicing is not allowed in Honduras. As such, full ST invoices are required.

Self-billing. Self-billing is allowed in Honduras. It can only be used for costs and expenses incurred for the purchase of goods and/or rendering of services of unskilled labor and may not be used to support a ST credit. The total amount of the transactions supported by the purchase receipt may not exceed 5% of the total operating expenses deductible from the gross taxable income, excluding financial expenses.

Proof of exports. ST does not apply on supplies of exported goods. However, to qualify as ST-free, exports must be supported by customs documents that prove the goods have left Honduras. Suitable evidence includes invoices and bills of lading.

Foreign currency invoices. ST invoices are generally issued in the domestic currency, which is the Honduran lempira (HNL). However, a taxable person can issue invoices with another currency denomination, but to do so it must indicate the exchange rate in effect on the date of issuance.

Supplies to nontaxable persons. There are no special rules for invoices issued for supplies made by taxable persons to private consumers. Full ST invoices are required to be issued.

Records. In Honduras, examples of what records must be held for ST purposes include accounting books, invoices or equivalent receipts as supporting documents for the activities carried out and supporting documents authorized by the tax authorities.

In Honduras, ST books and records must be held outside of the country. However, there is no provision in the Honduras ST law outlining where records should be held. In practice, copies of records can be held outside of Honduras. However, note that records must be available to be provided to the tax authorities upon request during a tax audit, in a timely manner.

Record retention period. The records and accounting information should be kept for five years by the taxable person that corresponds to the statute of limitations in Honduras.

Electronic archiving. Electronic archiving is allowed in Honduras. It is not mandatory, whereas physical archiving is mandatory.

I. Returns and payment

Periodic returns. ST returns are submitted monthly by the 10th day of the month following the end of the return period. Taxable persons included in the simplified sales tax regime (see further details below in the *Special schemes* subsection) are not required to file monthly returns, but instead are required to file an annual ST return by 31 January of the following fiscal year.

Periodic payments. Payment in full is due the same date as the return submission deadline (by the 10th day of the month following the end of the return period). Payment must be made in Honduran lempira (HNL). Payments can be made by *Banco de Crédito y Securitización S.A. (BACS)*, check, cash or online transfer.

Electronic filing. Electronic filing is allowed in Honduras, but not mandatory.

Payments on account. Payments on account are not required in Honduras.

Special schemes. *Simplified sales tax regime.* This scheme is for natural or legal taxable persons with a single commercial establishment and taxable turnover that does not exceed HNL250,000 per year (approx. USD10,094). Users will not be liable for ST collection and are only obliged to file an Annual Sales Return no later than 31 January of the following fiscal year.

Secondhand goods. Taxable persons who sell used goods should only pay taxes upon importation and not ST. There are special taxes on certain secondhand goods, including tires, clinical waste and vehicles.

Annual returns. Annual returns are not required in Honduras.

Supplementary filings. *Monthly purchases sales tax return.* Taxable persons that file monthly ST returns must also report purchases and imports (taxable or exempt) through a separately monthly purchases' sales tax return (Form SAR 527).

Taxable persons subject to this reporting obligation are those categorized (as defined in the official gazette) as medium and large-sized taxable persons, including those:
- Operating under special tax regimes
- Carrying out ST exempt business transactions; the return must be filed through the tax authorities' DET Live web-based platform during the first 20 days of each month

Taxable persons are required to separate and identify purchases that generate sales tax credits from those considered as part of the company's costs and expenses.

Monthly withholding return. All taxable persons that withhold taxes must file the monthly withholding return that covers ST in addition to payroll taxes, local professional fees and any others withheld. The Form SAR-547 (*Declaración Jurada Mensual de Retenciones*), the monthly withholding return, is also due to be submitted by the 10th day of the month following the end of the return period.

Correcting errors in previous returns. In case of an error in a previous return (for example, when the amount of tax to be paid was not correctly stated), a rectifying return must be submitted. This can be filed online (via the Virtual Office system). There is no requirement to submit a letter to the tax authorities outlining the errors. Depending on the corrective return, further payment may

be required to be made at the same time or a separate request for additional input tax credit. The law does not specify any deadline for the taxable person to file the corrective return; however, in practice it would be advisable to do so as soon as possible. Penalties may be imposed if such errors are noted during a tax audit and were not corrected by the taxable person, resulting in a request for an adjustment by the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Honduras.

J. Penalties

Penalties for late registration. A taxable person that fails to register before the tax authorities on a timely basis is subject to penalties. Penalties are computed based on a taxable person's gross income and generally range from 10% of a minimum wage to 10 times a minimum wage.

Penalties for late payment and filings. The penalty assessed for the late submission of a ST return is 1% if filed within five days after the filing date. If the tax liability is not paid within these five days, a 2% monthly penalty applies up to a maximum of 24%.

The surcharge assessed for the late filing of an ST return is 5% per month, up to 60% if the tax liability is not paid by the 10th day of the month following the end of the return period.

Penalties for errors. The following infractions may be subject to the temporary closure of the business establishment:

- Failure to issue invoices (or other valid tax documents) when required or issuing tax documents that don't comply with the legal requirements
- If an issued tax document is not duly recorded in the taxable person's accounting registries
- If the taxable person's records are not presented to the tax or customs authorities when required

If a taxable person incurs in one of the abovementioned infractions for the first time, a fine is imposed based on its annual gross income. In case of recurrence, the fine will be increased by 50%. Furthermore, the recurrence of the same infraction may lead the tax authorities to proceed with a temporary closure of the business establishment, which will last until the situation has been rectified. The law clarifies that a taxable person engages in recurrence when an infraction is breached two or more times in the same fiscal year.

The late notification or failure to notify the tax authorities of changes to a taxable person's ST registration details may result in a penalty between HNL0.01 to HNL1 million, which depends on the company's annual gross income. For further details, see the subsection *Changes to ST registration details* above.

Penalties for fraud. Tax fraud is deemed to occur if a taxable person files a return that results in the underpayment of taxes as a result of illegal actions. The Penal Code provides the following prison terms for tax evasion:

- Three to six years of imprisonment and a fine equivalent to 120% of the value of the defrauded, if said value does not exceed HNL250,000
- Six to 10 years of imprisonment and a fine equivalent to 140% of the value of the defrauded, if said value exceeds HNL250,000

In addition, a fine equal to 50% of the underpaid ST applies. If the underpaid ST cannot be calculated, the applicable fine is calculated based on the assessment issued by the tax authorities.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in ST declarations and reporting in Honduras. The ST law doesn't make distinction between the owner of the company, managers, administrative personal, accountant, etc. It outlines that if whoever is responsible for the company's commercial accounting, books or tax records disregards said obligation, keeps different accounts that hide the true situation of the

company, does not record economic operations or does so falsely or reflecting fictitious operations, must be punished by imprisonment from six months to two years, if this facilitates the commission of a crime of tax fraud or subsidy fraud or a crime against social security or the pension system.

Statute of limitations. The statute of limitations in Honduras is five years. This only applies for obligations relating to taxable persons registered in the National Tax Registry. The tax authorities should be able to go back to review returns for a five-year period for registered taxable persons. In the other cases (i.e., non-registered taxable persons), the statute of limitations should be seven years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Általános forgalmi adó (ÁFA)
Date introduced	1 January 1988
Trading bloc membership	European Union (EU)
Administered by	Ministry for National Economy (https://kormany.hu/) National Tax and Customs Authority (www.nav.gov.hu)
VAT rates	
Standard	27%
Reduced	5%, 18%
Other	Zero-rated (0%) and exempt
VAT number format	12345678-2-34
VAT return periods	
Quarterly	General
Monthly	Newly registered taxable persons, large taxable persons and
VAT groups	
Annual	Small taxable persons with no EU VAT number in at least the third year of registration

Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services provided in Hungary by taxable persons
- The intra-Community acquisition of goods in Hungary for goods coming from another EU Member State by a taxable person (*see the chapter on the EU*)
- Reverse-charge services and reverse-charge goods received by a Hungarian taxable person
- The importation of goods into Hungary, regardless of the status of the importer

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

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

In Hungary the Quick Fixes rules are applicable as of 1 January 2020, an overview of the changes below:
- Call-off stock – Hungary implemented the respective EU law without any local changes.
- Chain transactions – Hungary followed the approach of the respective Quick Fix already in the past; no practical change has been made in this respect.
- Proof of cross-border transactions – No specific legal provision has been implemented, as the Implementing Regulation is also directly applicable in Hungary. The Ministry of Finance and the Hungarian tax authority jointly issued an official communication according to which – besides the provisions of the Implementing Regulation – they still accept the proofs they previously requested from taxable persons for evidencing the physical transportation of the goods (e.g., duly signed consignment notes (CMRs)), with the note that it needs to be evaluated on a case-by-case basis whether the entirety of the documents provided by the taxable person is sufficient proof for evidencing the cross-border transportation of the goods.
- Valid customer VAT ID – VAT exemption related to intra-Community supply of goods cannot be applied if the respective EU Sales and acquisition listings are missing or not completed properly (whether the mistake is connected to the EU VAT ID of the customer or to other numerical or timing difference).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that

are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Hungary, the following services are subject to the "use and enjoyment" provisions:
- Admission to cultural, artistic, scientific and sports events (as of 1 January 2025, the place of supply for virtual events held in the online space will be the location of the nontaxable consumer)
- Hiring of means of transport
- Catering and accommodation services
- Passenger transport services
- Services related to immovable property

In the case of business-to-customer (B2C) supplies, the provisions also apply specifically to the following:
- Ancillary activities relating to the transport of passengers and goods (including loading, unloading, handling and similar activities as well)
- Valuations of movable tangible property, exclusive of immovable property
- Works on movable tangible property, exclusive of immovable property, services and ancillary services relating to cultural, artistic, scientific, educational, entertainment, sporting or similar activities (such as fairs, exhibitions and presentations), including the supply of services of the organizers of such activities
- Telecommunication services
- Radio and broadcasting services
- Electronically supplied services

In addition, for B2C transactions where the customer is established or has its residence or habitual abode outside the EU, the provisions apply to the following:
- Temporary or permanent transfers and assignments of copyrights, patents, licenses, trademarks and similar rights
- Advertising services
- The services of consultants, accountants, lawyers, tax experts, IT experts, translators and interpreters, engineers and other similar services
- Data processing and the provision of information
- Banking, financial and insurance transactions, including reinsurance, with the exception of the hire of safes
- Assignment and or hiring out of workers, the supply of staff
- The hiring-out of movable tangible property, with the exception of immovable property and all means of transport
- The provision of access to a natural gas system situated within the EU Community or to any network connected to such a system, to the electricity system or to heating or cooling networks, or the transmission or distribution of natural gas, electricity, heating or cooling energy through these systems or networks, and the provision of other services directly linked thereto

Transfer of a going concern. A going concern is defined as an existing unit of a company that is capable to function independently and able to carry out economic activity on a long-term basis using its own assets.

In Hungary, a transfer of a going concern (TOGC) is not a taxable transaction, in the following circumstances:
- The customer intends to continue the business taken over.
- The customer must be registered in Hungary as a taxable person at the time of acquisition or in direct consequence thereof.
- The customer ensures that the rights and obligations are conferred upon it at the time of acquisition.

- The customer shall not have any legal status that hinders acting as successor.
- The going concern is limited to supply of goods and services giving rise to VAT deduction (i.e., the going concern cannot relate to VAT exempt or out of scope activities).
- Joint and several liabilities arise on the recipient and transferor of the business line with respect to VAT.

The wording of the law is not specific enough to be able to safely determine whether a transaction can indeed be regarded as a TOGC. Therefore, it is highly recommended to request a binding ruling from the Ministry of Finance on the VAT implications of the transaction up front.

Transactions between related parties. For a transaction between related parties, the tax base adjustment may only be applied if any of the parties does not have a right to full input tax deduction and the consideration of the goods or the services are disproportionately high or low compared to the arm's-length price. In such cases, the tax base should be at arm's length.

C. Who is liable

A taxable person is any business or individual that makes taxable supplies of goods or services for consideration in the course of its business in its own name.

Every entity or individual that undertakes a business activity in Hungary must register for VAT before beginning the activity in question. Retroactive VAT registration is possible but may trigger significant penalties. Obtaining Hungarian VAT numbers for intra-EU transaction purposes with retroactive effect is not allowed.

Exemption from registration. The following types of taxable persons may be exempted from registering for VAT in Hungary:

- Any importer who employs an indirect customs representative in connection with the importation of goods and the subsequent intra-Community supply of goods, shall be exempted from the obligation of registration if it is not engaged in any other taxable activities in Hungary.
- Taxable persons that are considered non-established according to the Hungarian VAT Act, and the taxable persons to whom the requirement of establishment does not apply, shall be exempted from the obligation of registration if engaged in Hungary solely in the supply of goods under VAT warehousing arrangements as provided for in the Hungarian VAT Act. The condition is that the goods have not ceased to be covered by these arrangements as a direct consequence of such supply, or that the goods are exited by the state tax and customs authority from the territory of the EU.
- Any non-established taxable person who provides telecommunications, broadcasting and electronically supplied services in Hungary to nontaxable persons shall be exempt from the obligation of registration, provided that it is entitled to apply the Mini One-Stop Shop regime.
- Non-established taxable persons (including those where the requirement of establishment does not apply in Hungary, but who are established in another EU Member State) shall be exempted from the obligation of registration. This is only where the taxable person wholly makes supplies of exempt goods in Hungary under the VAT warehousing arrangements.

Voluntary registration and small businesses. If a taxable person's turnover did not exceed HUF12 million in the preceding VAT year, it may request VAT exemption status. The request for exemption must be filed before the end of the VAT year preceding the year in which the exemption is to take effect. A new business may request exemption from registration if its anticipated turnover is not expected to exceed HUF12 million a year. The request for exemption must be filed at the time of registration.

If exempt status is granted, the business must still register for VAT, although it may not charge VAT on its supplies and it may not recover input tax on its expenses and purchases. In addition, such businesses are generally not required to file any VAT returns.

The uniform EU VAT scheme for small businesses proposed by the EU VAT Action Plan has been implemented in Hungary and will be effective as of 1 January 2025. For further details, see the subsection *Special schemes*, then *Small enterprises* below. For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism (voluntary VAT registration is applicable to taxable persons supplying goods or services to nontaxable persons).

Taxable persons not established in the EU also can use the One-Stop-Shop system, provided that they already hold an EU VAT number for other reasons (see the *One-Stop-Shop* subsection below). Taxable persons using the One-Stop-Shop system should issue their invoices in accordance with the rules in their country of establishment.

Group registration. VAT group registration is available for all industries. Companies that qualify as related parties and that have a fixed establishment in Hungary from a VAT point of view may opt for VAT grouping when the participating entities are regarded as being a single taxable person and the group regime applies to all transactions performed by every group member. Practically, this means that the supplies performed between the group members fall out of the scope of VAT, whereas any supplies performed outside the group are subject to VAT. In addition, the group members are obliged to file joint VAT returns with the tax authority.

As outlined above, companies that qualify as related parties can opt for VAT grouping. Every company that is considered as a related company has the option not to join to the VAT group (i.e., a nonmember). However, if the company is not a member of the VAT group, it still needs to accept certain liabilities, and if the nonmember does not accept the liabilities, the VAT group cannot be formed).

There is no minimum time period required for the duration of a VAT group. It exists until withdrawal, provided that the relevant conditions are continuously met by the members.

All members of a VAT group in Hungary are jointly and severally liable for VAT debts and penalties. In the period of the existence of the VAT group and also subsequently, the members and nonmembers (related parties) are jointly responsible for the members' tax liabilities indicated in the closing VAT returns (incurred before the establishment of the VAT group), and all tax liabilities determined by the VAT Act incurred during the existence of the VAT group.

Holding companies. In Hungary, a pure holding company can be a member of a VAT group, as long as the holding company is established in Hungary and is a related party to the group members. It should be noted that the VAT deduction ratio of the VAT group can change if the holding company is involved.

Cost-sharing exemption. The VAT cost-sharing exemption, in accordance with VAT Directive 2006/112/EEC Article 132(1)(f), has been implemented in Hungary. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Hungarian VAT law).

However, the Ministry of Finance (unofficially) declared that they would not like any taxable person to apply this scheme. Consequently, in practice, no taxable person meets the criteria outlined in the VAT law, and as such the exemption is not applied.

Fixed establishment. In Hungary the term "fixed establishment" means a geographically isolated and durable facility away from the registered office established or intended for conducting economic activities, where the conditions for the economic activity are in fact available independent from the registered office, including the taxable person's commercial representations insofar as

the taxable person's commercial representation is most directly involved in the supply of services, except if otherwise provided for by any binding legislation of the EU.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Hungary. A non-established business that makes supplies of goods or services in Hungary must register for VAT if it is liable to account for Hungarian VAT on its supplies or if it makes intra-Community supplies or acquisitions of goods.

Consequently, non-established businesses must register for Hungarian VAT if they make any of the following supplies:
- Intra-Community supplies
- Intra-Community acquisitions
- Supplies of goods and services that are not subject to the reverse charge (for example, goods or services supplied to private persons)
- Importation of goods
- Purchase of services from other countries

Tax representatives. Businesses established inside the EU may register for VAT without appointing a tax representative. However, EU businesses may opt to appoint a tax representative under certain conditions.

In general, businesses established outside the EU must appoint a resident tax representative to register for Hungarian VAT. The tax representative is jointly liable for VAT debts and obligations with the business it represents.

All non-established businesses must register with the office for foreign taxable persons at the following address:

NAV Kiemelt Ügyek Adó- és Vámigazgatósága
Dob utca 75-81
1077 Budapest
Hungary

Reverse charge. The reverse charge applies generally to supplies of services made by non-established businesses to businesses in Hungary (i.e., a B2B supply). This includes installation supplies made in Hungary by non-established businesses and certain transactions relating to real estate.

To fall under the reverse charge, the supplies must be made to taxable persons in Hungary that file periodic VAT returns. Under this measure, the taxable person that receives the supply must account for the Hungarian VAT due. If the reverse-charge applies, the non-established business is not required to register for Hungarian VAT.

Domestic reverse charge. The concept of a reverse charge also applies to the following transactions in Hungary, i.e., between businesses that are established in Hungary and registered for VAT in Hungary:
- Transfer of immovable property on the basis of a construction contract
- Certain services relating to immovable property
- The supply of certain scrap materials
- The supply of immovable property if taxation is opted for
- The supply of goods provided as security in execution of that security
- Trading in greenhouse gas emission rights
- Goods and services provided by taxable persons under liquidation or insolvency proceedings, provided the value exceeds HUF100,000
- The supply of cereal and certain metal products
- Staff leasing services in case it relates to construction, expansion, remodeling or any other form of alteration of an immovable property

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

For detail on the application process in Hungary, refer to the subsection *Registration procedures* below.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

In Hungary, taxable persons can register themselves to the OSS electronic portal online (https://oss.nav.gov.hu/index.xhtml).

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Hungary, taxable persons can register themself to the OSS electronic portal online (https://oss.nav.gov.hu/index.xhtml).

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Hungary, online marketplaces and platforms can register themself to the OSS electronic portal online (https://oss.nav.gov.hu/index.xhtml).

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. According to the Hungarian VAT Act, there are two types of vouchers. There are "single-purpose vouchers" (SPV), issued when the place of supply of the goods and/or services to which these vouchers relate, and the VAT due on those goods and/or services is known at the time of issuance of the voucher.

Additionally, the Hungarian Act on VAT provides for "multi-purpose vouchers" (MPV), which are vouchers other than a SPV.

For SPV, the tax point is the issuance date of the voucher – as it is already known by the issuance date, for which goods/services the vouchers can be applied, and as such the consideration paid at each transfer is VAT inclusive. For the MPV, the tax point is the date of the voucher's redemption – the date when the voucher is accepted by the supplier as consideration for the supplied goods/services.

The transfer of the different types of vouchers is also treated differently from a VAT point of view. Whereas each transfer made for consideration of an SPV made by a taxable person acting in their own name shall be regarded as a supply of the goods or services to which the voucher relates, the transfer of a MPV for consideration shall not be regarded as a supply of the goods and/or services.

Registration procedures. To register for VAT purposes in Hungary, two copies of the application form (available only in the Hungarian language) should be submitted on paper together with several corporate documents (translated into Hungarian). The following documents are required for the VAT registration application process:

- Copy of the passport of the person(s) authorized to sign documents on behalf of the taxable person
- Up-to-date excerpt from the Court of Registry in the taxable person's country of incorporation (no older than 30 days)
- Original and stamped VAT registration certificate issued by the foreign tax authority justifying that the Company is registered for VAT purposes (no older than three months)
- Original notarized specimen(s) of the signature of the company's authorized representative(s)

Beside these required documents, the tax authority may also request additional proofs, depending on the quality of the documents and the legislation of the country where the taxable person has its registered seat.

Deregistration. Foreign entities that cease to perform transactions subject to Hungarian VAT can deregister, canceling their Hungarian VAT number. The necessary steps for deregistration are the following:

- Checking the tax account statement of the company and paying any underpayments or reclaiming any overpayments
- Preparation and submission of the deregistration form within 15 days from the effective date of the deregistration
- Preparation and submission of a closing VAT return covering the period not covered by previous tax returns within 30 days from the effective date of the deregistration (submission together with the deregistration form is advisable)

The tax authority usually performs a tax audit related to the deregistration.

Changes to VAT registration details. Taxable persons must notify the tax authorities of any changes affecting their tax liability, within 15 days of the effective date of such changes on a designated form. In most cases, this form should be filed electronically (with very few exceptions).

The following changes should be reported:

- Company data (name, registered seat) change
- Change of authorized representatives
- Place of archiving accounting data
- Change in business activity
- Application to specific VAT schemes

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 27%
- Reduced rates: 5%, 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Some supplies are classified as "exempt with credit," (i.e., zero-rated), which means that no VAT is chargeable, although the supplier may recover related input tax. Exempt with credit supplies include, but are not limited to, exports of goods outside the EU and related services (for example, related to transport) and intra-Community supplies of goods.

Examples of goods and services taxable at 5%

- Human medicines and certain medical products.
- Books (on paper)
- Live specimens or slaughtered and chopped (to some extent) meat of certain large animals (pigs, cattle, sheep, goats)
- Poultry meat, eggs and milk (i.e., fresh milk and both UHT and ESL)
- Internet services
- Catered meals
- Nonalcoholic beverages made on the spot
- Hotel services
- Sale of new immovable property for residual purposes, provided that its size does not exceed 150 square meters in the case of flats and 300 square meters in the case of detached houses (with effect from 1 January 2021)
- Import of artworks

Examples of goods and services taxable at 18%

- Basic foodstuffs
- Entrance to certain open-air public music festivals

The term "exempt supplies" refers to supplies of goods and services that are not subject to VAT and that do not give rise to the right to deduct input tax.

Examples of exempt supplies of goods and services

- Financial services
- Insurance
- Public postal services
- Approved education
- Lease of property
- Sale of securities
- Sale or lease of land
- Human medical care (including dental services and supply of dental prosthesis)
- Transport services for sick or injured persons
- Folk arts and crafts

Option to tax for exempt supplies. A taxable person may opt to pay VAT on transactions that would otherwise be exempt from VAT. This decision should be reported to the tax authority before beginning the exempt activity. The taxable person who exercises the option to pay VAT is required to continue paying VAT for the following five calendar years. After the five years, it can again choose VAT exemption by submitting a notification form to the tax authority by 31 December of the preceding year.

The following supplies are eligible for the option to apply VAT:
- The rental or leasing of immovable property or parts thereof (either only for commercial property or both commercial and residential property)
- The sale of immovable property and sale of land (either only for commercial property or both commercial and residential property)

E. Time of supply

The time at which VAT becomes due in Hungary is called the "date of supply" or "tax point." With some exceptions, the date of supply is deemed to be when the supply is made or when an invoice is issued.

Deposits and prepayments. A prepayment or deposit creates a tax point when the payment is received. The amount is considered to be inclusive of VAT. When a reverse charge applies between taxable persons, the prepayment shall not be deemed as a tax point if it is with intra-Community acquisitions and supplies of goods.

If a Hungarian taxable person makes a prepayment with respect to services purchased from other EU Member States or third countries (that fall under the general reverse-charge mechanism), the amount shall be regarded as being exclusive of VAT and the Hungarian taxable person is required to self-charge the VAT on the advance payment it paid.

Continuous supplies of services. Parties may agree that a supply of goods and services may be invoiced periodically or paid in installments.

The following date-of-supply rules apply concerning such transactions:
- In general, the date of supply is the last day of the period in question.
- If the date on which the invoice (receipt) was issued and the payment deadline both fall before the last day of the period concerned, the issue date of the invoice (receipt) is the date of supply.
- If the payment deadline falls on a later date than the last day of the period in question, but not later than the 60th day following the last day of that period, the payment deadline is the date of supply.
- If the payment deadline is later than the 60th day following the last day of the period in question, the date of supply is the 60th day following the last day of the period in question.

Invoices relating to intra-Community supplies of goods cannot refer to a period longer than one calendar month. In other cases, the period can be up to 12 months. However, in the case of services purchased from other EU Member States or third countries, the period is deemed as ending on 31 December each year, provided the agreed period exceeds 12 months.

Goods sent on approval for sale or return. VAT shall become chargeable upon the occurrence by virtue of which the legal conditions necessary for VAT to become chargeable are fulfilled. In the case of a supply of goods, the supply occurs where the right to dispose of the goods is transferred from the supplier to the customer. It is the wording of the agreement that determines whether the supply takes place if the goods are sent on approval.

In the case of return goods, the reason of the return and other contractual arrangements must be analyzed to establish the proper VAT treatment. For instance, return of defective goods where the supplier provides the customer with a new product from the same type is a non-supply for Hungarian VAT purposes. However, in the case of a resale, the transaction can qualify as a taxable event.

Reverse-charge services. If the reverse-charge mechanism applies to a transaction, the tax point date is the earliest of the following dates: (i) the receipt of the invoice, (ii) payment of the consideration or (iii) the 15th day of the month following the month in which the supply takes place.

Leased assets. Open-end financial leasing transactions (when buyers can decide whether or not they want to obtain the title of the leased assets at the end of the lease contracts) qualify as rented assets, so each installment should be invoiced with VAT. Closed-end financial leasing transactions (when it is fixed in advance that the buyer will automatically obtain the title of the assets upon the payment of the last installment) qualify as sale of goods where the tax point is the delivery date of the asset, i.e., the total value including VAT has to be invoiced at the beginning and no separate invoices have to be issued on the installments (that are not subject to VAT).

Imported goods. The tax point for imported goods is either the date of acceptance of the customs declaration or the date on which the goods leave the duty suspension regime, if the taxable person is not entitled to self-account import VAT.

Intra-Community acquisitions. The tax point for intra-Community acquisitions of goods is the date of issuance of the invoice or the 15th day of the month following the month in which the supply takes place, whichever is earlier. For services, generally, it is the date on which the supply is made.

Intra-Community supplies of goods. The date of supply for intra-Community supplies of goods is the date of issuance of the invoice or the 15th day of the month following the month in which the supply takes place, whichever is earlier. For services, it is the date on which the supply is made.

Distance sales. There are no special time of supply rules in Hungary for supplies of distance sales. As such, the general time of supply rules apply (as outlined above). According to the general time of supply rule, VAT shall become chargeable when the legal conditions prescribed for the occurrence of the transaction are fulfilled.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Hungary, VAT paid on intra-Community acquisitions and imports of goods, and VAT self-assessed for reverse-charge services received from outside Hungary and for certain reverse-charge domestic transactions.

The amount of VAT reclaimed must be supported with a valid VAT invoice.

Under the general rule, input tax is deductible from output tax charged in the same VAT period. If the amount of input tax exceeds the amount of output tax in the period, the excess can be carried forward to the next filing period, offset against the taxable person's other Hungarian tax liabilities or refunded to the taxable person's bank account.

The time limit for a taxable person to reclaim input tax in Hungary is five years, following the last day of the calendar year in which the given tax return is due or the tax liability should be settled. However, without self-revision, the input tax deduction right can be exercised in the year they arise and during the next calendar year based on the decision of the taxable person.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are used for nonbusiness purposes (for example, goods acquired for private use) or exempt transactions (for example, assets used for providing financial services). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Nonbusiness expenditure
- Purchase of cars (private use)
- Taxi services
- 50% of car maintenance service costs
- 30% of telecommunication services

Examples of items for which input tax is deductible (if related exclusively to a taxable business use)

- Transport
- Purchase, lease or hire of cars, vans and trucks
- Books related to business activities
- Conferences
- Advertising
- Accommodation
- Attending exhibitions

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If a Hungarian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as "partial exemption."

The amount of input tax that may be deducted is calculated in the following two stages:

- The first stage is the direct allocation of VAT to exempt and taxable supplies. Input tax directly allocable to exempt supplies is not deductible, while input tax directly allocable to taxable supplies is deductible. Exempt with credit supplies are treated as taxable supplies for these purposes.
- The second stage is the proration of the remaining input tax that relates to both taxable and exempt supplies based on the percentage of taxable supplies to total supplies made (called the deduction ratio). This treatment may apply, for example, to input tax on business overhead. The deduction ratio is calculated up to two decimal places. The amount of VAT recoverable must be rounded up to units of HUF1,000.

There is no requirement to report the pro rata to the tax authority. There is a "standard" method of calculation for the pro rata, but taxable persons can deviate from that if the deductible input tax can be determined more precisely by using another calculation method. Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Hungary. However, the use of a special method is strongly recommended to be discussed and approved by the tax authority up front. It is also possible to ask for a binding ruling on the calculation method.

When calculating the proration, a taxable person may initially use the deduction ratio amounts for either the current tax year or for the preceding tax year. However, if the preceding year's amounts are used, the calculation must be adjusted at the end of the VAT year, using the relevant information for the year in question.

Capital goods. Capital goods are tangible items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption deduction ratio in the VAT year in which the acquisition took place. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption deduction ratio changes during the year under review and if the difference with respect to a particular capital asset exceeds HUF10,000.

In Hungary, the capital goods adjustment applies to the following assets for the number of years indicated:
- Land and buildings: adjusted for a period of 20 years
- Tangible capital assets: adjusted for a period of 5 years
- Intangible rights related to capital goods: the same adjustment period as the underlying capital asset

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax (1/20 for land and buildings and 1/5 for other tangible capital assets). The adjustment may result in either an increase or a decrease in the deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

If a Hungarian taxable person sells an asset on which no input tax was deducted, a proportion of the input tax becomes deductible. The qualifying period for this treatment is the same as the capital goods adjustment period, which is 60 months (5 years) for tangible assets and 240 months (20 years) for land and buildings.

In Hungary, the capital goods adjustment also applies to rights in rem, provided that the right is in the taxable person's books for at least one year.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may request a refund of the credit if this excess exceeds the following amounts:
- HUF50,000 if the taxable person files VAT returns annually
- HUF250,000 if the taxable person files VAT returns quarterly
- HUF1 million if the taxable person files VAT returns monthly

If a taxable person is not allowed to request a repayment, the excess input tax may be carried forward to the following period to offset output tax payable.

Taxable persons significantly not complying with tax rules (risky taxable persons) will receive the VAT refund within 75 days; taxable persons properly complying with the tax rules (trusted taxable persons) will receive the VAT they reclaim within 30 days.

Taxable persons not qualifying as either risky or trusted will continue to receive the VAT refund based on the following rules: If a repayment is claimed, the VAT authorities must pay it within 75 days after the due date of the return. However, if all the supplier invoices that are recorded as deductions on a given VAT return have been paid by the time of filing of the VAT return and this fact was indicated on the filed VAT return, the tax authority must refund VAT repayment claims that exceed HUF1 million within 45 days. Repayment claim amounts under HUF1 million will be transferred within 30 days (if all supplier invoices have been paid).

If the repayment is not made within the time limits indicated above, the VAT authorities must also pay late payment interest, calculated from the due date of the repayment.

The late payment interest from 2019 equals the prime rate of the Hungarian National Bank plus five percentage points, which should be prorated on a daily basis. The late payment interest applicable for the periods before 2019 equals the double of the prime rate prorated on a daily basis.

Pre-registration costs. Input tax on pre-registration costs is deductible as long as the (future) taxable person can demonstrate that the goods or services were issued in preparation of a future economic activity. In practice, this means that the VAT on these costs can be deducted in the first VAT return of the taxable person becoming VAT registered.

Bad debts. As a result of a legislative change, recovery of output tax related to bad debts becomes possible under certain conditions from 2020. This applies to B2B invoices in which the date of supply falls after 31 December 2015. From 1 January 2021, recovery can also apply to B2C invoices under certain conditions.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Hungary.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Hungary is recoverable. The Hungarian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Hungary. Non-established businesses may claim Hungarian VAT to the same extent as VAT-registered businesses, assuming VAT refund reciprocity applies.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Hungary during the refund period (excluding supplies covered by the reverse charge and certain VAT-exempt transportation services). This is because if a non-established business performed any taxable activity in Hungary in the period in question, they should have been registered for VAT and requested the VAT refund in their Hungarian VAT returns instead of foreign VAT refund procedure. *For full details, see the chapter on the EU.*

Find below specific rules for Hungary:
- Refunds are paid in Hungarian forints into the bank account notified by the claimant. This account may be either a bank account in Hungary or in the country in which the claimant is registered. If the claimant provides the tax authority with a foreign bank account number, the costs related to the bank remittance and exchange are the claimant's responsibility and the refunded amount is reduced accordingly.
- Hungarian law provides that repayments must generally be made within four months of the date on which the claim is submitted, in line with the provisions of the EU Directive 2008/9/EC. The refund procedure cannot be made any longer than eight months. If the VAT authorities do not repay the claim within this time limit, the claimant is entitled to interest. The late payment interest from 2019 equals the prime rate of the Hungarian National Bank plus five percentage points, which should be prorated on a daily basis. The late payment interest applicable for the periods before 2019 equals the double of the prime rate prorated on a daily basis.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

Hungary applies the principle of reciprocity; that is, the country where the claimant is established must also provide VAT refunds to Hungarian businesses. Hungarian VAT is only refunded on the condition of reciprocity to taxable persons of the Principality of Liechtenstein, Switzerland, Norway, Serbia, Türkiye (with certain restrictions) and the United Kingdom.

Find below specific rules for Hungary:
- The deadline for submitting applications is 30 September following the claim year.
- Non-EU claimants must file a form issued by the Hungarian VAT authorities together with the relevant documents, including the original invoices.
- The claimant must also submit a certificate issued by the VAT authorities in the country in which it is established, certifying its status as a taxable person.
- The applicant must prove that it paid the gross amount of the invoices. Hungarian suppliers may also provide a declaration that the invoices have been paid in full.

- The minimum claim period is three months, and the maximum claim period is one calendar year (except if the period is less than the last three months of a calendar year).
- The form may be completed in Hungarian, English, German or French. However, all correspondence with the tax authorities must be in Hungarian.
- A non-established claimant may appoint a lawyer, legal advisor or tax consultant resident in Hungary to represent it in any dealings with the VAT authorities. If a representative is used, the original power of attorney appointing the representative must accompany the repayment claim form.
- All documents relating to the VAT reclaim must be sent to the tax authorities and can be done via the official email address of the authority or via post to the following address:

NAV Kiemelt Ügyek Adó- és Vámigazgatósága
1077 Budapest
Dob Utca 75-81
Hungary

Late payment interest. The Hungarian tax authority is liable for late payment interest if the refund is not processed in a timely manner (for both EU and non-EU businesses). The late payment interest rate charged (with effect from 2019) equals the prime rate of the Hungarian National Bank, plus 5 percentage points, which should be prorated on a daily basis.

H. Invoicing

VAT invoices. Generally, a Hungarian taxable person must provide VAT invoices for all Hungarian taxable supplies made, including exports and intra-Community supplies, in line with the Hungarian invoicing provisions. If the supplier is not established in Hungary and (i) the supply is subject to the reverse-charge mechanism or (ii) the place of supply is outside the EU, Hungarian invoicing standards are not applicable (except for cases falling under option (i) if the invoices are issued by the buyer within the self-billing process).

Invoices must be issued no later than eight days after the date of supply (or, for intra-Community supplies, no later than the 15th day of the month following the month in which the supply took place) (see *Section E*). If the consideration is paid by the date of supply, the supplier is obliged to issue the invoice immediately.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The document must be clearly marked "credit note" and refer to the original invoice. A credit note must also indicate the date on which it was issued, the reason for and the numerical result of the correction and any new items arising from the correction.

Electronic invoicing. Electronic invoicing is mandatory in Hungary for certain taxable persons.

Scope of electronic invoicing. For B2G supplies, electronic invoicing is mandatory in Hungary. This is in line with EU Directive 2014/55/EU *(see the chapter on the EU)*. This has been in effect from 18 April 2019.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Hungary. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Hungary. The requirements related to electronic invoicing are the same as those for paper invoicing. Electronic receipts will be introduced as of 1 January 2025. The issuance and distribution of receipts will only be allowed to be done electronically. An electronic receipt will be deemed to be issued when it is received by the receipt depository operated by the tax authority.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. Simplified VAT invoicing is allowed in Hungary in the following cases:
- When the customer is a taxable person or a nontaxable legal person, who makes advance payment (except for VAT-exempt EU supplies of goods) and the amounts are expressed in HUF on the invoice layout
- When the customer is a nontaxable person (other than in the above point), who makes advance payment and the payment exceeds HUF900,000, or does not exceed this threshold but the customer asks to issue an invoice (except for VAT-exempt EU supplies of goods) and the amounts are expressed in HUF on the invoice layout
- If the full consideration is provided until or on the date of supply/tax point date at the latest, and the customer asks to issue an invoice and the amounts are expressed in HUF on the invoice layout
- When the transaction is performed in an EU or third-country supply of goods or services
- When the total gross amount of the invoice does not exceed the equivalent of EUR100, provided that the underlying transaction is other than VAT-exempt EU supply of goods or out-of-scope transaction or distance sale

Self-billing. Self-billing is allowed in Hungary. It is allowed for either for one particular transaction or for issuing invoices on a general basis. In the case of self-billing:
- The parties (i.e., the supplier and the customer or a third-party agent who intends to issue the invoices) should conclude a written agreement in advance on the self-billing process that details the terms and conditions of the invoice issuance.
- If the customer issues the invoice; the word "önszámlázás" (self-billing) must be indicated in the invoice.
- The parties' liability is joint and several with respect to the compliance with the provisions relating to the invoice issuance.

Proof of exports and intra-Community supplies. VAT is not charged on exports and intra-Community supplies. To qualify as exempt, exports and intra-Community supplies must be accompanied by evidence that the goods have left Hungary (in the case of exports, within 90 days). Suitable documentary evidence includes the following:
- For export, a copy of the single administrative document or other export declaration endorsed by the customs office of exit on the actual exit of the goods
- For an intra-Community supply, a shipping document (especially a CMR signed by the recipient) or any other credible evidence

No special documentation applies in Hungary for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. Normal documentation rules apply.

Foreign currency invoices. If an invoice is issued in any currency other than the domestic currency, which is the Hungarian forint (HUF), the taxable value must be converted into HUF using the foreign exchange rate on the date of supply of any domestic credit institution that has a foreign-exchange permit to the extent the place of supply is Hungary. (For continuous supplies, the exchange rate effective on the issue date of the invoice should be applied.) The taxable person may use the official exchange rate quoted by the National Bank of Hungary or the European Central Bank (ECB), provided it has reported this decision to the tax authorities in advance. Once a taxable person has exercised this option, it cannot be changed until the end of the following calendar year. If the domestic credit institution in question does not quote the foreign currency used, the Hungarian National Bank or the ECB rate must first be used for conversion into euros. The conversion is based on the euro exchange rate for the quarter preceding the date of supply of the transaction.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Hungary. As such, full VAT invoices are required. In addition, B2C invoice data should also be reported in real time to the tax authority's invoice data reporting system. However, if certain conditions are met, simplified VAT invoices may be issued in Hungary (see the subsection above *Simplified VAT invoices*).

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. Record-keeping obligation applies to each accounting document based on which of the transactions performed can be identified and verified. In Hungary, examples of what records that must be held for VAT purposes include invoices, contracts, purchase orders, proofs of supply, transportation documents, customs documents, etc.

In Hungary, VAT books and records can be kept outside of the country. However, the taxable person needs to report the place of record keeping to the tax authority in advance and it needs to make sure that upon request these documents can be presented to the tax authority within three working days.

Record retention period. Records (including invoices and the related supporting documentation based on which the VAT can be assessed) should be kept until the end of the statutory limitation period, which – from a tax perspective – is five years from the last day of the calendar year in which the VAT return related to the given invoice was due. The statutory limitation can rest or can be interrupted under certain conditions. For accounting purposes, the statutory limitation is eight years.

In the case of paper-based documents, the record keeping obligation applies to the copies of invoices in the case of the issuer, and to the original document in the case of the recipient, or in the absence of the original, to the authentic copies of the invoices.

Electronic archiving. Electronic archiving is allowed in Hungary. Paper-based invoices may also be stored in electronic format. Electronically issued documents must be stored in electronic format. Decree nr. 1/2018 issued by the Ministry of Innovation and Technology determines the specific archiving rules that the taxable person should fulfill in this regard (image quality, meta-data to be indicated in the copy to guarantee the authenticity of origin and the integrity of the content, etc.).

I. Returns and payment

Periodic returns. In general, Hungarian taxable persons must file quarterly tax returns. However, the below categories of taxable persons must file monthly returns (and EC listings):

- Newly registered taxable persons during the first two calendar years after registration
- Taxable persons whose net VAT payable in the tax year in question, or in the second year before the year in question, exceeds HUF1 million
- VAT groups
- VAT warehouse operators and indirect customs representatives in special cases

Taxable persons whose VAT payable or reclaimable for the second year preceding the year in question does not exceed HUF250,000 may file VAT returns annually if they were not given an EU VAT identification number and the consideration received in relation to their taxable supplies does not exceed HUF50 million. However, they may opt to file quarterly returns.

Monthly and quarterly VAT returns must be filed by the 20th day of the month following the tax period. If the taxable person meets the requirements to file VAT returns on an annual basis, the due date is 15 February in the year following the tax year in question. Note that annual returns

are not to be filed in addition to the monthly/quarterly VAT returns. It is just an additional filing frequency option, based on certain criteria (see above).

Periodic payments. Payment of VAT due is required in full on the same date as the VAT return submission deadline, i.e., by the 20th day of the month following the tax period. VAT liabilities must be paid in HUF. Payment should be made via bank transfer to the tax authority's designated bank account. In the case of domestic payments, the payment can be initiated by the latest on the submission deadline. In the case of international transfers, the VAT amount needs to be credited at the tax authority's bank account by the submission deadline.

Electronic filing. Electronic filing is mandatory in Hungary for certain taxable persons. If a taxable person performs any intra-Community transactions or is required to submit Domestic Summary Reports in Hungary, it must file all its tax returns electronically with the tax authority. To be able to file the tax returns electronically, a tax representative or employee of the taxable person must fill out a special registration in Hungarian and submit it in person in Hungary. Tax representatives can also be authorized to file the tax returns electronically on behalf of the taxable person.

Even though the current return filing procedure will remain valid, as of 1 January 2024 eVAT returns will be introduced in Hungary. The tax authority will auto-generate draft VAT returns using already available data. The auto-generated draft VAT returns may be modified on the tax authority's website or via an application programming interface (API). The submission of the draft VAT return is not automatic; the taxable person should provide confirmation.

Intrastat reports should be filed with the official system of the Central Statistics Office (website based).

Payments on account. Payments on account are not required in Hungary.

Special schemes. *Small enterprises*. This is for businesses who have an annual threshold of turnover of less than HUF12 million. Domestic taxable persons with an expected net sales revenue below HUF12 million can opt for VAT exemption (previous two tax years also need to be taken into account). This means that they do not have to charge VAT on their supplies (with certain exceptions). In turn, they do not have to deduct input tax either. Application needs to be made up front before the beginning of the calendar year and can no longer be applied if the taxable person exceeds this threshold during the calendar year. The application needs to be renewed annually. The uniform EU VAT scheme for small businesses proposed by the EU VAT Action Plan has been implemented in Hungary and will be effective as of 1 January 2025.

Investment gold. By investment gold, the VAT exemption applies by the supply, intra-Community acquisition, importation of investment gold, including:
- Investment gold represented by certificates (documents) referring to allocated or unallocated gold or trades on gold accounts
- Gold loans and swaps ensuring the right of ownership or claim in respect of investment gold
- Transactions concerning investment gold involving futures and forward contracts leading to a transfer of right of ownership or claim in respect of investment gold

Exemption shall also be granted for the services of agents who act in the name and on behalf of another person, when they take part in the supply of investment gold.

Taxable dealer of secondhand goods, works of art, collector's items and antiques. A taxable dealer should mean a taxable person who, with a view to resale, purchases, owns or imports secondhand goods, works of art, collectors' items or antiques or acts as a commissionaire for the same purpose. Taxable dealers can opt for applying a margin scheme for trading with the above listed goods. Under this scheme, the taxable person only pays VAT on the difference (margin) between the purchase and sales price of the goods. In this case, the margin must be considered as a gross

amount (i.e., which already includes the VAT) and the taxable person cannot indicate the VAT amount separately in its sales invoice, while the taxable person is not entitled for deducting the input VAT (if any) on its purchases either. The application of this margin scheme is mandatory if the goods are purchased from nontaxable persons. Nevertheless, the taxable person can choose not to apply the scheme to its entire business activity; this choice must be reported to the tax office in advance before 31 December of the previous calendar year. Taxable dealers have special record keeping obligations.

Sales by public auction. Very similar rules apply as to the taxable dealers, with the exception that in this case, the taxable person (the organizer of the auction) does not get the legal ownership of the goods. For this purpose, the VAT rules apply a fiction that the taxable person gets title to the goods (deemed supplier), similarly to a commissionaire. Organizers of public auctions have special record keeping obligations.

Travel agents. Travel agency services are services provided by a taxable person to its traveler in its own name that are considered exclusively, or chiefly as touristic services based on their key characteristics. These services are ordered in its own name but on behalf of the traveler and are comprising services and goods (such as passenger transport, lodging services, accommodation, guided tours) provided by other taxable persons. The VAT base is the margin of the travel agent, which must be considered as a gross amount, already including the VAT (the travel agent should not indicate VAT on its invoice). The place of supply of these services is the place where the travel agent resides. However, if the services include services provided in third countries, the services are exempt from VAT. Travel agents have special record-keeping obligations.

Flat rate scheme for farmers. Hungarian resident taxable persons engaged in agricultural activity (further specified by the Hungarian VAT rules), acting as such:
- Does not have to charge VAT
- Does not have the right for VAT deduction

The taxable person should not charge VAT on its supplies in relation to its agricultural activity, but should charge compensatory surcharge instead of VAT. The rate of the compensatory surcharge is 12% by supply of organic goods and 7% by supply of goods of animal origin (The referred goods and services are listed in Annex 7 to the Hungarian VAT Act). The buyer should add the compensatory surcharge to the net sales price of the goods, and like the VAT, the buyer can deduct this compensatory surcharge.

Cash accounting. The cash accounting taxation method may be applied by the following taxable persons:
- Taxable persons that qualify as small enterprises on the first day of the year based on the relevant act or that would qualify as small enterprises if they were subject to the relevant act
- Taxable persons that have a fixed establishment in Hungary or, in the absence of a fixed establishment, a permanent address or place where they usually reside
- Taxable persons for whom the sum of both the expected and the actual consideration in a given year (and in the previous year) does not exceed the equivalent of HUF125 million (approx. EUR330,000)

Taxable persons may opt for cash-based taxation for domestic transactions subject to VAT, but considerations for supplies that are outside the scope of Hungarian VAT and for supplies subject to the reverse-charge regime are also included in the threshold. Revenue deriving from the sale of tangible assets, from the assignment of intangible property on a permanent basis, from intra-Community supply, from certain exempt supplies and from services ancillary to financial services is not considered when applying the threshold.

New companies must meet the financial conditions proportionately in the first calendar year.

Taxable persons may apply this taxation method based on the calendar year. Taxable persons that apply cash-based taxation must refer to this special taxation method and indicate it on their invoices.

Taxable persons that opt for cash-based taxation:
- Will have to pay output tax when they receive the consideration, including the VAT for their supply
- Will be entitled to deduct input tax when they pay the total gross amount of the invoice to their suppliers

Taxable persons may decide to terminate the application of cash-based taxation from the year following the year in question or during the suspension of their activities.

Taxable persons whose suppliers apply the cash-based accounting scheme are entitled to deduct the input tax charged by the supplier at the time they pay the consideration (including the VAT) to the supplier.

Cash-based taxation will be terminated automatically if a taxable person's revenue exceeds the threshold or if the taxable person is subject to insolvency or discontinuation of operations proceedings. The termination of this taxation method must be announced to the tax authority within 15 days.

Annual returns. Annual returns are not required in Hungary.

Supplementary filings. *Intrastat.* A taxable person that trades with other EU countries must complete statistical reports, known as Intrastat.

The threshold for Intrastat Arrivals in 2023 is HUF250 million. The threshold for Intrastat Dispatches in 2023 is HUF400 million. *At the time of preparing this chapter, the thresholds for 2024 have not been announced.*

Intrastat filing is to be filed on a monthly basis due the 15th of every month following the calendar month that they relate to. The method of the filing is electronic, through the website of the Hungarian Statistical Office. Intrastat returns must be filed in HUF.

EU Sales Lists and EU Acquisitions Lists. A taxable person must also file EU Sales Lists and EU Acquisition Lists (i.e., recapitulative statements) for both goods and services.

Domestic Summary Report. Taxable persons must file reports on domestic purchases of goods or services at the invoice level. This obligation concerns those invoices on which the taxable person deducts input tax in the tax period in question

Electronic control system on the movement of goods on the road (EKAER). Under this system, taxable persons have a reporting obligation in relation to the road transportation of goods for certain transactions prior to the start of the transportation. From 2021 onward, the EKAER reporting obligation only arises in connection with products named "notifiable products" (previously named "risky goods"). Only notifiable products fall under the scope of the new EKAER regulation, however, based on the classification rules of the Commercial Customs Tariff, the list of the notifiable goods is exactly the same compared to the list of the previously known risky goods. The EKAER Decree allows taxable persons to voluntarily report goods that are not considered as notifiable goods, however, in this case, ensuring the correctness of the data reported is the taxable persons' responsibility.

The tax authority continually performs on-road audits by stopping trucks to check whether taxable persons have met this reporting obligation. In the case of noncompliance, the goods transported can be confiscated, a customs seal can be placed on the truck and a 40% penalty may be

assessed based on the value of the goods. Carriers are obliged to keep the authority seal unbroken until the tax authority removes it. In the event of a road accident or other vis major events, the carrier must immediately report the damage of the seal to the National Tax and Customs Authority.

BIREG. As of 1 January 2021, a new obligation was introduced that primarily targets carriers. BIREG is an electronic registration system for international transportations. However, other parties in the transport transaction, such as senders on the loading place and receivers on the unloading place are also affected by the new BIREG obligation.

Correcting errors in previous returns. Retroactive correction of the VAT returns is possible in Hungary. In this case, the taxable person can file the same tax return (in most of the cases electronically) via ticking a specific box in the return and reporting the corrected data. Depending on the nature of the mistake, the correction can be regarded as a "self-revision" (usually, where the correction has a numerical impact on the taxable person's VAT position) or can be a simple correction.

In the case of self-revision, a self-revision surcharge should also be paid if the correction results in additionally payable VAT. The self-revision surcharge is the prime rate of the Hungarian National Bank, apportioned per day. In the case of a second self-revision of the same period, the surcharge is already higher; it is 1.5 times the prime rate.

Digital tax administration. *Invoicing software.* Taxable persons using invoicing software should possess detailed documentation of the software in Hungarian, English, German or French (such as a user manual) and retain it until the expiry of the software license. The manual does not have to be submitted to the tax authority but must be available for review during a tax audit. The documentation should contain a detailed description of the software's operation and functions. The invoicing software should be able to perform only those functions detailed in the user documentation.

The invoicing software should furthermore comply with Hungarian invoicing rules, and the user documentation should contain descriptions accordingly, even if the issuer of the invoice is a foreign enterprise having only a VAT number in Hungary or uses the company group's invoicing software developed abroad.

Invoicing software and ERP systems of taxable persons with Hungarian VAT numbers must have a special data export function. Taxable persons will need to use this function to perform data queries concerning invoicing-related information upon the request of the tax authority. The range of data to be included in the report created by the ERP system or invoicing software and the data structure of the report are predefined by law.

Live invoice data reporting. Taxable persons have to provide the tax authority with prescribed invoice data electronically and in real time, directly from their own invoicing system. Since 1 April 2021, the data of practically all invoices issued under a HU VAT number must be reported to the tax authority in real time (except for outgoing OSS invoices and invoices reported via online cash registers). This obligation is mandatory for all taxable persons.

J. Penalties

Penalties for late registration. If a taxable person fails to register for VAT, a default penalty up to HUF1 million applies. In addition, the VAT authorities may notify the taxable person of its obligation to register. The fine is doubled if the taxable person fails to register within the deadline specified by the tax authority.

Penalties for late payment and filings. A default penalty (maximum of HUF500,000) applies to the late submission of a VAT return, Intrastat return, Recapitulative Statement or Domestic Summary Report. Penalties of similar amount can be levied for other mistakes as well (e.g., for not complying with the invoicing rules; for a missing or inaccurate VAT return or Domestic Summary Report).

If the VAT liability is paid late, late-payment interest is charged. The interest rate is the prevailing prime rate of the Hungarian National Bank plus 5% multiplied by 1/365 for each day late.

If the VAT liability is not reported by the due date and this is discovered during a tax audit, the tax penalty is 50% of the tax arrears, plus late-payment interest.

Late-payment interest is not imposed if the taxable person is able to justify the default. Based on the circumstances of the individual case, the default penalty may be reduced or canceled by the tax authorities.

Taxable persons significantly not complying with tax rules (risky taxable persons) are subject to higher penalties, whereas taxable persons properly complying with the tax rules (trusted taxable persons) are eligible for lower penalties.

For the late filing of Intrastat returns, the Statistics Office can impose a penalty up to HUF2 million.

Penalties for errors. The failure to notify or late notification to the tax authorities of changes to a taxable person's VAT registration details can result in a maximum administrative fine between HUF200,000 (approx. EUR530) for private individual taxable persons to HUF500,000 (approx. EUR1,300) for other taxable persons. For further details, see the subsection above *Changes to VAT registration details.*

Late payment interest. In the event of late payment of VAT or unlawful VAT deduction, late payment interest should be paid for the period between the due date of the respective return and the minutes issued by the tax authority closing the corresponding tax audit, but for a maximum of three years.

The late payment interest shall be calculated at a rate of 1/365 of the central bank daily base rate plus five percentage points for each calendar day of the above period.

Self-revision surcharge. If the taxable person retroactively corrects its VAT liability by filing self-revision to the tax authority, it is subject to a self-revision surcharge, provided that the correction results in additional VAT liability. The self-revision surcharge should be paid at the time of filing, and it should be calculated at a rate of 1/365 of the central bank daily base rate for the period between the original due date and the filing of the self-revised VAT return (except for certain special cases).

In the case of a repeated self-revision, the payable surcharge is 1.5 times the amount calculated according to the above detailed way.

Tax penalty. In the case of tax shortage, a tax penalty should be paid that is 50% of the tax shortage.

Default penalty. Default (administrative) penalty up to HUF500,000 may be imposed in the case of taxable legal persons in the following situations (it is HUF200,000 in the case of taxable individuals):
- Improper document retention
- Late filing of (or missing to file) tax returns or reports
- Incorrect tax returns
- Missing registration or data providing obligations

Default penalty up to HUF1 million may be imposed in the following situations:
- The taxable person fails to comply with its obligation to issue an invoice, simplified invoice or receipt, or if the invoice, simplified invoice or receipt includes false value
- The taxable person conducts business activity without having a valid VAT identification number

Default penalty up to HUF500,000 per invoice may be imposed in the case of missing or incorrect live invoice data report.

EKAER. Missed EKAER reporting and the erroneous reporting of the amount or value data might result in a default penalty up to 40% of the net value of the goods transported. If the report contains errors not related to the amount or the value data (a typo in the plate number, etc.), then the general default penalties as defined in the Hungarian Act on Rules of Taxation should be applied, which is capped at HUF500,000 (approx. EUR1,300).

Qualification of taxable persons. The tax authority qualifies taxable persons on a quarterly basis. There are three categories: reliable taxable persons, general taxable persons and risky taxable persons.

In case of reliable taxable persons, the upper limit of tax penalty and default penalty is 50% of the maximum tax penalty under the general rules (with a few exceptions).

Penalties for fraud. The tax penalty is 200% of the tax shortage if it relates to the concealment of revenues, production and the use of falsified documents, ledgers or records, or the falsification or destruction of documents, ledgers or records.

Personal liability for company officers. As a general rule, the personal liability of the executive/company officers can only arise if the event relates to a criminal offense.

In the case of a criminal offense, two separate proceedings take place. One is a public administration procedure, which aims to uncover and restore the financial damages. In this case there is no individual liability, and the above listed fines are imposed on the legal entity, depending on the nature of the breach. The other one is the criminal proceeding, which aims to investigate the personal liability of the executive/company officers. If they are found guilty based on the criminal law, the penalty can be imprisonment up to three or even 10 years and prohibition on participating in public affairs, depending on the seriousness of the financial damage.

Statute of limitations. The statute of limitations in Hungary is five years. This is following the last day of the calendar year in which the given tax return is due or the tax liability should be settled.

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A. At a glance

Names of the taxes	Goods and services tax (GST): consists of central tax, state tax or union territory tax, integrated tax and GST compensation cess
Local name	Maal aur Seva Kar
Date introduced	1 July 2017 (GST)
Trading bloc membership	Asia-Pacific Trade Agreement (APTA), South Asia Free Trade Area (SAFTA), Bay of Bengal Initiative for Multi-Sectorial Technical and Economic Cooperation (BIMSTEC)

Administered by	Central tax and integrated tax are levied and administered by the Central Government State/Union Territory (UT) tax is levied and administered by the respective state government/UT
GST rates	0%, 0.25%, 3%, 5%, 12%, 18%, 28%
GST number format	Goods and Services Tax Identification Number (GSTIN) is a permanent account number (PAN)-based number in which the first two digits denote the state code. PAN is a unique identification code issued under the Indian Income Tax legislation.
GST return periods	Annually in case of businesses opting for composition scheme Quarterly for taxable persons with turnover below INR50 million Monthly (for all other taxable persons)
Thresholds	
Registration	
Supplier of goods only	In specified special category states – INR1 million In some states who have not opted higher threshold limit – INR2 million In all other states – INR4 million
Other suppliers	In specified special category states – INR1 million In all other states – INR2 million
Recovery of GST by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

A dual GST model is implemented in India where taxes are levied by both central and state governments on a common base.

GST levied by the Center is known as central tax (CGST) and that levied by states or union territories is known as state tax (SGST) or union territory tax (UTGST). Intrastate supply of goods and services attract CGST and SGST/UTGST in equal proportion.

Further, integrated tax (IGST) is levied by the Central Government on interstate supply of taxable goods and services. It is equivalent to sum of CGST and SGST.

Additionally, to compensate the states for the loss in tax revenue on account of subsuming some of the state taxes in GST, compensation cess is levied on certain specified supplies, such as luxury and sin products.

The CGST and SGST/UTGST or IGST applies to all supplies of goods and services except the exempt supplies and the supplies that are outside the purview of GST, like alcohol for human consumption and petroleum products.

The scope of supply for levy of GST is very wide. It includes all forms of supply such as sale, transfer, barter, exchange, etc., made or agreed to be made for a consideration by a person in the course or furtherance of business. Import of services for a consideration is considered a supply, whether or not it is in course or furtherance of business. Certain prescribed activities are treated as supply even if they are made without consideration. Examples of such activities include the supply of goods or services between related or distinct persons, between principal and agent, permanent transfer or disposal of business assets on which input tax credit has been availed. Certain transactions are specified to be treated as a supply of goods or a supply of services. A

few transactions are specified to be neither treated as a supply of goods nor supply of services, thus making them nontaxable. Such transactions include services by an employee to the employer in course of employment, sale of land or completed buildings.

Alcoholic liquor for human consumption has been kept out of the scope of GST. Instead, it attracts state excise duty and VAT. In addition to GST, tobacco continues to attract Central excise duty. GST will be levied on petroleum products, namely, crude petroleum, high speed diesel, motor spirit, natural gas and aviation turbine fuel, following recommendation by the GST Council; until such recommendation, these products will continue to attract Central excise duty and VAT.

There are also special supplies that are treated as zero-rated supplies. See Section D. Rates below for further detail.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in that jurisdiction where it has customers that are not taxable persons.

In India, to avoid double taxation or non-taxation, the place of supply of services in case of 1) maintenance, repair and overhaul (MRO) services in respect of aircrafts, vessels and its parts and 2) research and development services related to pharmaceutical sector, has changed from performance based to the location of the recipient. However, there is no requirement for a non-established supplier to register for GST in India, because the Indian resident recipient will self-account the tax under reverse-charge mechanism.

Transfer of a going concern. Normally the sale of the assets of a GST-registered or GST-registrable business will be subject to GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from GST under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as exempt from GST. The Indian GST law doesn't prescribe any specific conditions to treat a TOGC as exempt from GST. However, based on previous judicial pronouncements and other jurisdictional guides, the following criteria must be applied in to qualify a transaction as TOGC:

- The assets must be sold as part of the transfer of a "business" as a "going concern."
- Not all assets and liabilities are required to be transferred. If enough assets and liabilities are transferred so that the buyer can continue the business, it will suffice.
- The assets are to be used by the purchaser with the intention of carrying on the same kind of "business" as the seller.

Transactions between related parties. In cases where the supplier and the recipient are related persons or the price is not the sole consideration for the supply, the taxable value is to be determined under the prescribed valuation rules.

Persons are deemed to be "related" for these purposes if the following conditions apply:

- The persons are officers or directors of one another's businesses
- The persons are legally recognized partners in business
- The persons are employer and employee
- Any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of the entities
- One of them directly or indirectly controls the other
- Both of them are directly or indirectly controlled by a third person
- Together they directly or indirectly control a third person
- They are members of the same family

Persons who are associated in the business of one another, in which one is the sole agent or sole distributor or sole concessionaire, are also deemed to be related.

If a person with the same PAN has two or more GST registrations (whether in the same state or different states), each such registered establishment must be treated as establishments of distinct persons.

There are specific provisions to value supplies between related or distinct persons. The same is as follows:
- Open market value of such supply
- If the open market value is not available, the value of supply of goods or services of like kind and quality
- If the value is not determinable as above, 110% of the cost of production/provision of such services or by using reasonable means consistent with the principles and the general provisions of valuation under GST

However, where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person. Also, where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value.

Valuation and discounts. Generally, the transaction value is considered as the taxable value for applying GST. Certain items that must be included in the taxable value are prescribed under the GST legislation. They include any interest or penalty for delayed payment of the consideration for a supply, and incidental expenses, including commission and charges for packing, charged by the supplier to the recipient of supply.

Discounts are not included in the taxable value if they are duly recorded in the invoice. Any post-sale discount should be in accordance with the contractual terms and be specifically linked to the relevant invoice.

C. Who is liable

A person who is registered under GST is liable to pay tax. The liability to pay tax is generally the obligation of the supplier. However, in certain specific cases prescribed under the GST law, the recipient of goods or services is obliged to pay the tax.

All suppliers whose aggregate turnover in a financial year exceeds the prescribed turnover threshold are required to register for GST.

In case of persons exclusively engaged in the supply of goods, the threshold limit is INR4 million. In some states that have not opted for higher threshold, the limit of INR2 million is applicable. Further, in specified special category states, the threshold limit is INR1 million.

In case of all other supplies, the threshold limit is INR2 million. However, in specified special category states, the threshold limit is INR1 million.

The following persons are required to register, irrespective of their turnover:
- Casual taxable persons making taxable supplies; a casual taxable person is any person who occasionally undertakes transactions of supply in a state or a union territory where the person has no fixed place of business
- Persons who are required to pay tax under the reverse-charge provisions
- Persons making interstate supplies of goods (except handicraft goods)
- Nonresident taxable persons making taxable supplies Thus, any person who has no fixed place of business or residence in India, but who occasionally undertakes transactions of supply of goods or services in India, must mandatorily obtain GST registration.

- Persons who are required to deduct tax at source
- Persons who make taxable supplies of goods or services, or both, on behalf of other taxable persons whether as an agent or otherwise
- Input service distributors
- Electronic commerce operators who are required to collect tax at source
- Persons supplying online information and database access or retrieval services from a place outside India to an unregistered person in India
- Persons supplying online money gaming from a place outside India to a person in India

Exemption from registration. The following persons are not liable to register for GST:

- Any person engaged exclusively in the business of supplying goods or services that are not liable to tax or that are wholly exempt from tax
- An agriculturist (farmer), to the extent of the supply of produce resulting from the cultivation of land
- Persons who are only engaged in making supplies of taxable goods or services, the total tax on which is liable to be paid via the reverse-charge mechanism
- Any other category of persons that may be notified by the government

Voluntary registration and small businesses. An entity that has turnover below the threshold may apply to register for GST voluntarily.

Group registration. Group GST registration is not allowed in India. However, a single registration can be obtained for all business units of the same legal entity within a state. Different legal entities under the same group cannot register as a single person.

Unless the taxable person obtains separate registration for a place of business in the state, all places of business in a state will be covered under single registration.

There is no minimum time period required for the duration of a single registration for all business units of the same legal entity within a state. Because there is no concept of group GST registration in India, there is no joint and several liabilities between group members. Each legal entity is responsible for its own GST debts and penalties.

Fixed establishment. The term "fixed establishment" is defined for GST purposes as a place (other than the registered place of business) that is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs. The same is used to determine location of the supplier and recipient of services.

Non-established businesses. A nonresident taxable person means any person who occasionally undertakes transactions involving the supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. The law has not defined the term "occasionally." Practically, a view has been formed that if the taxable person has undertaken business on a regular or frequent basis, then normal GST registration may be required to be taken in India. Such a person can register for GST on its own, or it can appoint a tax representative to register it on its behalf. Appointing a tax representative is optional and not mandatory for the non-established business.

Non-established suppliers providing online information and database access or retrieval (OIDAR) services to any unregistered person in India (i.e., business-to-consumer (B2C)), are required to register and account for GST. An "unregistered person" for the above purpose will also include a person registered solely for the purpose of deducting tax at source.

In addition, non-established suppliers providing online money gaming to any person in India (B2C) are also required to register and account for GST. "Online money gaming" means online gaming in which players pay or deposit money or money's worth in the expectation of winning

money or money's worth in any event including game, scheme, competition or any other activity or process. This is irrespective of whether the outcome or performance is based on skill or chance and whether the same is permissible or otherwise under any other law in India.

Tax representatives. Practicing chartered accountants, advocates, employees of a taxable person and other persons set out in the law can be authorized to represent a taxable person before the tax administration and courts of law. However, in India it is not mandatory to appoint a tax representative. A nonresident business can directly register for GST or can also appoint a tax representative. Hence, both the options are available.

Reverse charge. For certain supplies of goods and services, the tax due is payable by the recipient, instead of supplier, under the reverse-charge mechanism. In the case of import of services, the recipient importer is required to discharge the GST on reverse-charge basis.

Domestic reverse charge. The domestic reverse charge is applicable for prescribed domestic supplies. Examples of such supplies include services performed by a goods transport agency for the transportation of goods by road, services provided by an advocate, sponsorship services and renting of motor vehicle. There is also a provision requiring the recipient procuring goods or services from any unregistered person to pay tax under the reverse charge. At present, this provision has been made applicable for certain category of supplies in real estate sector.

Digital economy. For online information and database access or retrieval services provided by a person located in a nontaxable territory to an unregistered recipient in India (B2C), the tax is payable by such nonresident supplier by registering for GST in India, regardless of the turnover. For business-to-business (B2B) supplies of such services, tax is payable by the GST registered recipient, under the reverse-charge mechanism.

A nonresident supplier supplying online money gaming to any recipient in India (B2C) is also required to register and pay GST in India. This is regardless of the recipient being registered or unregistered in India (see the "*Non-established businesses*" subsection above).

There are no other specific e-commerce rules for imported goods in India.

Online marketplaces and platforms. Online marketplaces/platforms (referred in the GST law as "e-commerce operators") are required to collect tax at source at 1% of value of taxable supplies made through it by other suppliers. The requirement to collect tax at source is applicable only in cases where the consideration with respect to such supplies is collected by the e-commerce operator. They are required to register for such collection of tax at source, regardless of their turnover.

Further, GST in respect of certain notified categories of services supplied by other suppliers through e-commerce operators (*viz.*, accommodation, housekeeping, transport of passengers by motor vehicle and restaurant services) shall be paid by such operators as if it is the supplier liable for paying tax in relation to supply of such services.

Registration procedures. The application for GST registration must be completed online. Scanned copies of the documents prescribed by law must be submitted along with the application for registration. The documents required to be submitted for GST registration include:
- Constitution of business (e.g., certificate of incorporation)
- Proof of principal place of business
- Bank account-related proof
- Authorization form and board resolution appointing authorized signatory

The applicant will also have to undergo Aadhar authentication, failing which, the tax authorities will do a physical verification of the place of business of the applicant. After undertaking a review of the application and the documents submitted with it, the relevant authorities grant a GST registration certificate to the applicant.

Aadhar is a 12-digit unique identity number allotted by the Government to the citizens of India and resident foreign nationals, based on their biometric and demographic data. Once the Aadhar number is submitted along with the application for registration, the applicant will be required to electronically verify its details on the GST Portal using the authentication link sent to the mobile number and the e-mail-id linked to the Aadhar. It consists of a one-time password (OTP) that must be entered on the Portal, and it gets electronically validated. Aadhar authentication is mainly to verify the identity of the taxable person to avoid any false registrations.

Deregistration. A GST registration can be canceled if the business is discontinued or transferred fully or if there is a change in the constitution of the business or if the person is no longer liable for compulsory registration.

Changes to GST registration details. If there is any change in a taxable person's GST registration details, the registered person should submit an application online for an amendment in registration particulars. The application needs to be submitted within 15 days of the time the change took place.

When there is a change in constitution of the registered person, resulting in change in the Permanent Account Number (PAN), then application for new registration should be made.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GST, including the zero rate.

The GST rates for goods and services are 0.25%, 3%, 5%, 12%, 18% and 28%. Some goods and services are exempt from tax, while items of gold and precious stones attract lower GST rates of 3% and 0.25%, respectively. GST compensation cess (see Section B. *Scope of the tax*) at varying rates is levied on supplies of certain specified goods and services.

Examples of goods and services taxable at 0.25% and 3%

- Diamonds and other precious stones
- Gold
- Silver

Examples of goods and services taxable at 5%

- Coal and biogas
- Air transport of passengers in economy class
- Restaurants
- Construction services of residential apartment

Examples of goods and services taxable at 12% and 18%

- Electrical apparatus for radio and television broadcasting
- Hotel accommodation
- Intellectual property rights
- Construction services (other than residential apartments)
- Banking services

Examples of goods and services taxable at 28%

- Motor cars
- Air conditioners
- Aerated drinks
- Access to race clubs and casinos
- Online money gaming

Examples of goods attracting compensation cess

- Tobacco and tobacco products
- Motor cars

The term "exempt supplies" refers to supplies of goods and services that are not liable to tax and do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Fruits and vegetables
- Access to a road or a bridge by payment of toll charges
- The transfer of a going concern

Examples of goods and services taxable at 0% (i.e., zero-rated supplies)

- Exports
- Supplies to a special economic zone (SEZ) unit of SEZ developer

The tax rate of such supplies is not zero as such, but they are so termed because the net incidence of tax in such cases is nil.

A registered person may make zero-rated supplies without payment of tax under a bond or Letter of Undertaking. Subsequently, the supplier can claim refund of unutilized input tax credit. Alternatively, a zero-rated supply can be made on payment of tax, which can be claimed as a refund subsequently. Presently, this option is not available for the supply of specified tobacco related products.

Exports should be free of taxes, as per the government policy, and therefore all the taxes that are paid in relation to exports are ultimately refunded. In some cases, either the exporter or the supplier to a SEZ may not want to get into the process of filing a bond or Letter of Undertaking, in which case, they may prefer to pay tax on export (or supply to a SEZ) by way of utilization of the input tax credit on procurements and then claim the cash refund of tax so paid.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in India.

E. Time of supply

The time of supply for goods is the date on which an invoice is issued or the last date on which invoice is required to be issued. However, time of supply in respect of a specified actionable claim shall be the earlier of the date on which the invoice is issued/required to be issued or the date of receipt of consideration. A "specified actionable claim" means an actionable claim involved in betting, casinos, gambling, horse racing, lottery or online money gaming.

For services, the time of supply is the date of the invoice or receipt of the consideration, whichever is earlier. However, if the invoice is not issued within a prescribed time limit, the time of supply is the date of provision of the service or receipt of the consideration, whichever is earlier.

Deposits and prepayments. A deposit given in respect of a supply of goods or services, or both is not considered as payment made for that supply unless the supplier treats the deposit as consideration for the supply. Prepayment for a supply of goods does not trigger tax payment (except for specified actionable claim). However, prepayment for a supply of service triggers a tax payment (as discussed in the sections above).

Continuous supplies of services. There are no separate provisions for determining the time of supply for the supply of continuous supply of services. However, the time of supply is linked to the issuance of invoices, and there are separate provisions for the issuance of invoices in the case of continuous supply of services. If the due date for payment is ascertainable from the contract for continuous supply of services, then the invoice should be issued on or before the due date of payment. If the due date of payment is not ascertainable from the contract, then the invoice

should be issued before or at the time when the supplier of the service receives the payment. If the payment is linked to the completion of an event, the invoice must be issued on or before the date of completion of that event.

Goods sent on approval for sale or return. There are no separate provisions for determining the time of supply for the supply of goods sent on approval for sale or return. However, the time of supply is linked to the issuance of invoices and the invoice in this scenario shall be issued before or at the time of supply (actual supply) or six months from the date of removal, whichever is earlier.

Reverse-charge services. For taxable services provided by a supplier located outside India and received in India, IGST must be paid by the recipient in India under the reverse charge. The time of supply is the date when payment is made to the foreign supplier. If the payment is not made within 60 days of the date of invoice, the time of supply is the date immediately following the end of the 60-day period.

For transactions with associated enterprises, the time of supply is the date of entry in the books of account of the recipient or the date of payment, whichever is earlier.

Leased assets. There are no special time of supply rules in India for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. IGST and compensation cess (if applicable) are levied at the time of importation of goods and they are collected as a part of customs duty.

Vouchers. If the supply is identifiable at the time of issuance of the voucher, the time of supply is the date of issue of the voucher, otherwise, the time of supply is the date of redemption of the voucher.

F. Recovery of GST by taxable persons

A registered person is entitled to take credit for tax charged on goods or services procured by it, provided they are procured in the course or furtherance of business; this is called input tax credit (ITC). IGST and compensation cess (if applicable) paid at the time of import are also available as input tax credit. Such input tax credit can be utilized to discharge the taxable person's liability for GST on sales (output tax).

A valid tax invoice and the actual receipt of the goods or services are mandatory conditions for claiming input tax credit.

The recipient of a supply is not eligible to claim input tax credit if the supplier has not paid the output tax on that supply to the Government.

Further, input tax credit shall not be allowed to a taxable person if the corresponding invoices are not reported by the supplier in its returns, thus restricting the input tax credit to the extent of matched invoices.

The input tax credit cannot be claimed beyond a stipulated time frame. This time frame is the earlier of:

- 30 November following the end of financial year to which the invoice relates
  Or
- Submission of the relevant annual return for the financial year to which the invoice relates

If the recipient fails to pay the value of the supply and GST charged thereon to the supplier within a period of 180 days from the date the invoice was issued, the credit that has been taken needs to be reversed along with payment of interest (in case credit has been utilized). However,

the credit can be reclaimed subsequently when payment is made to the supplier and the above time limit shall not apply.

Input tax credit for IGST should be first utilized to discharge output tax on account of IGST. The remaining IGST credit can be utilized towards payment of CGST and SGST, in any order.

After utilizing the IGST credit fully, the ITC of CGST can be utilized against output tax of CGST and then IGST. In the same manner, SGST credit can be utilized for payment of SGST first and then IGST.

CGST credit cannot be utilized for payment of SGST and vice versa.

Nondeductible input tax. Input tax credit is not available for goods and services used for making exempt supplies or for a nonbusiness purpose. For this purpose, the value of exempt supplies includes supplies on which the recipient is liable to pay tax on the reverse-charge basis, transactions in securities and the sale of land or completed buildings and excludes interest on loans and deposits (other than in the case of banks and financial institutions).

Further, the GST law specifies a list of goods and services for which no input tax credit is available.

Examples of items for which input tax is nondeductible

- Motor vehicles for transportation of persons with seating capacity up to 13 persons (except in specified circumstances)
- Goods or services received by a taxable person, which are used or intended to be used for activities relating to its obligations under corporate social responsibility
- Membership of a club, health or fitness center
- Goods or services for the construction of immovable property (except plant and machinery) on own account; for this purpose, plant and machinery excludes land, building or any other civil structure, telecommunication tower and pipelines laid outside a factory
- Goods or services used for personal consumption
- Goods lost, stolen, destroyed, written off or disposed of as a gift or free sample

In addition, tax charged by a taxable person who has opted for the composition scheme is not eligible as input tax credit.

Examples of items for which input tax is deductible (if related to a taxable business use)

- Hotel accommodation of employees
- Lease rentals for office premises
- Motor vehicles for transportation of persons with seating capacity of more than 13 persons

At the time of booking the invoice, the taxable person must check whether the expense relates to the cases for which input tax is not deductible.

Partial exemption. If the goods or services acquired by a business are used for making both taxable and exempt supplies, the input tax credit is allowed proportionately to the extent of the value of the taxable supplies made. A formula has been prescribed for apportioning the credit, based on turnover of taxable and exempt supplies. A banking company or a financial institution engaged in supplying services by way of accepting deposits, extending loans or advances has the option to either claim a proportionate credit as above or take 50% of the eligible input tax credit.

Approval from the tax authorities is not required to use the partial exemption standard method in India. Special methods are not allowed in India.

Capital goods. Goods whose value is capitalized in the accounts of the business are treated as capital goods for GST purpose.

Input tax credit on capital goods can be claimed fully once the goods are received by the recipient. However, credit is not available if the capital goods are used for nonbusiness purpose or for making exempt supplies. If the capital goods are used partly for taxable and partly for exempt supplies, the credit attributable to exempt supplies has to be reversed every month for a period of five years. A formula has been prescribed for determining such an amount of reversal.

On sale of capital goods, the higher of the following amounts is payable:
- An amount equal to the input tax credit taken on the capital goods reduced by prescribed percentage points
- Tax on the transaction value of supply

Refunds. Refunds can be claimed for tax paid on zero-rated supplies or deemed export supplies. Refunds of unutilized input tax credit can be claimed if the purchases are used in making zero-rated supplies or if the credit has been accumulated because the tax rate on inputs acquired by the taxable person is higher than the tax rate on the person's output supplies.

Certain supplies (such as the supply of goods to an export-oriented unit) are treated as deemed exports. For deemed exports, either the recipient or the supplier can claim a refund of the tax paid.

Pre-registration costs. A registered person who is newly registered for GST is entitled to take credit for input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date the registration is granted.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in India.

Noneconomic activity. Input tax incurred on purchases that are not used in the course or furtherance of business is not recoverable in India.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that do not have any presence in India is recoverable in certain instances. Where a non-established business is registered as a nonresident taxable person, only the IGST and cess paid on import of goods by such person can be recovered.

In addition, input tax can be recovered by non-established businesses that are registered for the purpose of paying tax on the provision of online information and database access or retrieval services and online money gaming provided by it.

H. Invoicing

GST invoices. A registered taxable person must issue a tax invoice for all supplies of taxable goods or services. For exempt supplies or supplies made by a person who has opted for the composition scheme, a "bill of supply" must be issued instead of a tax invoice. A registered person making both taxable as well as exempt supplies to an unregistered person may issue a consolidated invoice-cum-bill of supply.

While no standard format has been prescribed for invoices and bills of supply, certain details must be included in the relevant document, such as a description of the supply, the value, details of the recipient and the Harmonized System of Nomenclature (HSN) code, etc.

The time limit for issuing an invoice depends on the nature of the supply, specifically, whether it is a supply of goods or services.

For a supply of goods, a tax invoice should be issued before or at the time of:
- Removal of goods (where supply involves movement of goods)
  Or
- Delivery or making goods available to the recipient

For services, a tax invoice should be issued within 30 days of provision of the services. Banking and insurance companies need to issue invoice within 45 days from the date of the supply of service.

For a continuous supply of goods, where successive statements of account or successive payments are involved, the invoice should be issued before or at the time when the periodic statement is issued, or payment is received.

For a continuous supply of services, if the due date for payment is ascertainable from the contract, the invoice should be issued on or before the due date for payment. If the due date of payment is not ascertainable from the contract, the invoice should be issued before or at the time when the supplier of the service receives the payment. If the payment is linked to the completion of an event, the invoice should be issued on or before the date of completion of that event.

For goods sent on approval for sale or return, the invoice should be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Whenever a registered person receives an advance payment with respect to any supply of goods or services or both, it must issue a receipt voucher evidencing the receipt of the payment. If a receipt voucher is issued, but subsequently no supply is made and no tax invoice is issued, a registered person who has received an advance payment can issue a refund voucher against the payment.

Credit notes. Adjustments such as an increase or reduction in the taxable value can be done through debit notes and credit notes. Any credit notes should be issued no later than 30 November of the year following that in which the supply was made or by the date of filing of the relevant annual return, whichever is earlier.

Electronic invoicing. Electronic invoicing is mandatory in India for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in India.

For B2B and B2G supplies, from 1 August 2023, all taxable persons whose aggregate turnover in any financial year exceeds INR50 million must follow the procedure prescribed for electronic invoicing with respect to supplies made to registered persons and for exports. Such invoices should contain an invoice reference number (IRN), which should be obtained by uploading specified information on the Common GST Electronic Portal. Note that government departments, local authorities, insurers, banking companies, financial institutions, goods transport agencies, suppliers engaged in passenger transportation services and SEZ units are exempt from the above requirement.

For B2C supplies, taxable persons that have an aggregate turnover of more than INR5 billion in any preceding financial year from 2017-18 onward are required to provide a dynamic quick response (QR) code on invoices issued to unregistered customers (B2C invoices). The dynamic QR code must contain details of the supplier, invoice, the payee's bank account and the GST amount. The dynamic QR code should be capable of being scanned to make a digital payment.

In case of exhibition of cinematograph films in multiplex screens, it is mandatory to issue an electronic ticket (which will be considered as tax invoice).

Where invoices are generated and issued electronically, signature of supplier or its authorized representative is not required.

Simplified GST invoices. For insurance companies, banking or financial institutions, multiplexes and suppliers of passenger transport services, certain requirements for invoicing have been relaxed. The relaxation is mainly with respect to details of service recipient and serial number of documents. Insurance companies, banking or financial institutions also have the option to issue consolidated tax invoice at the end of the month.

Self-billing. Self-billing is allowed in India. It is allowed where the tax due is payable by a customer for a supply subject to the reverse-charge mechanism, and the supplier is not registered for GST; then the customer is required to operate a type of self-billing. This is done by the customer issuing an invoice in respect of the goods or services received from the unregistered supplier.

Proof of exports. Export invoices must carry an endorsement indicating the option exercised by the exporter and must contain the name and address of the recipient, address of delivery and the name of the country of destination.

In case of exports without payment of tax, goods must generally be exported within three months from the date of invoice.

Foreign currency invoices. Generally, invoices are issued in the domestic currency, which is the Indian rupee (INR). However, for exports, the invoices may be issued in foreign currency. In such cases, GST rules provide for adopting a rate of exchange for determining taxable value.

For goods, the rate of exchange will be the rate notified by Central Board of Indirect Taxes and Customs under the Customs Act. For services, the rate of exchange will be the rate determined as per generally accepted accounting principles on the date of time of supply of such services..

Supplies to nontaxable persons. A registered person is not required to issue a tax invoice if the value of the supply to unregistered persons is less than INR200 and the recipient does not require an invoice. For a supply made by a registered person to an unregistered person below the value of INR50,000, the supplier is allowed to issue a document without the name and address of the recipient of the supply and the address of delivery. However, in above case, where the transaction involves taxable supply of services by or through online marketplace/platforms or supply of online information and database access or retrieval services or online money gaming, the invoice shall contain the name of the state of the recipient.

Records. Every GST-registered person is required to maintain the prescribed accounts and records. In India, examples of what records that must be held for GST purposes include details of inward and outward supplies, stock of goods, input tax credit availed, GST paid on outward supplies. Relevant documents like invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers are to be preserved.

In India, VAT books and records can be kept outside of the country. This is only allowed if the taxable person does not have any place of business in India. Such records are required to be maintained at the principal place of business (i.e., this can be physically in India or outside). Where there are additional places of business mentioned in the registration certificate, the accounts relating to each additional place of business should be kept at such place.

Record retention period. The accounts and records are required to be retained for 72 months (i.e., 6 years) from the due date of furnishing of annual return for the year pertaining to such accounts and records.

Electronic archiving. Electronic archiving is allowed in India. The records can be kept and archived electronically, subject to certain conditions. However, invoices received from supplier in physical form need to be maintained in their original form if input tax credit is taken with respect to such invoices.

I. Returns and payment

Periodic returns. A return containing a summary of inward and outward transactions must be filed and GST payment is to be made on a monthly basis by the 20th of the next month. Also, a return containing invoice details of outward supplies is to be filed on monthly or quarterly basis, as applicable by 11th of the next month.

Taxable persons with turnover of less than INR50 million can file returns on a quarterly basis with tax payments to be done monthly.

Persons who have opted for the composition scheme have to file returns annually and make payment of tax quarterly.

Periodic payments. The tax liability pertaining to a specific month must be paid by the 20th of the succeeding month. However, taxable persons with an aggregate turnover up to INR50 million in the previous financial year must pay tax on or before the 22nd/24th of the succeeding month, depending on the state of registration.

The tax due can be paid using internet banking, credit or debit cards, national electronic fund transfer, real-time gross settlement or any other prescribed method.

Interest is levied with respect to nonpayment or late payment of tax. The rate of interest for a delay in payment of tax is 18% per annum.

Electronic filing. Electronic filing is mandatory in India for all taxable persons. The returns are to be filed on the common online portal at www.gst.gov.in. Before filing the return for a tax period, the return for all previous tax periods must also be filed with the tax authorities.

Payments on account. Payments on account are not required in India.

Special schemes. *Composition scheme.* Manufacturers, traders and restaurants with turnover of up to INR15 million may opt for taxation under the "composition scheme." Under this scheme, suppliers pay tax at a flat rate on all their supplies, with no right of input tax credit for the tax paid on their purchases. The flat rate for manufacturers and traders is 1%. For restaurants, the tax rate is 5%. Certain conditions are prescribed for opting for the composition scheme, such as the supplier is not engaged in making interstate supplies of goods or supplies not subject to tax. A manufacturer or trader opting for this composition scheme can provide services only up to the specified limit.

Flat rate scheme for other small businesses. Other businesses can opt to pay tax at a flat rate of 6% if their turnover in the preceding financial year is up to INR5 million, subject to certain conditions.

Secondhand goods. Traders dealing in buying and selling of secondhand goods have an option to pay tax on the margin, i.e., the difference between the selling price and the purchase price, without recovery of input tax on purchase of goods.

Similarly, there are specific schemes for taxing the transactions of money exchange bureaus, air travel agents, and life insurance businesses.

Annual returns. Every registered person must submit an annual GST return for each financial year by 31 December following the end of the financial year. This is in addition to the monthly/quarterly GST returns (see the Periodic returns subsection above). Taxable persons with an aggregate turnover up to INR20 million have been exempted from filing annual return for FY 2022-23.

Supplementary filings. Taxable persons that have an aggregate turnover exceeding INR50 million are required to submit a self-certified reconciliation statement, along with the annual return (external certification in earlier periods).

Correcting errors in previous returns. Any omission or incorrect particulars should be disclosed or rectified in the return for the subsequent period during which the same was noticed. However, rectification is not allowed after 30 November following the end of relevant financial year or after the annual return for that financial year has been filed, whichever is earlier. There are no separate provisions for submitting corrections in paper or in person by approaching tax authorities.

Digital tax administration. There are no transactional reporting requirements in India.

J. Penalties

Penalties for late registration. A penalty of INR20,000 may apply for failure to obtain a registration.

Penalties for late payment and filings. Nonpayment of tax, an incomplete tax payment, an incorrect refund or incorrect use of input tax credit is liable to a penalty of INR20,000 or 10% of the tax due, whichever is higher.

The late filing of periodic returns also attracts a penalty calculated on a daily basis with maximum cap of INR10,000.

Relief from the penalty due is provided if the defaulter pays the tax due with interest as and when a "show cause" notice is issued by the appropriate authority. The penalty must be paid only in cash (i.e., input tax credit cannot be used to pay the penalty).

Penalties for errors. A penalty is imposed on other offenses including the following: issuing incorrect or fake invoices, noncompliance while transporting goods, distribution of input tax credits by an input service distributor by not following prescribed provisions and non-maintenance of books that must be maintained by law. Most of these offenses attract a penalty at INR20,000 or an amount equivalent to the tax amount involved, whichever is higher.

Penalties for fraud. If any offense is carried out with fraudulent intention, the penalty is INR20,000 or an amount equivalent to the tax due, whichever is higher.

Personal liability for company officers. If any offense is committed by a company under the GST law, proceedings can be initiated against every person who, at the time of the offense, was in charge of and was responsible to the company for the conduct of its business. If it is found that an offense has been committed with the consent or due to the negligence of any director, manager, secretary or other officer of the company, then such persons would also be deemed guilty, and proceedings can be initiated against them as well.

If the person proves that the offense was committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offense, then they shall not be liable for punishment.

If any tax, interest or penalty due from a private company cannot be recovered, then, every person who was a director of the company during such period is jointly and severally liable for such payment unless they prove that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on their part in relation to the affairs of the company.

Statute of limitations. The statute of limitations in India is three years. In case of nonpayment or underpayment of the tax, an incorrect refund or an incorrect recovery of input tax, the tax authorities can issue a demand order within three years from the due date of the filing of the relevant annual return or the date of erroneous refund.

In cases involving fraud, the tax authorities have a period of five years, instead of three years, to issue the demand order.

Indonesia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Pajak Pertambahan Nilai (PPN)
Date introduced	31 December 1983 (*effective date of application was 1 July 1984*)
Trading bloc membership	Association of South East Asian Nations (ASEAN)
Administered by	The Directorate General of Taxation (http://www.pajak.go.id)
VAT rates	
Standard	11%
Other	Zero-rated (0%) and exempt
VAT number format	11.111.111.1-111.111
VAT return periods	Monthly
Thresholds	
Registration	IDR4.8 billion (small businesses)/None (other businesses)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- Deliveries of taxable goods and taxable services within the Indonesia Customs Area done in the course of business by a taxable entrepreneur
- Imports of taxable goods into Indonesia, regardless status of the importer

- The use of taxable services and intangible goods from overseas within the Indonesia Customs Area
- Export of taxable goods (tangible or intangible) and/or taxable services by a taxable entrepreneur
- Self-construction activities performed outside the course of business or work by an individual or company if the results are for the person's own use or for the use of others
- Deliveries of assets not originally acquired for sale; an exemption applies if the input tax on the acquisition cannot be credited because the purchase was not related to business or because it was a purchase of a sedan or station wagon
- The definition of delivery of taxable goods excludes delivery of taxable goods under a consignment
- The delivery of taxable goods as equity contribution shall not be regarded as a taxable delivery if:
  - Both transferor and the transferee are registered as a taxable person (i.e., a "VAT-able entrepreneur")
  - The purpose of taxable goods is "delivery for a capital contribution to a company" as defined by the VAT law

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Indonesia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Indonesia, a TOGC is referred to as a transfer of taxable goods, and when to the effect of a merger, amalgamation, expansion, demerger and business takeover, as well as transfer of taxable goods for the purpose of paying for capital in lieu of shares, provided that the transferor and the transferee are taxable persons, the transaction is excluded in the definition of delivery of taxable goods (i.e., is treated as outside the scope of VAT). A "demerger" is defined as a separation of businesses as referred to in the law that governs limited liability companies.

The specific VAT treatment of a transfer of taxable goods to the effect of a merger, amalgamation, expansion, demerger and business takeover, as well as a transfer of taxable goods for the purpose of paying for capital in lieu of shares, is as follows:

- Where the transaction is between a taxable person and another taxable person, it is excluded from the definition of delivery of taxable goods; thus no VAT is payable.
- An entrepreneur who has not been, or is not confirmed to be, a taxable person is included in the definition of delivery of taxable goods; thus, VAT is payable but not collected by that entrepreneur because it has not been, or is not confirmed to be, a taxable person.
  Or
- A taxable person to an entrepreneur who has not been, or is not confirmed to be, a taxable person is included in the definition of the delivery of taxable goods; thus VAT is payable and must be collected by the taxable person. In the event that the transferred taxable goods are in the form of assets, which according to their original purpose are not for sale, then the VAT to be imposed on the transfer of taxable goods is in accordance with the provisions that govern the delivery of taxable goods in the form of assets, which according to their original purpose are not for sale.

Transactions between related parties. In Indonesia, for a transaction between related parties, the value for VAT purposes is calculated on the basis of the fair market price at the time the delivery of taxable goods or taxable services is made. If the effect of the special relationship is the possibility of the price being set to be lower than the market price, then in this case, the Director General of Taxes has the authority to adjust the selling price or reimbursement that becomes the tax imposition base with the fair market price applicable in the free market.

C. Who is liable

All businesses engaged in supplies of goods or services subject to VAT are required to register for VAT as "taxable entrepreneurs," unless they qualify as small entrepreneurs (i.e., they do not meet the minimum criteria of gross turnover of IDR4.8 billion as mandated in the regulation). This requirement also applies to any permanent establishment of a nonresident business located in Indonesia.

Exemption from registration. The VAT law in Indonesia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. It is possible for a taxable business that is not required to register for VAT under the VAT law in Indonesia (e.g., because it makes supplies within the scope of VAT, but its turnover is lower than any registration threshold) to register for VAT on a voluntary basis (e.g., because all its supplies are made to other businesses and it wants to recover input tax on its purchases).

A business qualifies as a small entrepreneur if its gross annual turnover (from supplies of goods or services) does not exceed IDR4.8 billion.

Group registration. Group VAT registration is not allowed in Indonesia.

Fixed establishment. In Indonesia there is no legal definition of a fixed establishment for VAT purposes. The income tax law defines permanent establishment, but does not apply for VAT.

Non-established businesses. Non-established businesses cannot register for VAT in Indonesia. They must have a permanent establishment located in Indonesia to register for VAT. However, non-established businesses that sell digital goods and/or services could be appointed by the Director General of Taxes (DGT) as VAT Collectors on delivery of digital goods and/or services.

Tax representatives. A legal requirement to appoint a fiscal representative in Indonesia by a non-established business is not imposed. However, the business may appoint a proxy to satisfy VAT compliance requirements in Indonesia.

Reverse charge. VAT is imposed on utilization of taxable services and intangible taxable goods provided by overseas entities inside the Indonesia Customs Area. The VAT shall be self-assessed by the party that receives the taxable services and intangible taxable goods.

Utilization of intangible taxable goods and taxable services shall occur at the earliest of the following moments:

- The acquisition price is declared as debt by the party that receives them.
- The selling price of intangible taxable goods or reimbursement for taxable services is collected by the party who delivers them.
- The acquisition price of intangible taxable goods or taxable services is paid, entirely or in part, by the party who utilizes them.

Depending on the status of the party who utilizes the taxable service or intangible taxable goods, the paid self-assessed VAT shall be claimed as a tax credit or claimed as a cost. Provided certain conditions are met, the self-assessed VAT assessed by the tax auditor and reflected in the VAT assessment can still be credited.

Domestic reverse charge. There are no domestic reverse charges in Indonesia.

Digital economy. Effective 1 July 2020, *Perdagangan Melalui Sistem Elektronik [PMSE])* VAT (i.e., trading through an electronic system) is liable to VAT at a rate of 11% and shall be imposed on imported digital goods and/or services in the context of business-to-business (B2B) and business-to-consumer (B2C) transactions. A customer is an individual or entity that provides an Indonesian billing address or mailing address for its account with the seller, uses payment facilities such as credit or debit cards issued by Indonesian financial institutions, and/or places orders using Indonesian internet protocol addresses or country calling codes.

Digital goods are any intangible goods in the form of electronic or digital information, including goods that are converted in this format and goods that are originally in an electronic format, but are not limited to software, multimedia and/or electronic data.

Digital services are any services sent through the internet or an electronic network, automatization or involve little human intervention, and are impossible to be conducted without information technology, and are not only limited to software-based services.

However, for the use of intangible goods and/or services that are not subject to VAT or exempt from VAT imposition, are excluded from PMSE VAT collection.

The following taxable persons may be appointed by DGT as a VAT Collector (i.e., must register and account for VAT on their supplies in Indonesia):
- Overseas entrepreneurs or online retailers who supply digital products to Indonesian customers (B2B and B2C)
- Overseas operators of online marketplaces who supply digital products to Indonesian customers (B2B and B2C)
- Indonesian operators of online marketplaces who supply foreign digital products to Indonesian customers (B2B and B2C)

For all those meeting the threshold and appointed as VAT Collector by the Director General of Taxes (DGT), the threshold is as follows:
- The value of transactions with buyers in Indonesia exceeds IDR600 million (approx. USD42,850) in one year or IDR50 million (approx. USD3,570) in one month
  And/or
- The amount of traffic or access in Indonesia exceeds 12,000 in one year or 1,000 in one month

PMSE businesses meeting the threshold but not appointed by the DGT can choose to be appointed as PMSE VAT Collectors by submitting notification to the DGT.

The DGT appoints PMSE Entrepreneurs who have met the criteria threshold as PMSE VAT Collectors by issuing the DGT Decree that takes effect at the beginning of the following month after the date of the decision. PMSE Entrepreneurs may choose to be appointed as PMSE VAT Collectors through notification to the DGT. This notification will be taken into consideration for the appointment of PMSE VAT Collectors.

A PMSE VAT Collector will be given a tax ID number as a means of tax administration used as identification of a PMSE VAT Collector in exercising their rights and fulfilling their tax obligations.

Invoicing, price display and record-keeping are in the form of commercial invoices, billing, order receipts or similar documents that state the collection of VAT and VAT payment.

PMSE VAT Collectors are required to deposit VAT for each tax period at the bank/perception post or other perception institution by the end of the month following the month after the tax period ends. PMSE VAT Collectors are required to report the collected and paid VAT on a quarterly

basis, no later than the end of the month following the month after the quarterly period ends. At the request of the DGT, PMSE VAT Collectors are required to report details of VAT transactions collected for each individual calendar year period, i.e., the PMSE VAT annual report.

There are no other specific e-commerce rules for imported goods in Indonesia.

Online marketplaces and platforms. Overseas and domestic operators of online marketplaces who supply digital goods/services to Indonesian customers (B2B and B2C) that are meeting the threshold could be appointed by or submit notification to the DGT to be appointed as VAT Collectors on digital goods and/or services.

For physical goods sold by an overseas online marketplace to an Indonesian customer, import duty for a shipment of goods is exempt if total import value is up to customs value of free-onboard USD3 per shipment. This regulation is in effect from 30 January 2020.

Registration procedures. Taxable persons who meet the definition of "taxable entrepreneur" must register with one of these two tax authorities:
- The tax office whose jurisdiction includes the taxable person's residence or domicile or place of business.
- Another tax office assigned to that taxable person by the provisions of tax laws and regulations.

In the event that a taxable person's business is resident in two or more tax office jurisdictions, the DGT can stipulate where the taxable person must register.

The application should be directly submitted to the tax office using the hard copy form prescribed by the DGT. For individual entrepreneurs, they have to bring an ID card (for Indonesian citizens) or copy of their passport, a limited stay permit *(Kartu Izin Tinggal Terbatas [KITAS])* or a permanent stay permit *(Kartu Izin Tinggal Tetap [KITAP])* (for foreign nationals). For corporate entrepreneurs, they have to bring the deed of establishment or document of establishment and the amendments (for domestic entity) or statement letter of appointment from the head office (for permanent establishment) and documents of identity of all administrators.

During the verification process, the tax office may conduct a visit to the taxable person's office.

Deregistration. The DGT ex officio or upon application of the taxable person can revoke the VAT registration number in the event that one of the following circumstances arises:
- The taxable entrepreneur has noneffective taxable person status.
- The taxable entrepreneur undergoes a temporary deactivation of a taxable entrepreneur account and is not conveying clarification or conveying clarification but rejected.
- The taxable entrepreneur who, based on field examination, results in the context of the activation of a taxable entrepreneur account that there is no conformity of the information.
- The taxable entrepreneur who doesn't submit a request for activation of taxable entrepreneur account within three months.
- The individual taxable entrepreneur who has passed away and did not leave any inheritance.
- The taxable entrepreneur of permanent establishment has ceased business activity in Indonesia.
- The taxable entrepreneur's place of VAT payment has been centralized in other places.
- The taxable entrepreneur misuses the VAT registration number.

The revocation of a VAT registration number shall be performed by tax audit, and it shall not eliminate any VAT obligation of the taxable entrepreneur.

Changes to VAT registration details. If there is a change in taxable person's registration details (e.g., name of company, address, type of business, change of director or commissioner), the taxable person has to submit a taxable person data change form that has been prescribed by the DGT. There is no time limit for this taxable person data change form submission, but it is suggested to submit it immediately when the change happens. In the event that the change relates to the

change of the authorized person for signing the tax invoices, the taxable person must submit a notification letter to inform the tax office of the new authorized person who is to sign the tax invoices. This letter should be submitted at the latest by the end of following month since the new authorized person starts signing the tax invoice.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including at the zero-rate.

The VAT rates are:
- Standard rate: 11%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

The Harmonization of Tax Regulations *(Harmonisasi Peraturan Perpajakan [HPP])* law was signed by the Indonesian president and officially enacted on 29 October 2021. The law announced that the standard VAT rate is increased from 10% to 11% (effective from 1 April 2022) and from 11% to 12% (at a point in the future no later than 1 January 2025). Certain taxable goods/services may also be subject to a specific VAT rate. *At the time of preparing this chapter, further detail on the standard rate increase from 11% to 12% has not been announced.*

Note that the VAT rate can be changed to a minimum of 5% and a maximum of 15% regulated by a government regulation after being submitted by the government to the House of Representatives of the Republic of Indonesia.

In addition to the above, also in the HPP law, there is a broadening of the VAT base to remove the exemptions for a number of previously exempt services (e.g., medical, financial services). Certain previously exempt essential goods and mined minerals will now also be subject to VAT. However, there is a possibility for the implementing regulations to provide VAT concessions for certain of the aforementioned goods and services. *At the time of preparing this chapter, further detail on the specific goods and services have not been announced.*

Examples of goods and services taxable at 0%

- Exported taxable services subject to zero-rated VAT:
  - Activities that are inherently related to the exported movable goods, which will be used outside Indonesian Customs Area (ICA); under this type of activities are:
    - Toll manufacturing services
    - Repair and maintenance services
    - Freight forwarding service on an export transaction
  - Activities that are inherently related to the immovable properties that are located outside ICA; under this category are construction consulting services, which cover feasibility study, planning and construction designing of a building or building master plan that is located outside ICA
  - Activities other than the above for which the result is delivered to be utilized outside ICA, by way directly or indirectly delivered, among others, by post and electronic channel; or the provision of rights to be used/accessed outside of the ICA, based on the request from the recipient of taxable services; under this type of services are:
    - Technology and information services
    - Research and development services
    - Transportation rental services in the form of rental of aircraft and/or vessel for international aviation or shipping activity

- Business and management consulting services, legal consulting services, architecture and interior design consulting services, human resources consulting services, engineering consulting services (engineering services), marketing consulting services (marketing services), accounting or bookkeeping services, financial statement audit services and tax services
- Trading services in the form of procurement to find suppliers within the ICA for export transaction
- Interconnection, satellite providers and/or communication/data connectivity services

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

The VAT exemption also applies to supplies or importation of goods that fall under the category of "strategic goods."

Examples of exempt supplies of "strategic goods"

- Capital goods in the form of plant machinery and equipment, in either built-up or knock-down condition, which are used directly in the process of producing taxable goods by the taxable entrepreneurs who produce the taxable goods, including those whose acquisitions are carried out by parties doing integrated construction work, excluding spare parts
- Livestock, poultry, fish feed and raw materials for the manufacture of livestock, poultry and fish feed
- Agricultural produce (i.e., goods produced from business activities in the sectors of agriculture, plantations, forestry, livestock farming, hunting or trapping, or breeding fisheries, whether from fishing or cultivation)
- Seeds or sperm of agricultural, plantation, forestry, livestock, breeding or fishery products
- Raw materials of silver crafts in the form of silver granules and/or in the form of silver bars
- Housing units of *Rumah Susun Sederhana Milik*, whose acquisition is financed through subsidized home ownership credit/financing that meets the provisions of certain requirements
- Electricity, except for residences with power greater than 6,600 watts
- Liquified natural gas

Examples of exempt supplies of goods and services

- Official textbooks
- Religious books
- Vaccines
- Certain ships, aircraft and trains
- Some real estate transactions
- Services supplied to local shipping companies
- Services supplied by the national army

The Free Trade Zone (FTZ) regimes provide a VAT exemption for the delivery of goods or services within the FTZ and the non-collection of VAT for the delivery of taxable goods or services to the FTZ. The areas that have been confirmed as FTZs are Batam Island, Sabang Island, and Bintan and Karimun Islands.

Nontaxable goods include food and beverages served in hotels, restaurants, food courts and such other places (dine-in or take-away, including catering), and money, gold bars and valuable documents.

Nontaxable services include the following:
- Religious services
- Commercial art and entertainment services that are subject to regional entertainment tax
- Hotel services
- Public services provided by the government

- Parking space services
- Catering services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Indonesia.

E. Time of supply

In Indonesia, VAT becomes payable at the earlier of the date on which the taxable goods or services are supplied or the date of receipt of advance payments. Tax invoices must be issued when the delivery of goods or services takes place, or on receipt of payment for a supply of goods or services, whichever is earlier.

Deposits and prepayments. In Indonesia, there is no requirement to account for VAT on deposits. For prepayments, the time of supply rules are the same as the normal time of supply rules. The delivery of the goods is considered to take place when the title of the goods is transferred to the customer, or when the invoice is issued, whichever is earlier. Whereas the supply of services is considered to take place when the invoice is issued. However, the tax invoice should be issued on the date of receipt of prepayments, as in the case of prepayments, the payment for a supply of goods or services happens earlier.

Continuous supplies of services. There are no special time of supply rules for continuous supplies of services. As such, the general time of supply rules apply (as outlined above), i.e., the time of supply is considered to take place when the invoice is issued.

Goods sent on approval for sale or return. There are no special time of supply rules for goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above), i.e., the delivery of the goods is considered to take place when the title of the goods is transferred to the customer, or when the invoice is issued, whichever is earlier.

Reverse-charge services. There are no special time of supply rules for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above), i.e., the supply of services is considered to take place when the invoice is issued.

Leased assets. For leased assets, the time of supply is considered to take place when the invoice is issued or when the payment is received, whichever is earlier.

Imported goods. The time of supply for imported goods is either the date of importation, or, for goods imported by companies determined to be bonded zone companies, the date on which the goods leave the bonded zone area.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on taxable goods and taxable services supplied to it for business purposes to the extent that costs corresponding to the input tax are for sales that are subject to VAT. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. If the input tax exceeds output tax due, this excess tax can be claimed as a refund.

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

Input tax for the acquisition of taxable goods and/or services, importation of taxable goods and utilization of intangible taxable goods and/or taxable services utilization from outside the Indonesian Customs Area or within the Indonesian Customs Area before the entrepreneur is confirmed as a taxable entrepreneur, can be credited by the taxable entrepreneur using the input tax's crediting guidelines of 80% of the output tax that should be levied.

Input tax includes VAT charged on goods and services supplied in Indonesia, VAT paid on imports and self-paid VAT on the use of taxable services and intangible goods provided by overseas entities inside the Indonesia Customs Area (under the self-paid method, the party who utilizes the intangible goods or services should pay the 11% VAT directly to the state treasury on behalf of the overseas party).

The time limit for a taxable person to reclaim input tax in Indonesia is three months. Input tax that can be credited, but has not been credited with output tax in the same tax period, may be credited in the next tax period no later than three months after the end of the relevant tax period, as long as it has not been charged as a cost.

Input tax on taxable goods and services purchased or imported that were credited and refunded during the preproduction stage by a taxable firm must be repaid if the enterprise is unable to produce taxable goods within three years since the taxable person credited the input tax for the first time. The period can be extended for certain industries up to five years (for industries that produce taxable goods) or up to six years (for industries such as the National Strategic Project that obtain assignment from the government).

Input tax that is not reported in the VAT return when being identified in a tax audit can be credited referring to the provisions and law in the taxation field. Crediting the input tax can be done by disclosing the relevant tax invoice during the tax audit period to be included in the assessment letter that would be issued. The additional input tax can be credited, as long as the notification of tax audit result is not issued.

Input tax that is collected through the issuance of a tax assessment can be credited by the taxable person (i.e., the tax principal amount not including tax sanction) as being stated in the tax assessment, provided that:
- The tax assessment is issued only to collect input tax on taxable goods and/or services.
- The taxable person approves the entire audit results on tax assessments.
- The VAT payable and tax sanctions as stated in the tax assessment should have been settled.
- No legal remedy is made on the tax assessment.
- It is in accordance with the provisions of laws and regulations in the field of taxation.

The export of "strategic goods" (including animal feed, raw materials for production of animal feed, agricultural products and seeds), is subject to 0% VAT. A taxable person exporting "strategic goods" may claim an input tax credit relating to export sales. This can be claimed as a tax refund if it results in a VAT credit (that is, the balance of the input tax credit is greater than the amount of output tax).

Nondeductible input tax. In general, a credit may not be claimed for input tax on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur).

The following lists provide some examples of items of expenditure for which input tax is not creditable and examples of items for which input tax is creditable.

Examples of items for which input tax is nondeductible

- Purchases used for nonbusiness purposes
- Business gifts
- Purchase, lease or hire of benefits in kind (such as employee accommodation or personal cars)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Attending conferences and seminars
- Purchase, lease or hire of cars, vans or trucks

- Maintenance and fuel for vans and trucks
- Business travel expenses

Partial exemption. Where a business makes supplies of taxable and nontaxable goods and services, the input tax should be recalculated/proportionated to reflect the percentage of supplies that are taxable, at the latest at the third month after the end of a book year. Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Indonesia. Special methods are not allowed in Indonesia.

Capital goods. In Indonesia, capital goods are classified as tangible assets with a useful life of more than one year, including expenses relating to the acquisition of capital goods that are capitalized into the acquisition price of the capital goods. Input tax incurred on capital goods can be recovered in line with the normal recovery rules (*see above*). There are no special rules in respect to timing and lifespan of the goods.

Refunds. If the amount of input tax credits in a period exceeds the output tax in the same period, the excess amount is refundable. In general, refund claims must be made at the end of the year. However, certain taxable persons may claim refunds on a monthly basis. The Indonesian tax authorities conduct audits to ensure that the validity of VAT refund claims. The tax audit must be concluded within one year after the date of the request for a refund.

If the tax audit confirms that the VAT refund claim is valid, the taxable person may recover the overpaid tax within one month after the date of the tax audit assessment letter.

The Indonesian tax authorities must pay an interest penalty for delays in making valid repayments, calculated at the rate per month (i.e., the benchmark interest rate applicable on the date the interest compensation is calculation, divided by 12) of the tax refundable.

An accelerated refund process through a tax examination is provided for certain taxable entrepreneurs who meet the criteria for a compliant taxable person meeting certain conditions (i.e., request for refund no more than IDR1 billion), or a low-risk taxable person. The VAT overpayment is refunded within one month after the request for a refund is submitted to the local tax office. Any VAT underpayment assessed in a post-VAT audit should be paid back, plus a penalty of 100%.

Pre-registration costs. Generally, input tax incurred before a taxable person is registered for VAT cannot be deducted in Indonesia. However, where a taxable person is late in registering for VAT, the taxable person must report output tax due on the supply of taxable goods/services taking place during that tax period (prior to VAT registration) with an input tax credit amounting to 80% of the output tax that can be credited/offset.

Bad debts. Output tax accounted for on supplies that do not get paid by recipients (i.e., bad debts) cannot be recovered in Indonesia.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Indonesia.

G. Recovery of VAT by nonresident businesses

Input tax incurred by non-established businesses that are not registered for VAT in Indonesia is not recoverable.

H. Invoicing

VAT invoices. A standard tax invoice for all taxable supplies made must be provided by Indonesian taxable entrepreneurs except those who are engaged in retail business or are the end-users of the goods.

The tax invoice number is determined by the DGT. Indonesian taxable entrepreneurs are required to request the tax invoice number from the DGT before issuing tax invoices.

Regarding the use of tax invoice serial numbers and the procedure for issuing a tax invoice, the rules are as follows:

- A taxable entrepreneur shall issue a tax invoice using the tax invoice serial number, which is determined by the DGT.
- The tax invoice serial number provided by the DGT should be used to issue the tax invoice on or after the date of the tax invoice serial number granting letter, within the calendar year indicated by the year code in the tax invoice serial number.
- If the date of the tax invoice precedes the date of the tax invoice serial number granting letter, the tax invoice is considered incorrect and thus incomplete.
- A taxable entrepreneur that does not issue tax invoice or issues an incomplete tax invoice is subject to an administrative penalty of 1% of the VAT base.
- To replace the incomplete tax invoice as defined in bullet three above, the taxable entrepreneur may do the following:
  - Cancel the incomplete tax invoice.
  - Make a new tax invoice using the new tax invoice serial number.
  - Ensure that the date of the new tax invoice does not precede the date of the tax invoice serial number granting letter. Although in practice, when a taxable entrepreneur issues a tax invoice where the date precedes the date of the tax invoice serial number granting letter, it automatically will be rejected by the system.
- If the tax invoice as described in bullet five above is issued before the date of the tax invoice serial number granting letter, the tax invoice is considered a late issued tax invoice.
- If an invoice is issued more than three months after the date of the tax invoice, the invoice is considered to not have been issued.
- The cancellation of an incomplete tax invoice and the issuance of a new tax invoice as described in bullets five and six above can be done if the monthly VAT return submitted has not been audited, an examination of open preliminary evidence has not been conducted and the taxable entrepreneur has not received notification of verification results.
- The late issued tax invoice as described in bullet six above can be credited as input tax as long as it meets the requirements in accordance with the prevailing regulations.

Indonesian taxable entrepreneurs are also required to submit a specimen of the signature of the authorized person who will sign tax invoices.

Indonesia has adopted e-tax invoices that are prepared through an application and system provided by the Directorate General of Taxes, called e-Faktur. The e-Faktur provides electronic signatures in the form of QR codes.

A complete and correct standard tax invoice is generally necessary to support a claim for input tax credit.

Credit notes. A purchaser who returns goods to a supplier or cancels services may issue a credit note or cancellation note. A credit note or cancellation note must refer to the original tax invoice and clearly indicate details of the returned goods or canceled services. A credit note or cancellation note may be used to adjust the amount of VAT due for a taxable supply of goods or services.

Electronic invoicing. Electronic invoicing is mandatory in Indonesia for all taxable persons.

Scope of electronic invoicing. For B2B, B2C, and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Indonesia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Indonesia.

The use of an electronic tax invoice is mandatory, and noncompliance will result in a defective tax invoice subject to a fine equaling 1% of the VAT base. It is compulsory for all tax invoices to be processed and issued electronically via the government hosted e-Faktur platform.

Electronic invoices must be created and uploaded using the e-Faktur platform to obtain DGT approval. The uploading of electronic tax invoices to the e-Faktur platform must be carried out no later than the 15th of the following month after the date of the electronic tax invoice. An electronic tax invoice that does not obtain DGT approval is not considered as a tax invoice.

Taxable persons who supply taxable goods and/or taxable services are obliged to collect the VAT payable and prepare tax invoices as proof of VAT collection. Tax invoices must include information regarding the delivery of taxable goods and/or taxable services. Tax invoices issued by taxable persons upon delivery of taxable goods and/or taxable services must be in electronic form. Taxable persons who deliver taxable goods and/or taxable services to taxable goods' buyers and/or taxable services' recipients with final consumer characteristics can issue a tax invoice without including information regarding the identity of the buyer and the name and signature of the seller.

Tax invoices must be issued by taxable persons for:
- Deliveries of taxable goods and/or taxable services within the Indonesia Customs Area done in the course of business by a taxable person
- Export of taxable goods (tangible or intangible) and/or taxable services by a taxable person

Tax invoices must be made at the following times:
- Delivery of when supplying taxable goods and/or taxable services
- Receipt of payment if that receipt of payment occurs before delivery of taxable goods and/or taxable services
- Receipt of term payment in case of partial delivery of work stages
- Exporting tangible taxable goods, intangible taxable goods and/or taxable services
- Other times regulated by the provisions of laws and regulations in the field of VAT

Taxable persons can issue one tax invoice that includes all deliveries of taxable goods and/or taxable services made to the same taxable goods' buyer and/or taxable services' recipient for one calendar month. The tax invoice is called a combined tax invoice. The combined tax invoice must be made no later than the end of the month of delivery of the taxable goods and/or taxable services.

Simplified VAT invoices. A (standard) tax invoice without detailed information of a buyer is like the invoice previously known as a simplified tax invoice. These are permitted, normally, in retail businesses. Retail businesses are defined as taxable entrepreneurs that supply goods (also includes e-commerce businesses), as follows:
- Through a retail sale place, such as stores and kiosks or direct visits to end consumers.
- By means of retail sales made directly to the end consumer, without being preceded by a written offer, a written booking, a contract or an auction.
- In general, delivery of taxable goods or sale and purchase transactions is made in cash and the seller directly delivered the goods or the buyer directly carries the goods that it buys.

The code and serial number for a simplified tax invoice are also different from tax invoices. The code and serial number of a simple tax invoice can be in the form of invoice numbers, invoice codes or determined by the taxable entrepreneur.

Self-billing. Self-billing is allowed in Indonesia. It is only allowed in relation to the usage of self-produced goods or services and free gifts.

Proof of exports. Exports of goods are subject to VAT at the zero-rate. However, to zero-rate the supply of exports, such supplies must be supported with evidence that the goods were exported outside Indonesia. Valid evidence of export includes "Notification of Export Goods"

(Pemberitahuan Ekspor Barang [PEB]) documents, issued by the customs office, for goods that have been approved for loading. The identity of the exporter stated in the PEB documents shall be the identity of the party who actually conducts the export activity, not the forwarding company, for the output tax to be creditable against the input tax.

Foreign currency invoices. For supplies denominated in a foreign currency, the amounts of output tax shown must be stated in the domestic currency, which is the Indonesian rupiah (IDR). The official exchange rate, issued by the Minister of Finance on the date on which the tax invoice is issued must be used to convert the currency.

Supplies to nontaxable persons. There are no special rules for tax invoices issued for supplies made by taxable persons to private consumers (e.g., no tax invoice is required unless requested by the purchaser). However, there are special rules on supplies made to the public (e.g., toll receipts, tickets and supplies made through vending machines). The receipt and tickets issued may be deemed as a tax invoice.

Records. In general, records are to be prepared in IDR and be in the Bahasa Indonesia language. English language and USD currency are permitted, provided approval from the DGT has been obtained through submitting a request using a format prescribed by the DGT. Bookkeeping is a recording process that is carried out regularly to collect the financial data and information, including assets, liabilities, capitals, incomes and costs, as well as the total acquisition and delivery prices of goods or services, which is closed by preparing the financial statements in the form of balance sheets, and the income statements for the period of the relevant fiscal year.

In Indonesia, examples of what records must be held for VAT purposes include books, records, and documents on which the bookkeeping or recording is based, and other documents including the results of data processing from the electronically managed bookkeeping or by online application programs.

In Indonesia, VAT books and records must be held within the country. This should be at the place of activity or the residential place of individual taxable person, or at the place of domicile of corporate taxable person.

Record retention period. VAT documents (both hard copy and electronic documents) must be archived for 10 years in Indonesia. In case of a VAT audit, the tax auditors may request and check the hard copy documents.

Electronic archiving. Electronic archiving is allowed in Indonesia. Records can be kept and archived electronically. However, in the event of tax audit or other dispute process, the DGT may request the original hard copy of the records/documents, only the tax invoice is acceptable as a printout of electronic form.

I. Returns and payment

Periodic returns. The due date for the submission of monthly VAT returns is the end of the following tax period. VAT returns should be submitted electronically.

Periodic payments. The VAT payable, if any, must be settled before the submission deadline of the monthly VAT returns, i.e., end of the following tax period.

VAT liabilities must be paid in IDR through an ID billing created in the DGT's website. The payment can be settled by bank transfer using the billing code written in the ID billing or the taxable person can settle the payment through a bank teller by informing the teller of the billing code.

Electronic filing. Electronic filing is mandatory in Indonesia for all taxable persons. The VAT return submission platform has been integrated with the electronic invoicing platform. The VAT return must be submitted electronically via the DGT online or the Application of Service

Providers (ASPs) appointed by the DGT for period(s) of/before August 2020 and via e-Faktur (electronic tax invoice) web-based for period(s) of/after September 2020. The ASP must comply with the following requirements:
- It must be a legal entity.
- It must have a processing business license to be an ASP.
- It must have a processing tax ID number and already be stipulated as a taxable entrepreneur.
- It must sign an agreement with the DGT.

For electronic filing purposes, taxable entrepreneurs must apply for an Electronic Filing Identification Number (e-FIN) and obtain a digital certificate from the DGT. The local tax office must reply no later than one working day after receiving a correctly completed application.

A VAT return completed according to regulations shall be signed manually and submitted electronically through e-Faktur web-based, DGT online and ASP. Taxable entrepreneurs will receive proof of electronic receipt for every completed VAT return.

If there are additional documents that should be attached to the VAT return but cannot be delivered electronically, the taxable entrepreneur is required to deliver them to the correct tax office (where it is registered) manually or by mail or via courier with a proof-of-delivery receipt.

Payments on account. Payments on account are not required in Indonesia.

Special schemes. *VAT not collected.* Other VAT regimes technically eliminate the payment of VAT due. These include the following:
- The non-collection of VAT payable to companies in bonded zone areas and to manufacturers of goods for export
- The non-collection of VAT payable arising from goods or services supplied by principal contractors of projects financed by foreign aid loans or grants

In this context, non-collection refers to the tax facility under which the VAT due is not collected for certain taxable goods and services. Under such tax facility, the related input tax can still be claimed as a tax credit.

Annual returns. Annual returns are not required in Indonesia.

Supplementary filings. No supplementary filings are required in Indonesia.

Correcting errors in previous returns. A taxable person can correct the information recorded in the VAT return by amending the VAT return. The amendment can be conducted through the same steps of creating the initial VAT return and submitted through *Direktorat Jenderal Pajak (DJP)* Online and ASP (for the period(s) of or before August 2020) and e-Faktur web-based (for the period(s) of or after September 2020). However, in the case that the amendment resulting in overpayment of VAT, the amendment can only be submitted at the latest two years before the expiration (i.e., within three years after the ending period). Furthermore, the amendment, either resulting in an under or overpayment, can only be conducted if the monthly VAT return submitted has not been audited, an examination of open preliminary evidence has not been conducted, and the taxable entrepreneur has not received notification of tax audit.

Digital tax administration. There are no transactional reporting requirements in Indonesia.

J. Penalties

Penalties for late registration. If a taxable entrepreneur registers late, penalties may be imposed on the supplies of taxable goods and services made before the date of registration.

Penalties for late payment and filings. A penalty is charged at the rate of once per month, which is issued by the Minister of Finance, (the benchmark interest rate applicable on the date the interest compensation is calculated +5% and then divided by 12) on late payments of VAT. In the case

of a tax audit, the maximum period is 24 months. An additional penalty of IDR500,000 is assessed for each VAT return submitted late.

Penalties for errors. A penalty of 1% of the VAT base amount is imposed for the failure to issue a tax invoice or for the issuance of a tax invoice that is considered defective (including a tax invoice that is issued late).

There are no specific penalties associated with late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. For severe evasion or fraud, criminal penalties apply. Criminal offenses related to general tax administration other than the issue related to the tax invoice that cause losses to the revenue of the state are punishable by imprisonment from six months to six years and a fine of twice the amount of the unpaid or underpaid taxes (minimum fine) or of four times the amount of unpaid or underpaid taxes (maximum fine). This criminal sanction may be doubled if the taxable person commits another criminal tax offense before one-year elapses from the date of completion of the taxable person's jail term.

Criminal offenses related to the issuance of a tax invoice are punishable by imprisonment from two years to six years and a fine ranging from two times to six times the amount of tax declared in the tax invoice.

Personal liability for company officers. In the case there is a criminal offense committed by the taxable person, there is a possibility that the directors will be held personally liable for the offenses committed by the taxable person, as the directors act as the representatives of the taxable person. The punishment may be in the form of imprisonment and/or a fine depending on the case.

Statute of limitations. The statute of limitations in Indonesia is five years. The right to collect tax, including interest, fine, surcharge and tax collection expense by the tax authorities shall expire after five years from the taxable period. However, the expiration of tax collection right may be deferred as a result of:

- The issuance of a distress warrant
- There is a recognition of tax debt from the taxable person either directly or indirectly
- The issuance of a notice of tax underpayment assessment
- An investigation on tax crime is conducted

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 November 1972
Trading bloc membership	European Union (EU)
Administered by	The Revenue Commissioners (http://www.revenue.ie)
VAT rates	
Standard	23%
Reduced	9%, 13.5%
Other	Zero-rated (0%) and exempt
VAT number format	IE 1234567 A/AA
VAT return periods	Monthly, bimonthly (standard), four monthly, biannually and annually
Thresholds	
Registration	
Established	EUR40,000 (services), EUR80,000 (goods)
Non-established businesses	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR41,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Ireland by a taxable person
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the EU chapter*)
- Reverse-charge services received by a taxable person in Ireland
- The importation of goods from outside the EU, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the the EU chapter. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The four "VAT Quick Fixes" in relation to intra-EU trade took effect beginning 1 January 2020. The local law has been transposed directly from the EU Directive. The four VAT Quick Fixes concern the following areas:
- Treatment of call-off stock
- Mandatory VAT identification number to apply the zero VAT rate to intra-EU supplies
- Evidence of intra-EU supplies
- Chain transactions

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.*

In Ireland, the following services are subject to the "use and enjoyment" provisions:
- Hiring out of movable goods by a taxable person established outside the EU is treated for VAT purposes as being hired in the country in which the goods are actually used and therefore Irish VAT arises if the goods are used within Ireland.
- Leasing of means of transport outside the EU by a taxable person established in Ireland is treated for VAT purposes as being used and enjoyed outside the EU and therefore no Irish VAT arises.
- Supply of banking, financial and insurance services by a supplier established in Ireland to a nontaxable person outside the EU, where the services are effectively used and enjoyed within Ireland for Irish VAT purposes, the place of supply is Ireland.
- Supply of money transfer intermediary services to a non-EU principal that are used and enjoyed in Ireland for Irish VAT purposes, the place of supply is Ireland (the supply is still exempt from VAT, however).
- Supply of telecommunications, radio or television broadcasting services and phone calls by an operator or broadcaster established outside the EU to a nontaxable person who uses the services in Ireland, the place of supply is Ireland. Supply of such services by an operator or broadcaster established in Ireland to a nontaxable person outside the EU who uses and enjoys the service in Ireland is treated for Irish VAT purposes as the place of supply is Ireland.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Ireland, a

TOGC, known as a transfer of business relief [TOB]), is treated as outside the scope of VAT where the following conditions are met (note this is not an exhaustive list):
- The new owner uses the same premises for the same or similar trade
- The new business has a strong likelihood of taking up the majority of the previous trade
- Staff are transferred from the old to the new business
- The new business acquires the order and customer records of the old business
- The stock-in-trade transfers, plant and machinery are part of the deal
- The business was closed for a short period, or the fact of the closure is irrelevant
- The relief does not cover transfer of intangible assets (services). This is covered by a separate relief in the VAT Act

Note that each transaction should be examined on a case-by-case basis to determine whether it comes within the provisions of a TOB.

Transactions between related parties. For a transaction between related parties, the value for VAT purposes is calculated as follows: open market value may be applied to transaction between related parties, should the Revenue Commissioners consider it necessary to ensure the correct collection of tax is applied; and in instances where there is no entitlement by a related party to deduct VAT.

C. Who is liable

The term "accountable person" refers to any individual or entity that is or should be registered for VAT. A liability to register arises from making "taxable supplies," which include the supply of goods or services, intra-Community acquisitions and distance sales made in the course of a business in Ireland. An entity that exclusively makes exempt supplies is generally not treated as an accountable person.

The VAT registration thresholds in Ireland depend on the type of supplies made. For an Irish resident business or a fixed establishment of a foreign business, the following are the thresholds:
- EUR40,000 for persons supplying services
- EUR80,000 for persons supplying goods
- EUR10,000 for persons making mail order or distance sales into Ireland
- EUR41,000 for persons making intra-Community acquisitions

A business is required to register for VAT as soon as its turnover is likely to exceed the relevant threshold.

Exemption from registration. The VAT legislation in Ireland does not contain any provision for exemption from registration where a business is obliged to register for VAT on the basis of its turnover.

Voluntary registration and small businesses. A business established in Ireland whose turnover does not exceed the registration threshold is not required to register for VAT. However, a business that makes taxable supplies may opt to register in these circumstances.

Similarly, a new business may request registration in advance of making taxable supplies as soon as it is clear that it will become an accountable person.

Group registration. The Revenue Commissioners may grant group registration status to companies in Ireland that are closely bound by "financial, economic and organizational links."

A VAT group is treated as a single taxable person. Both VAT-registered and non-VAT-registered persons can join a VAT group, provided at least one member of the VAT group is a taxable person (in business). One entity is nominated and treated as if all transactions of the group were carried out by them and is known as the "group remitter" of the VAT group.

To apply to form a VAT group the following criteria must be met:
- The VAT group entities are established for VAT purposes in Ireland.
- The entities are closely linked by financial, economic and organizational links, which typically means being subject to the same common overall ownership and corporate group.
- Group registration seems necessary or appropriate to the Revenue Commissioners for the purpose of efficient and effective administration (including the collection) of VAT.

VAT is not charged on supplies between group members, with the exception of certain supplies of real estate. All members of a VAT group in Ireland are jointly and severally liable for VAT debts and penalties.

It is the responsibility of the VAT group members to ensure that the conditions for a VAT group continue to be met. Where a member of a VAT group ceases to meet the conditions for inclusion as a member of a VAT group, the Revenue Commissioners should be informed so that the member can be removed from the VAT group. If not so notified, a penalty will apply for each taxable period in which they were not notified.

There is no minimum time period required for the duration of a VAT group.

Holding companies. In Ireland, a pure holding company (that does not perform any taxable activities) can be a member of a VAT group, as long as they are established in Ireland. No special conditions under VAT grouping apply to pure holding companies.

Cost-sharing exemption. The VAT cost-sharing exemption, in accordance with VAT Directive 2006/112/EEC Article 132(1)(f), has been implemented in Ireland in line with Paragraph (3)(1) of Schedule 1, VATCA10. The Revenue has confirmed that the exemption should be read strictly, i.e., it only applies where such activity is carried out in the public interest.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Ireland in the following circumstances: an entity has an establishment that has the characteristics of a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use services supplied for its own needs or to supply services to customers.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Ireland. A "nil" VAT registration threshold applies to supplies made in Ireland by a non-established business. VAT registration is required if a non-established business makes any of the following:
- Supply of goods where the goods are located in Ireland at the time of supply
- Supplies of certain services deemed for VAT purposes to have taken place in Ireland (e.g., services connected with immovable property or the admission to events that take place in Ireland)
- Intra-Community acquisitions greater than the annual threshold
- Distance sales greater than the annual threshold (*see the EU chapter*)

A non-established business must apply electronically to register for VAT in Ireland, and send the application to the following email address: BusinessTaxesRegistrations@revenue.ie

Tax representatives. Tax representatives are not required in Ireland. Irish VAT legislation does not currently impose a requirement on non-established traders to appoint a tax representative.

Reverse charge. If a non-established business supplies services to an Irish taxable person, the taxable person may be required to account for the VAT due under reverse-charge accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax (that is, VAT on allowable purchases) depending on the taxable person's VAT recovery status. This measure applies only if the place of supply of the services is in Ireland.

Domestic reverse charge. The application of the domestic reverse charge in Ireland is limited to services connected with the following activities:
- Construction services subject to relevant contractors' tax (RCT) in Ireland
- Certain property transactions
- Greenhouse gas emissions allowances
- Scrap metal dealers
- Wholesale supplies of electricity and gas
- Supply of electricity and gas certificates

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B. Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the the EU chapter.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above).

In Ireland, where a supplier wishes to register for VAT purposes, a VAT registration application can be made via a TR2/TR2(FT) form. See the *Registration procedures* subsection below for further detail.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all relevant supplies (goods as well as services) under the OSS.

Where Ireland is chosen as a supplier's Member State of Identification, the supplier will need to register for OSS and submit returns on a quarterly basis electronically through the tax authorities' online portal, Revenue Online Service (ROS). The due date for such returns is the last working day of the month following the quarterly tax period in question (i.e., for the January-March return, the OSS return would be due by 30 April).

For more details about the operation of the OSS, see the the EU chapter.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT and customs duties should not apply. It is important to note, however, that under the IOSS there is no longer any exemption from VAT for low-value goods (value less than EUR22).

In Ireland there are no additional specific local rules that apply.

For more details about the IOSS, see the the EU chapter.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Ireland there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt (with credit) and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both

local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Ireland there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the EU chapter.

Vouchers. Effective 1 January 2019, vouchers (for example prepaid telecom cards, gift cards, price discount coupons, etc., for the purchase of goods or services) will fall into two categories: single-purpose vouchers (SPV) and multi-purpose vouchers (MPV).

An SPV is defined as a voucher where the place of supply of the goods/services to which the voucher relates and the VAT due on those goods or services is known at the time of the issue of the voucher (e.g., a voucher issued for specific use for hotel accommodation in Ireland).

An MPV is defined as a voucher other than an SPV. It includes vouchers that can be redeemed for goods/services that are subject to different VAT rates (e.g., a voucher that can be redeemed in multiple stores in a shopping center for items at a variety of VAT rates). VAT must be accounted for at the point of issue of an SPV (rather than at the point of redemption, which is the current practice) and at the time of redemption of an MPV.

Also, from 1 January 2019, persons that sell prepaid phone cards will no longer be eligible to recover VAT when these cards are used outside the European Union, which is linked to the voucher changes.

Registration procedures. Taxable persons must apply for VAT registration through the submission of form TR1 or TR2. The application for registration must be made online, except in exceptional services. Applicants whose business is not established in Ireland should submit a paper version of form TR1(FT) or TR2(FT). A two-tier system exists such that companies can apply for domestic-only registration or a registration that includes supplies made to or received from other EU Member States, an intra-EU registration. Obtaining VAT registration typically should take six to eight weeks. Registration is effective from a date agreed by the local tax district and the taxable person.

Deregistration. An accountable person that ceases to be eligible for VAT registration must cancel its registration. An accountable person may also request cancellation of its registration if the level of its taxable turnover falls below the annual registration threshold or if the accountable person previously opted for registration and no longer wishes to be registered.

Changes to VAT registration details. If any of the information supplied to the Revenue Commissioners changes, the taxable person must notify their Revenue Commissioner office within 30 days of the change. Such changes can be notified by paper or online.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable for VAT at any rate, including supplies made at the zero rate.

The VAT rates are:
- Standard rate: 23%
- Reduced rates: 9%, 13.5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Books, e-books and audio books

- Most foodstuffs (excluding confectionery)
- Oral medicine
- Exports
- Children's clothing and footwear
- Goods and services supplied to frequent exporters under the "VAT 56 Scheme"
- Newspaper publications (both paper and digital format)

Examples of goods and services taxable at 9%

- Magazines
- Electronic magazines
- Admission to sporting facilities
- Hairdressing services
- Gas and electricity (extended until 31 October 2024)

Examples of goods and services taxable at 13.5%

- Gas and electricity (with effect from 1 November 2024)
- Restaurant and catering services (previously subject to the 9% rate until 31 August 2023)
- Repair, cleaning and maintenance services
- Developed immovable property
- Building services

The term "exempt supplies" refers to supplies of goods and services that are not liable for VAT and that do not qualify for input tax deduction. However, as regards the latter, an exception applies to certain exempt services supplied outside the EU for which VAT recovery does exist.

Examples of exempt supplies of goods and services

- Postal services
- Finance
- Insurance
- Leasing of immovable property (unless option to tax exercised by landlord)

Option to tax for exempt supplies. A landlord can generally opt to tax a letting (with certain exceptions such as residential property and lettings to connected parties with less than 90% VAT recovery). A vendor of immovable goods and the purchaser of those immovable goods can jointly agree to tax the sales.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The following is a general summary of the rules for determining when VAT is due:

- For supplies made to nontaxable persons, the due date is the date on which the supply is completed.
- For supplies made to taxable persons, the due date is the date on which the invoice is issued or the date on which the invoice should have been issued, whichever is earlier.

Deposits and prepayments. A prepayment is deemed to be consideration for a taxable supply, up to the value of the prepayment. The invoice for a prepayment must be issued within 15 days after the end of the month in which the prepayment is received.

A supplier that accounts for VAT on an invoice basis must account for VAT on a prepayment from a VAT-registered customer when the invoice is issued or when it should have been issued (that is, within 15 days after the end of the month in which the prepayment is received), whichever is earlier.

A supplier that accounts for VAT on a cash receipts basis must account for VAT on a prepayment from a VAT-registered customer when the payment is received.

Due date for a prepayment received from a nontaxable person is when the payment is received.

Where there is a supply of goods, services or a prepayment, an invoice should be issued by 15 days after the end of the month in which the supply or prepayment is made.

Continuous supplies of services. The time of supply for continuously supplied services is the date of the tax invoice or when payment or prepayment is received.

Goods sent on approval for sale or return. There are no special time of supply rules in Ireland in relation to goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The time of supply for reverse-charge services is either the date on which the service performed is completed or the date of the tax invoice, whichever is earlier.

Leased assets. Finance and operating leases are treated in the same fashion in Ireland. Basically, both are treated as a supply of a service subject to VAT. The time of supply in relation to the lease of assets is as outlined above for a continuous supply of services. VAT becomes due where an invoice is issued in respect of the periodic leasing charges or payment is received in relation to the leased assets received.

The time of supply for assets sold under hire purchase agreements is when the goods have been handed over to the purchaser.

Imported goods. The due date for accounting for VAT on imported goods is the date of importation or the date on which the goods leave a duty suspension regime.

Intra-Community acquisitions. The due date for accounting for VAT on an intra-Community acquisition of goods is the 15th day of the month following the month in which the goods arrive or the month in which the invoice is received, whichever is earlier.

Intra-Community supplies of goods. The time of supply for intra-Community supplies of goods is either the date of shipment/delivery or the date of the tax invoice, whichever is earlier.

Distance sales. There are no special time of supply rules in Ireland for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Ireland is four years. Input tax includes VAT charged on goods and services supplied within Ireland, VAT paid on imports of goods and VAT that is self-assessed on the intra-Community acquisition of goods and reverse-charge services.

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

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not made for business purposes, such as goods acquired for private use. If expenditure relates to business and private use, the input tax must be apportioned, and the amount related to business activities may be deducted.

In addition, input tax may not be deducted for some items of business expenditure, including the following items:

- The provision of food, drink and accommodation except for accommodation incurred in connection with attendance at a qualifying conference. A qualifying conference is a conference undertaken in the course or furtherance of business, organized to cater to 50 or more delegates.

VAT may be claimed for a maximum period beginning with the night before the conference and ending on the date when the conference ends.
- Other personal services for taxable persons or their agents or employees.
- Entertainment expenses incurred by the taxable persons or their agents or employees.
- The purchase, hire or importation of passenger motor vehicles. However, 20% of VAT is recoverable on the purchase, hire or importation of certain cars that have a low level of carbon dioxide emissions CO2 emissions of less than 156g/km) and that are used primarily for business purposes.
- The purchase of petrol (gasoline). However, diesel is deductible.

The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible.

Examples of items for which input tax is nondeductible

- Hotel accommodation
- Food and drink
- Petrol
- Business entertainment

Examples of items for which input tax is deductible (if related to a taxable business use)

- Car maintenance costs
- Partial VAT recovery on lease, purchase and hire of most passenger cars subject to certain conditions
- Attendance at qualifying conferences and seminars
- Lease, purchase, hire and maintenance of vans and trucks
- Diesel for business use
- Business use of mobile telephones
- Parking
- Gas and electricity

Partial exemption. Input tax directly related to making exempt supplies is not generally recoverable. However, input tax related to making certain exempt supplies to non-EU customers (qualifying activities) is deductible. If an accountable person makes both exempt supplies and taxable supplies, it may not recover all the input tax incurred on goods or services acquired for both purposes.

Input tax that directly relates to making exempt supplies is not recoverable. Input tax that directly relates to making taxable supplies is recoverable in full. For these purposes, the term "taxable supplies" includes zero-rated supplies and qualifying activities. Input tax that relates to taxable supplies and to exempt supplies is considered to have a dual use and must be apportioned between taxable supplies and exempt supplies. The percentage of dual-use input tax that is attributable to making taxable supplies is recoverable. The recoverable percentage is rounded up to the nearest whole number. For example, a recovery percentage of 79.2% would be rounded up to 80%, where a turnover based method is applied.

An Irish accountable person may use any calculation method to determine the recoverable percentage of dual-use input tax if the chosen method satisfies the following conditions:
- It results in a proportion of tax deductible that correctly reflects the extent to which dual-use inputs are used for the purposes of the person's deductible supplies or activities.
- It has due regard to the range of the accountable person's total supplies and activities.
- Examples of possible apportionment methods include calculations based on the following:
- The ratio of turnover from taxable and qualifying activities to turnover from exempt activities
- The ratio of taxable transactions to exempt transactions
- The number of people involved in various activities

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Ireland. The default position is that the turnover method should apply. However, an entity, as outlined above, may choose an alternative method that produces a VAT recovery percentage that best reflects its proportion of tax deductible to which dual-use inputs are used. It is not a requirement to seek preapproval from the Revenue Commissioners to use such a method. However, should an entity change its methodology, it is advisable to seek approval.

The Revenue Commissioners may require that a partially exempt accountable person uses a different calculation method if, in their view, the method adopted does not adequately reflect how input tax was used in the business or the activities undertaken.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired and first used. The amount of input tax recovered depends on the accountable person's partial exemption recovery position in the VAT year of acquisition and first use. In Ireland, the only item defined as a capital good is developed immovable property. In Ireland, the capital goods adjustment does not apply to any services.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the accountable person is due a refund of the excess input tax credit. An accountable person may claim a refund of the credit by submitting the VAT return for the period. If an accountable person normally receives refunds of VAT, it may request permission to submit monthly returns to improve cash flow.

Pre-registration costs. VAT paid on costs incurred before commencement of trading is generally recoverable. Taxable persons should seek to register for VAT from a date prior to when the costs were incurred and recover the VAT through its periodic VAT returns.

Bad debts. The process of accounting for VAT on bad debts depends on whether the VAT was already paid to the supplier or if it was deducted but not yet paid.

In cases where VAT was already paid, the bad debt is allowable as a deduction for VAT if the following conditions are satisfied:
- The VAT paid was properly paid.
- The taxable person has taken all reasonable steps to recover the debt.
- The bad debt has been written off in the financial accounts of the taxable person.
- The person from whom the debt is due is not connected with the taxable person.

Where a person deducts VAT in a taxable period but has not, within six months of the end of that taxable period, paid the supplier for the goods or services, then the amount of VAT deductible will be reduced by the amount of VAT relating to the unpaid consideration, i.e., the VAT deducted relating to the unpaid consideration must be repaid to Revenue. A readjustment is provided for in the event of subsequent payment or part payment for the goods or services. The corresponding (re)adjustments should be declared on the corresponding periodic VAT return(s).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Ireland.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Ireland is recoverable. The Revenue Commissioners refund VAT incurred by businesses that are neither established nor registered for VAT in Ireland. Non-established businesses may claim Irish VAT to the same extent as a VAT-registered business, provided the general VAT deductibility criteria is met.

EU businesses. For businesses established in the EU, applications for refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Ireland during the refund period (excluding supplies covered by the reverse charge). *For full details, see the EU chapter.*

Find below specific rules for Ireland:
- For Irish VAT recovery claims from EU-based entities, in certain circumstances, interest is paid on repayments at a rate of 0.011% per day if the payment falls outside specific legislative time limits.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details see the the EU chapter.*

Ireland applies the principle of reciprocity, that is, the country where the claimant is established must also provide VAT refunds to Irish businesses. In practice, there are no countries known that are excluded.

Find below specific rules for Ireland:
- The deadline for refund claims is 30 June of the year following the year in which the tax was incurred.
- The claim must be for a period of not less than a calendar quarter, unless it is for the final part of a year, and the period may not be longer than a calendar year. For claims covering a period of between three months and one year, the minimum claim amount is EUR400. The repayment is made by a check issued in EUR or by direct deposit into a bank account.
- Applications for refunds of Irish VAT by non-EU claimants may be sent to this address:

  VAT (Unregistered) Repayments
  Office of the Revenue Commissioners
  3rd Floor
  River House
  Charlotte's Quay
  Limerick
  Ireland

- Claims are normally paid within three to six months after submission of the claim. For Irish VAT recovery claims by non-EU entities, interest is not paid by the Irish tax authorities on late repayments.

Late payment interest. In Ireland, interest is not paid on late refunds to non-established businesses (for both EU and non-EU non-established businesses).

H. Invoicing

VAT invoices. An Irish accountable person must issue a VAT invoice for taxable supplies made to taxable customers, exempt persons, government departments, local authorities and bodies established by statute. An Irish accountable person must also issue an invoice with respect to intra-Community supplies to businesses in other EU Member States and to sales to private individuals in other EU Member States under distance selling arrangements. A VAT invoice must be issued within 15 days after the end of the month in which either the goods or services were supplied or an advance payment was received.

A VAT invoice is necessary to support a claim for input tax deduction or an Irish VAT refund application under the EU 13th Directive for non-EU businesses or under the VAT refund procedure applicable to EU businesses.

Credit notes. A VAT credit note must be used if the VAT payable on a supply is reduced because of a subsequent allowance or discount unless the supplier and taxable customer agree that the

VAT need not be adjusted. The credit note must be cross-referenced to the original VAT invoice and contain the same information.

Electronic invoicing. Electronic invoicing is allowed in Ireland, but not mandatory

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed, but not mandatory in Ireland. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Ireland. The requirements related to electronic invoicing are the same as those for paper invoicing.

At the time of preparing this chapter, it is expected that amendments to implement the B2G requirement will likely be passed into law. In addition, the Minister for Finance announced in the annual budget on 17 October 2023 a consultation process will take place in respect to the introduction of real-time digital reporting and electronic invoicing. No further details have been announced.

A taxable person may choose to issue an invoice in an electronic format. The issue of electronic invoices is subject to the following conditions:
- There is prior agreement between the issuer and the recipient in relation to the issue and acceptance of electronic invoices.
- The electronic system must be able to produce, retain and store invoices in such form and containing such particulars as are required for VAT purposes.
- The system must be able to reproduce in paper or electronic format any electronic record or message required to be produced, retained or stored.
- The issuer and recipient of an electronic invoice have an obligation to ensure the authenticity of origin, the integrity of content and a reliable audit trail between the invoice and the supply. *For the EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.*

Simplified VAT invoices. A simplified invoice, credit note, settlement voucher or debit note may be issued if the following conditions are met:
- The amount of the invoice is not greater than EUR100
  Or
- When commercial, technical or administrative practices in a particular business sector make it difficult to comply with general invoicing requirements

A simplified invoice cannot be used in relation to an intra-Community supply of goods and or services.

Self-billing. Self-billing is allowed in Ireland. For self-billing to apply, the following conditions should be met:
- There is prior agreement with the supplier that the customer may draw up and issue the invoice.
- All conditions relating to the content or issue of the invoice are met by the customer.
- Agreed procedures are in place for acceptance by the supplier of the validity of the invoice.
- The invoice is endorsed with "self-billing."

An invoice issued under these arrangements is regarded as having been issued when the supplier accepts it in accordance with the procedures in place.

Proof of exports and intra-Community supplies. VAT is chargeable at a zero rate on the supply of exported goods or on the intra-Community supply of goods (*see the EU chapter*). However, to qualify for a zero rate, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Ireland. Acceptable proof includes the following documentation:

- For an export, a copy of the export document officially validated by customs showing the supplier as the exporter, together with shipping or air freight documents and copies of commercial documentation (for example, orders, copy invoices, dispatch notes and delivery notes).
- For an intra-Community supply, a range of commercial documentation, including purchase orders, transport documentation, proof of payments received from abroad and contracts. The EU VAT registration number of the customer must also be quoted on the sales invoice.

No special documentation applies in Ireland for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. Note that the criteria for the call-off stock simplification must be met.

Foreign currency invoices. A VAT invoice may be issued in a foreign currency, but the actual VAT amount must be converted to the domestic currency, which is the euro (EUR), and included on all VAT invoices issued. The invoice amounts must be converted using the latest selling rate recorded by the Irish Central Bank at the time of supply.

It is possible to agree on a different exchange rate method with the Irish VAT authorities. If an alternative method is used, the accountable person must use it for all foreign currency transactions.

Supplies to nontaxable persons. For domestic B2C sales, there are no requirements to issue any documentation (i.e., no need to issue full VAT invoices). For distance sales supplies, full VAT invoices must be issued.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Ireland, examples of what records that must be held for VAT purposes include full and true records of all business transactions that affect their liability to VAT, including business books and records, invoices, credit notes, debit notes, receipts, accounts, cash register tally rolls, vouchers, VIES records, Intrastat returns, stamped copies of single administrative documents and bank statements.

In Ireland, VAT books and records can be kept outside of the country. However, paper records must be kept in Ireland, but electronic records may be stored outside of Ireland (see the subsection below *Electronic archiving* for more detail).

Record retention period. A VAT-registered entity should retain all books, records and documents relevant to its business for a period of six years. A VAT registered entity should obtain written permission from the relevant Revenue office to be permitted retention of documents for a shorter period.

Electronic archiving. Electronic archiving is allowed in Ireland. However, where a VAT-registered entity issues invoices in paper form, these must be retained in paper form. Exceptions to this require a Revenue agreement and are subject to conditions.

Electronic records must be recorded and stored in accordance with the electronic invoicing rules.

It is not required to retain the paper originals of any third-party record where an electronic copy of the original record is generated, recorded and stored, and the person is able to certify the following:

- The stored records were not damaged or amended.
- Proper security procedures were in place to prevent tampering.
- Programs are in place that will reproduce accurately the documents that are stored.

- A proper systems audit takes place annually to ensure that the instructions on the use of the system have been followed correctly and are in accordance with operational requirements.
- Copies of records must be accessible to Revenue in the way and format they may request.

I. Returns and payment

Periodic returns. Irish VAT returns are generally submitted electronically on a bimonthly basis. Returns must be made online and by the 23rd day of the month following the return period.

However, the following taxable periods may be authorized by the Revenue Commissioners:
- Monthly basis if you are in a constant repayment position
- Annual return if you are making equal installments by direct debit
- Four-monthly returns if your annual VAT liability is between EUR3,001 and EUR14,400
- Six-monthly returns if your annual liability is EUR3,000 or less

Periodic payments. Full payment of the VAT due must be made by the VAT return deadline, i.e., by the 23rd day of the month following the end of the return period. The VAT should be submitted electronically by direct debit payment linked to a taxable person's account on Revenue's online platform ROS.

Electronic filing. Electronic filing is mandatory in Ireland for all taxable persons. This is done by using the ROS section in www.revenue.ie.

Payments on account. Payments on account are not required in Ireland.

Special schemes. *Farmers.* Farmers who are not VAT registered can charge a flat rate addition of 4.8% (reduced from 5% with effect from 1 January 2024) to VAT-registered purchasers on supplies including, for example, livestock and greyhounds.

Frequent exporters. A business that exports goods to persons outside the EU or to taxable persons in other EU Member States does not charge VAT on these transactions. However, it pays VAT on the goods and services it purchases locally or acquires from other EU Member States and on imports. Consequently, a business that predominantly trades with other countries would generally be in a net VAT repayment position for each period. This may have a negative impact on its cash flow position.

To help ease cash flow for businesses involved in international trade, exporters benefit from a special treatment for purchases. This provision is commonly known as the "VAT 56 Scheme." For these purposes, a qualifying exporter is an accountable person that derives at least 75% of its turnover from exports of goods from Ireland and from intra-Community supplies of goods from Ireland to persons registered for VAT in other EU Member States. Qualifying exporters may apply for certification of their entitlement to relief. Copies of the certification must be provided to suppliers that are required to supply most goods and services to qualifying exporters at the zero-rate.

The VAT 56 zero rating applies to most domestic purchases of goods and services, imports and intra-Community acquisitions. The zero-rating does not apply to the supply or hire of passenger cars, petrol (gasoline) for cars, food, drink, accommodation, nonbusiness purchases or any other expenses for which the input tax is not deductible.

Cash accounting. Some accountable persons are authorized to account for VAT on the basis of payments received rather than on the basis of invoices issued. This system is called "cash accounting." A person may avail of this if more than 90% of their turnover is derived from sales to unregistered persons or should the value from their annual turnover be under EUR2 million. For accountable persons using cash accounting, the liability to account for VAT arises on the date when payment is received for the supply. However, this does not change the basic tax point for

the supply itself. The VAT rate applicable to a supply of goods or services is the rate in force on the date of the supply, not the rate in force on the date when payment is received.

Annual accounting. Some accountable persons are permitted to submit VAT returns on an annual basis. This facility is granted at the discretion of the Irish VAT authorities. Accountable persons that submit annual returns must also complete the annual return of trading details.

An accountable person that is permitted to use the annual accounting may align its annual VAT return date with its commercial accounting year.

An accountable person that is permitted to submit annual returns must make monthly VAT payments by direct debit throughout the year. Interest may be chargeable if the sum of the monthly payments made is less than 80% of the total VAT payable for the year.

Charities. Charities can benefit from a VAT compensation scheme to reduce their VAT burden and partially compensate for VAT incurred in the daily running of the charity. The scheme is capped at EUR5 million annually, and charities are entitled to claim a refund of a proportion of their VAT costs based on the level of nonpublic funding they receive. Claims are paid on a pro rata base if the total amount of claims exceeds EUR5 million. To qualify for the scheme, a charity at the date and time that the qualifying expenditure was incurred should be registered with the Revenue Commissioners and hold a charitable tax exemption and be registered with the Charities Regulatory authority.

Annual returns. All accountable persons must submit an annual return (known as an "Annual Return of Trading Details"), which outlines sales and purchases for the year, broken down by VAT rate. It is a statistical return. Consequently, no VAT liability is attached to such return. The return is due to be filed 23 days following the financial year-end of the taxable person, for example, a taxable person with a financial year-end of 31 December 2023 is due to file the return by 23 January 2024.

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

The threshold for Intrastat Arrivals for 2024 is EUR500,000. The threshold for Intrastat Dispatches for 2024 is EUR635,000.

The Intrastat return period is monthly. The submission deadline is the 23rd business day of the month following the return period. Intrastat returns must be filed electronically through the Revenue Commissioners Online System (ROS). Returns must be completed in EUR.

EU Sales Lists. If an Irish accountable person makes intra-Community supplies of goods and/or services, it must submit an EU Sales List (ESL). No threshold applies to ESLs. If no intra-Community supplies are made in a period, a "nil" statement must be submitted for that period.

ESLs are also known as "VAT Information Exchange System (VIES) statement" in Ireland.

ESLs are submitted quarterly if the quarterly amount of intra-Community supplies of goods does not exceed EUR50,000. Otherwise, ESLs are submitted monthly. An accountable person that is entitled to submit ESLs on a quarterly basis may apply to submit ESLs monthly if it is more convenient to do so. The submission deadline is the 23rd day of the month following the end of the return period, and ESLs must be filed electronically.

Correcting errors in previous returns. There are different mechanisms to correct errors in VAT returns including the following:
- Supplementary VAT returns
- Amended VAT returns

- Self-corrections in a current return period (only where the VAT due is less than EUR6,000)
- Disclosure regimes

The applicable method is dependent on various factors, such as value of the VAT error, the dates when the error occurred and whether the Revenue Commissioners have intervened prior to the taxable person correcting the error.

To mitigate penalties, a disclosure can be made to the Revenue Commissioners where tax is underpaid. The penalty can be reduced to as low as 3%, depending on the specific circumstances of the taxable person and the disclosure is made to the Revenue Commissioners in advance of an audit notification.

Digital tax administration. Real-time digital reporting and electronic invoicing. *At the time of preparing this chapter, the Minister for Finance announced in the annual budget on 17 October 2023 a consultation process will take place in respect to the introduction of real-time digital reporting and electronic invoicing. No further details have been announced.* For further details, see the subsection *Electronic invoicing* above.

J. Penalties

Penalties for late registration. A penalty of EUR4,000 can be assessed for a failure to register for VAT.

Penalties for late payment and filings. The basic penalty for the late submission of a VAT return is EUR4,000 per return. Interest may also be levied on the amount of tax due at the rate of 0.0274% per day.

The penalty for a late or incorrect submission of an Intrastat return is EUR1,265 plus EUR60 per day that the return is outstanding.

The penalty for a late or incorrect submission of an ESL is EUR4,000.

Penalties for errors. If the Irish VAT authorities determine that an error was made as a result of the taxable person acting carelessly or deliberately defaulting, penalties may be imposed based on the amount of VAT underpaid or overclaimed. Such penalties can be between 3% and 100% of the VAT liability at issue, depending on the circumstances such as if a disclosure of the error is made to Revenue.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The penalty for fraud is 100% of the VAT liability.

Personal liability for company officers. Company directors/officers are not held personally liable for errors and omissions in VAT declarations and reporting, provided fraudulent activities are not included. For fraudulent activities, this would be very case-specific, and a range of penalties and possible criminal charges may apply.

Statute of limitations. The statute of limitations in Ireland is four years. Generally, the time limit for Irish tax authorities to assess any VAT due is four years. However, in certain circumstances, the authorities can go back further than this period if it is deemed that a prior return did not contain a full and true disclosure of relevant facts.

Isle of Man

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 April 1973
Trading bloc membership	Although not a Member State, the Isle of Man was considered part of the European Union (EU) for VAT and customs purposes as a common area with the United Kingdom (UK) during the UK's membership. The UK left the EU on 31 January 2020. The transition period came to an end on 31 December 2020 at 11 p.m. UK time. The UK-EU Trade and Cooperation Agreement (TCA) governs the UK and EU's economic and trading relationship, now that the Brexit transition period has come to an end. The Isle of Man will follow the arrangements employed by the UK. *See the UK chapter for further details of such arrangements*.
Administered by	Customs and Excise Division (http://www.gov.im)
VAT rates	
Standard	20%
Reduced	5%
Other	Zero-rated (0%) exempt and exempt with credit
VAT number format	GB 999.9999.99
VAT return periods	Quarterly Monthly (if requested by a business that receives regular repayments) Annual (on request if annual taxable turnover is less than GBP1.35 million)
Thresholds	
Registration	
Established	GBP85,000
Non-established	None
Deregistration	GBP83,000

Distance selling	Not applicable
Intra-Community acquisitions	Not applicable
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

The Isle of Man is an international financial center that is part of the territory of the UK for indirect tax purposes. However, the Customs and Excise Division in the Isle of Man operates independently from that of the UK, and the Isle of Man has its own VAT legislation. The UK and Isle of Man are considered one for VAT purposes, and the VAT laws of the two jurisdictions are very similar. This means that a single VAT registration in either Great Britain or Isle of Man would cover both Great Britain and Isle of Man activities.

For VAT purposes, the UK consists of Great Britain (GB) (England, Scotland and Wales) and Northern Ireland (NI). It does not include the Channel Islands or Gibraltar.

VAT applies to the following transactions:
- The supply of goods or services made in the Isle of Man or the UK by a taxable person
- Reverse-charge services received by a taxable person in the Isle of Man
- The importation of goods from outside the UK/Isle of Man, regardless of the status of the importer

Early termination fees had a change in VAT liability from outside the scope of VAT to subject to VAT at 20%. The change was originally due to take effect from 2 September 2020 or retrospectively for some businesses. In January 2021, implementation of the change in VAT treatment was deferred until a later date. Effective from 1 April 2022 when a customer terminates a contract early this will be regarded as further consideration for the contractual supply.

Brexit. The UK left the European Union (EU) on 31 January 2020. The transition period came to an end at 11 p.m. UK time on 31 December 2020. Thereafter, the UK-EU TCA governs the economic and trading relationship between the UK and the EU. However, for NI a "dual"/"mixed" VAT regime operates that follows EU VAT rules for goods and UK VAT rules for services. The Isle of Man will follow the arrangements employed by GB with NI and the EU. *See the UK chapter for further details of such arrangements*.

Movement of goods. From 31 December 2020 at 11 p.m. UK time, the Isle of Man is a third country in relation to the remaining EU 27 Member States and therefore no longer has the concepts of EU acquisitions or dispatches for goods. Goods leaving and entering the Isle of Man (excluding those to/from the UK) will be treated as imports and exports. Customs and excise duties and import VAT may apply.

Imports. To continue moving goods from EU countries after 31 December 2020 at 11 p.m. UK time, Isle of Man businesses need to complete a number of actions, including deciding how to make customs declarations, checking whether imported goods are eligible for staged import controls and obtaining an Economic Operator Registration Identification (EORI) number.

An EORI number is used by tax authorities to identify a business for customs purposes. Businesses may need more than one EORI number depending on where they are moving goods. Businesses will require a GB EORI number (separate to its EU EORI number) to import into or export from GB/Isle of Man and will require an EU EORI number (separate to its GB EORI number) to import into or export from the EU 27.

Postponed import VAT accounting. Postponed import VAT accounting (PVA), where import VAT is accounted for on the VAT return, is available if a business imports goods into GB/Isle of Man

from anywhere outside the UK/Isle of Man. Businesses do not need to be authorized to use postponed import VAT accounting.

A single VAT registration in either GB or Isle of Man would cover both GB and Isle of Man activities. If a business is approved to use PVA, this would cover both GB and Isle of Man.

Tax representatives. If a business is not established in the Isle of Man, a third party established in the Isle of Man must deal with customs on behalf of the business. Non-established taxable persons can have their nominated intermediary account for import VAT on the intermediary's VAT return.

In addition, a non-established taxable person can nominate an intermediary who will be able to account for the import VAT on its VAT return.

Exports. To export goods to EU countries, Isle of Man businesses must have a GB EORI number.

Services. The Isle of Man is a non-EU country and the application of use and enjoyment rules, which vary by Member State, will apply differently.

VAT registration. Certain VAT registrations are no longer available post-Brexit, including UK Mini One-Stop Shop registrations for Isle of Man businesses and distance selling registrations for Isle of Man businesses.

Input tax recovery. Effective from 31 December 2020 at 11 p.m. UK time, businesses (subject to the normal rules) are able to reclaim input VAT attributable to the export of certain financial services products to the EU (as was already the case for those exports to non-EU countries).

Case law. Post-Brexit, lower Courts in the UK (First-tier Tribunal, Upper Tribunal and High Court) remain bound by European case law. However, the Court of Appeal of England and Wales, and equivalent courts and upwards across the UK, have the power to depart from retained EU case law. The test for doing so is one that is currently applied by the Supreme Court as to whether to depart from one if its own judgments, namely whether it is right to do so. In practice, this power has been exercised very sparingly by the Supreme Court. Following agreement by both Houses on the text of the Retained EU Law (Revocation and Reform Bill), it received Royal Assent on 29 June 2023. The bill is now an Act of Parliament – Retained EU Law (Revocation and Reform) Act 2023. 31 December 2023 will mark the beginning of the UK's divergence from EU law. Under this Act, around 600 pieces of legislation across 16 government departments will be revoked and some key EU law principles will no longer be applicable. Note that although the Isle of Man has its own laws/courts, it relies on the UK system in relation to VAT judgments.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons.

In the Isle of Man, the following services are subject to the "use and enjoyment" provisions:
- The letting on hire of goods (including means of transport)
- Electronically supplied services (business-to-business [B2B] only)
- Telecommunications services (B2B only)
- Repairs to goods under an insurance claim (B2B only)
- Radio and television broadcasting services

Effective use and enjoyment rules apply to the aforementioned services when they are either supplied by an Isle of Man supplier but consumed outside the UK/Isle of Man; or, supplied by a non-UK/Isle of Man supplier but consumed in the UK/Isle of Man.

Transfer of a going concern. Normally the sale of the assets of a VAT registered or VAT registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) is the sale of a business, including assets that must be treated as "neither a supply of goods nor a supply of services" by virtue of meeting certain conditions. Where the sale meets the conditions, the supply is mandatorily outside the scope of UK/Isle of Man VAT.

For there to be a TOGC for VAT purposes in the Isle of Man, all of the following conditions must apply:

- The assets, such as stock-in-trade, machinery, goodwill, premises and fixtures and fittings, must be sold as part of the TOGC
- The buyer must intend to use the assets in carrying on the same kind of business as the seller
- Where the seller is a taxable person, the buyer must be a taxable person already or become one as the result of the transfer
- In respect of land or buildings that would be standard rated if they were supplied, the buyer must notify Isle of Man Customs and Excise that they have opted to tax the land by the relevant date and must notify the seller that their option has not been disapplied by the same date
- Where only part of the business is sold, it must be capable of operating separately
- There must not be a series of immediately consecutive transfers of the business

Transactions between related parties. In the Isle of Man, there are no specific rules that indicate the value for VAT/GST purposes for transactions between related parties. However, where a supply is made below market value, Treasury may direct that the value of the supply shall be taken to be its open market value.

C. Who is liable

A taxable person is any entity or person that is required to be registered for VAT. It includes any entity or individual that makes taxable supplies of goods or services in the Isle of Man in the course or furtherance of a business greater than the turnover thresholds.

The VAT registration threshold is GBP85,000; this threshold generally increases annually, however, this rate is currently set until 31 March 2026. This threshold applies to businesses established in the Isle of Man or the UK. A nil registration threshold applies for non-established businesses. As a result, any non-established business that makes taxable supplies in the Isle of Man is required to register for VAT.

Exemption from registration. A taxable person whose turnover is wholly or principally zero-rated may request exemption from registration.

Voluntary registration and small businesses. A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A business may also register for VAT voluntarily in advance of making taxable supplies.

Businesses with a taxable turnover of GBP150,000 or less (excluding VAT) may apply to the Customs and Excise Division to use the VAT Flat Rate scheme. Refer to the Special schemes section for further details.

Businesses with annual taxable turnover (excluding VAT) of less than GBP1.35 million may apply to complete an annual VAT return rather than quarterly returns. Refer to the Special schemes section for further details.

Group registration. VAT grouping is a facilitation measure by which two or more eligible persons can be treated as a single taxable person for VAT purposes. Eligible persons are bodies corporate, individuals, partnerships and Scottish partnerships. Bodies corporate include companies of all types.

Corporate bodies and certain noncorporate entities that are under "common control" and are established or have a fixed establishment in the Isle of Man or the UK may apply to register as a VAT group.

The control condition is met where all members of the group are controlled either by one member of the group, which can be a body corporate, an individual, a partnership or a Scottish partnership, or a single other "person" who is not one of the members of the group. Where control is exercised by a person that is a partnership, control must be exercised through the partnership and not by the partners as individuals. The company shares will normally be assets of the partnership.

When a VAT group is registered, any previous VAT registration numbers individual members may have had will be canceled and a new number will be issued to the group as a whole. For EORI purposes, all members of a VAT group are treated as legal entities in their own right. But it is only group members who import or export commercial goods that will require an EORI number.

A VAT group is treated as a single taxable person. The group members share a single VAT number and submit a single VAT return. VAT is not charged on supplies made between group members.

All members of a VAT group in the Isle of Man are jointly and severally liable for VAT debts and penalties.

There is no minimum time period for the duration of a VAT group.

Holding companies. A pure holding company may be included in a VAT group to the extent that it meets the eligibility criteria. VAT recovery on costs will depend on whether any taxable supplies are made and either, the direct link that exists between those costs and taxable supplies; or the link from those costs to the business activities of the VAT group as a whole.

Cost-sharing exemption. The VAT cost-sharing exemption (VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in the Isle of Man. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in the Isle of Man VAT law).

The cost-sharing exemption can be used when two or more organizations with exempt and/or nonbusiness activities join together to purchase services on a cooperative basis, and in doing so, form a separate entity, a cost-sharing group (CSG), to supply themselves with qualifying services at cost.

There are two fundamental requirements that must be met to qualify for exemption:

- The CSG must consist only of operators carrying out an activity that is exempt from, or not subject to, VAT. The only businesses or organizations that can use the exemption are those that engage in exempt activities that fall within public interest exemptions, including postal services, education, health and welfare, subscriptions to trade unions, professional and other qualifying bodies, sports, sports competitions and physical education, fund raising by charities and cultural services.
- The group must not exist for the purposes of gain and must only charge its members for expenses incurred by it to meet their requirements.

Fixed establishment. A fixed establishment is an establishment other than the business establishment (a business establishment is usually a head office, headquarters or seat from which the business is run on a day-to-day basis and central administration takes place), which has the human and technical resources necessary for providing or receiving services. A business may have several fixed establishments, which may include a branch or agency. Where there are establishments in more than one country, it will be necessary to determine which one is most directly linked to a supply.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in the Isle of Man or the UK. A non-established business must register for VAT if it makes any of the following supplies in the Isle of Man, regardless of the value of the supply:
- Goods located in the Isle of Man at the time of supply
- Services to which the reverse charge does not apply
- Supplies of telecommunication, broadcasting and electronic services (digital services) to non-taxable customers in the Isle of Man

A non-established business that registers for VAT may normally do so from its place of business outside the Isle of Man. Application form VAT 1 MAN should be sent to the following address:

Isle of Man Customs and Excise
P.O. Box 6
Custom House
North Quay
Douglas IM99 1AG
Isle of Man

Tax representatives. A non-established business may choose to appoint a tax representative or agent to act on its behalf in relation to Isle of Man VAT matters.

Customs and Excise Division may require that a non-established person appoint a tax representative. However, this condition may be imposed only if the business is established in a country outside the EU that has not agreed on mutual assistance provisions with the UK/Isle of Man.

Reverse charge. If a non-established business supplies services to an Isle of Man taxable person but does not register for VAT, the taxable person may be required to account for the VAT due under "reverse-charge" accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax (that is, VAT on allowable purchases) depending on the taxable person's partial exemption status. This provision does not apply in all circumstances. For example, it applies only if the place of supply of the services is the Isle of Man.

Domestic reverse charge. *Telecommunication services.* The reverse charge applies to the services of routing telephone calls and associated data (text, images) over landlines, mobile networks and the internet. It does not apply to non-wholesale supplies or to businesses not registered or not liable to be registered for VAT. The supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the reverse charge applies, and that the customer is required to account for the VAT.

Domestic supplies of mobile phones and computer chips. A domestic reverse charge with respect to specified goods is designed to combat missing trader fraud. The reverse charge applies, with some exclusions, to supplies of mobile phones and computer chips valued at GBP5,000 or more and that are supplied in the UK or Isle of Man by a VAT-registered business to another VAT-registered business. Under the reverse-charge accounting mechanism, it is the responsibility of the customer, rather than the supplier, to account for VAT on supplies of the specified goods. The supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the reverse charge applies, and that the customer is required to account for the VAT.

Domestic supplies of emissions allowances. Purchasers of specified emissions allowances must account for VAT under a domestic reverse-charge accounting procedure, rather than paying VAT to the supplier. The supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the reverse charge applies, and the customer is required to account for the VAT.

Domestic wholesale supplies of gas and electricity. Purchasers of wholesale supplies of gas and electricity are required to account for VAT under a domestic reverse-charge accounting procedure, rather than paying VAT to the supplier. VAT-registered businesses that do not resell or trade the gas or electricity are not affected. The supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the reverse charge applies, and that the customer is required to account for the VAT

Domestic B2B supplies of construction services. The domestic reverse charge applies in the Isle of Man for the construction industry. The charge applies to standard (20%) or reduced rate (5%) building and construction services where payments are required to be reported through the Construction Industry Scheme (CIS). Therefore, supplies between subcontractors and contractors (i.e., B2B supply), as defined by the CIS, will be subject to the reverse charge unless they are supplied to a contractor who is an end user.

Digital economy. *E-commerce changes*. The Isle of Man introduced changes to the VAT rules relating to e-commerce sales effective from 1 January 2021. These changes are similar to the EU e-commerce VAT changes that were implemented on 1 July 2021. The Isle of Man changes coincided with the removal of the low-value consignment relief and the end of the Brexit transition period. *For an overview of the e-commerce changes, see the chapter on the EU.*

Import of low-value goods for sales to customers. From 1 January 2021, the low-value consignment relief (LVCR) that relieved import VAT on consignments of goods valued at GBP15 or less was removed for goods imported from outside the UK/Isle of Man. Further, the EU VAT distance selling regime no longer applies to sales of goods to customers in the Isle of Man from 1 January 2021.

As a consequence of the above changes, VAT is chargeable on all imports into the Isle of Man. However, different VAT rules apply to import of goods in consignments valued at GBP135 or less and consignments valued at more than GBP135.

For non-excisable goods imported in consignments not exceeding GBP135 in value, the goods will no longer be subject to import VAT. Instead, VAT will be applied at the point of sale. These rules apply irrespective of the place of establishment of the supplier. If the supplier making such imports is not registered for VAT in the UK/Isle of Man, from 1 January 2021 they would be required to obtain an Isle of Man VAT registration for such imports.

Similar rules apply to both B2B and B2C transactions involving imports. However, if the customer provides the supplier with a UK/Isle of Man VAT registration number, then the customer is required to self-assess VAT under the reverse-charge mechanism.

Import One-Stop Shop. The Import One-Stop Shop (IOSS) may be used by non-EU businesses making consignments to customers in the EU and NI, less than EUR150. Local VAT registrations may still be appropriate for consignments over EUR150 to facilitate returns and to avoid the need for the customer to act as importer.

Online marketplaces and platforms. If an online marketplace (OMP) facilitates the B2C sale of goods by sellers, the OMP is treated as the deemed supplier of the goods for VAT purposes under the following two scenarios:

- Goods imported from outside GB/Isle of Man into the Isle of Man in consignments not exceeding GBP135 in value for sales to customers
- Goods located in the Isle of Man at the point of sale and are owned by a supplier established outside the UK/Isle of Man

In the above scenarios, the OMP is liable to account for VAT as a deemed supplier, regardless of its place of establishment. In the above cases, if the customer is VAT registered and it has provided its UK/Isle of Man VAT registration number to the OMP, then the OMP is not viewed as a deemed supplier.

The term OMP has been defined as "a website or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace)." The term "operator" is defined as "the person who controls access to, and the contents of, the online marketplace," provided that the person is involved in all the following:

- Determining any terms or conditions applicable to the sale of goods
- Processing, or facilitating the processing, of payment for the goods
- The ordering or delivery, or facilitating the ordering or delivery, of the goods

Joint and several liability. Where an overseas trader who operates through a fulfillment house/online marketplace is liable to be registered and account for Isle of Man VAT, and they fail to do so, Isle of Man Customs and Excise has powers in place to hold the online marketplace jointly and severally liable for any Isle of Man VAT due.

Vouchers. The rules apply to vouchers issued on or after 1 January 2019 and refers only to single-purpose vouchers (SPV) and multi-purpose vouchers (MPV).

A SPV is one where the place of supply of the underlying goods or services is known (i.e., the country in which the supply will take place) and the relevant goods or services have a single liability to VAT (i.e., standard rate, zero rate, reduced rate or exempt) at the time the voucher is issued and transferred (such that the applicable VAT rate is known at the time the voucher is issued/transferred). Both the issue of a SPV and its subsequent transfer represent a supply of the underlying goods or services, and any VAT payable is due at this time. The consideration is the amount charged for the issue and transfer of the voucher.

Any voucher that is not a SPV will be a MPV. With a MPV, at the time the voucher is issued or transferred, the VAT rate of the underlying goods or services is not known (e.g., the place of supply and/or rate of the goods is unknown) and thus the underlying goods or services are only taxed when the voucher is redeemed. The issue or transfer of the voucher is disregarded (i.e., not a supply for Isle of Man VAT purposes).

Registration procedures. To register for VAT, form VAT 1 MAN should be completed, and the original signed form submitted along with supporting documentation. If submitted by post it should be sent to the following address:

Isle of Man Customs and Excise
P.O. Box 6
Custom House
North Quay
Douglas IM99 1AG
Isle of Man

Supporting documents would include copies of corporate registration, evidence of trade or intent to trade and an appropriate business plan. Additional supporting evidence may be required depending on the nature of the business activity.

A VAT registration can usually be processed within 7 to 10 working days.

Currently there is not an online VAT registration system in the Isle of Man. However, emailed applications will normally be accepted.

Note that one VAT registration covers both GB and Isle of Man activities. The registration is based on where the taxable person is established.

Deregistration. A taxable person that ceases to be eligible for VAT registration must deregister. A taxable person may also request deregistration if its taxable turnover drops below the deregistration threshold (currently GBP83,000) or if its taxable turnover is wholly or principally zero-rated. However, deregistration is not compulsory in these circumstances.

Changes to VAT registration details. A business must keep VAT registration details up to date and Isle of Man Customs and Excise must be advised of any changes in writing. This would include changes to corporate name, registered address, business activity, VAT liability of supplies and members of a partnership.

Isle of Man Customs and Excise must be notified about any material changes within 30 days, or a financial penalty may be applied.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

If an Isle of Man company is not required to register for VAT but the beneficial owner is a non-Isle of Man or non-UK resident, look-through provisions may apply. In 1983, the Isle of Man reached agreement with the UK government to introduce measures to look through the fact that a company is resident in the Isle of Man and to consider the place of residence of the beneficial owner. Consequently, if a package of corporate administration services is provided to an Isle of Man company in these circumstances, the supply is not subject to VAT.

The VAT rates are:
- Standard rate: 20%
- Reduced rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the zero-rate, the reduced rate or an exemption.

Some differences exist between the Isle of Man and the UK with respect to the supplies that are eligible for zero-rating and the reduced rate.

Some supplies are classified as "exempt-with-credit." Exempt-with-credit supplies are effectively treated as if they were zero-rated, but they are not within the scope of VAT. This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt-with-credit supplies include services supplied to customers outside the UK/Isle of Man.

Examples of goods and services taxable at 0%

- Books, newspapers and periodicals (from 1 May 2020, this also applies to digital formats of these publications)
- Certain foodstuffs
- Children's clothing and footwear
- Drugs and medicines supplied on prescription
- New housing
- Transport services
- Passenger transport (including yachts)
- Exports of goods and related services

Examples of goods and services taxable at 5%

- Fuel and power supplied to domestic users and charities

- Energy-saving materials
- Building materials for residential conversions
- Sanitary protection products
- Children's car seats
- Domestic property repairs
- Holiday accommodation

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Betting and gaming
- Education
- Finance
- Insurance
- Land and buildings (in most cases)
- Public postal services
- Human blood products
- Medical services

Option to tax for exempt supplies. An option to tax may be made in respect of commercial land and property. Where an option to tax is made, supplies of interest in the land and property will become taxable with VAT chargeable at the standard rate of VAT and in return, input tax in relation to the taxable supply will be recoverable subject to the normal rules. Certain supplies of land and buildings are not affected by an option to tax (generally buildings intended for residential use or a qualifying charitable use).

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The "basic" tax point under Isle of Man law is the point when the goods are either removed from the supplier's premises or made available to the customer, or when the services are performed.

The basic tax point may be overridden by the creation of an "actual" tax point. An actual tax point may occur before or after the basic tax point.

Before the basic tax point. If the supplier issues a VAT invoice or receives payment with respect to the supply, a tax point is created to the extent covered by the invoice or payment.

After the basic tax point. If an invoice is issued up to 14 days after the supply, the date of the invoice becomes the tax point. Taxable persons may request permission to extend the period for this invoicing tax point to up to a maximum of 30 days after the basic tax point.

Deposits and prepayments. The receipt of a deposit or prepayment normally creates an actual tax point if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

Continuous supplies of services. If services are supplied continuously, a tax point is created each time a payment is made, or a VAT invoice is issued, whichever occurs earlier. Where payments are made at regular intervals, a VAT invoice can be issued in advance. However, the customer cannot recover input tax until the first payment is due or has been paid. Where payments are not made at regular intervals, an invoice should be issued annually to create a tax point.

Goods sent on approval or for sale or return. The tax point for goods sent on approval or for sale or return is the earlier of when the goods are accepted by the customer or 12 months after their removal from the supplier. However, if a VAT invoice is issued before these dates, the invoice creates an actual tax point, up to the amount invoiced.

Reverse-charge services. The tax point for reverse-charge services is primarily when the service is performed. For single services, this is when the service is completed or when payment for the service is made, whichever is earlier. For a continuous supply of services, the tax point is the end of each periodic billing or payment period or when payment is made, whichever is earlier. For continuous supplies that are not subject to billing or payment periods, the tax point is 31 December each year unless a payment creates an earlier tax point.

Leased assets. The same general rules apply as with the continuous supply of services provided that legal title to the goods does not pass to the recipient and there is no express contemplation that title will transfer at some point in the future. Goods supplied on terms that expressly contemplate that title will transfer at some point in the future (e.g., under hire-purchase or conditional sale agreements) are treated in the same way as a normal sale of goods where title passes at the outset. Unless a VAT invoice is issued, the time of supply will be linked to the basic tax point (see above). This means the full amount of VAT becomes payable at the outset rather than being due on the installment payments.

Imported goods. The time of supply for imported goods is the date of importation or the date on which the goods leave a duty suspension regime. Postponed import VAT accounting may be used for imports by Isle of Man VAT registered businesses.

Intra-Community acquisitions. No longer applicable following the end of the transition period, on 31 December 2020 at 11 p.m. UK time.

Intra-Community supplies of goods. No longer applicable following the end of the transition period, on 31 December 2020 at 11 p.m. UK time.

Distance sales. No longer applicable following the end of the transition period, on 31 December 2020 at 11 p.m. UK time.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. Where input tax exceeds output tax in any period, the taxable person will receive a refund.

Input tax includes VAT charged on goods and services supplied in the Isle of Man or the UK, VAT paid on imports of goods into the Isle of Man or the UK and self-assessed VAT on reverse-charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax. A Monthly Postponed Import VAT Statement (MPIVS) will form the primary evidence for input tax recovery for imports (C79 certificates will not be required to support recovery of import VAT accounted for via postponed import VAT accounting). The MPIVS will be published online via the taxable person tax account and the Isle of Man VAT-registered importer will have access to the statement as soon as it is published.

C79 certificates will continue to be required as evidence to support import VAT recovery only to the extent to which import VAT is accounted for at import.

The time limit for a taxable person to reclaim input tax in the Isle of Man is four years. The time limit for deducting input tax starts to run from the due date for the return that the business is liable to make after it has both incurred the input tax and received the VAT invoice. If the taxable person does not account for input tax in the appropriate period, this is an error, and the taxable person may be required to make an error correction notification. Input tax cannot be claimed more than four years after the date by which the return for the first period in which input tax could be claimed is required to be made.

Special rules apply to the recovery of input tax on expenditure incurred before registration and after deregistration.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Purchase of a car (unless the car is available exclusively for business use)
- 50% of VAT incurred on the rental or lease of a car used for mixed business and private purposes
- Private expenditure
- Business entertainment and hospitality (except when provided to overseas customers)
- Import VAT where the taxable person is not the owner of the relevant goods

Examples of items for which input tax is deductible (if related to a taxable business use)

- Conferences, exhibitions, training and seminars
- Taxi services
- Restaurant expenses for employees
- Accommodation
- Motoring expenses and fuel for business purposes
- Business use of a home telephone

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

An Isle of Man taxable person that makes exempt supplies may calculate the amount of VAT that it may recover in several ways. The standard partial exemption calculation method is a two-stage calculation. The following are the two stages of the calculation:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as taxable supplies for these purposes.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation of recoverable VAT may be performed using the general pro rata method based on the respective value of taxable and exempt supplies made.

If the standard calculation provides an unfair or distortive result, a special calculation method may be agreed with the Customs and Excise Division. Approval from the tax authorities is not required to use the partial exemption standard method in the Isle of Man. A business must use the standard method unless Isle of Man Customs and Excise has given approval for a special method. In some cases, the authorities may impose the use of a special calculation method.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. A taxable person does not have to be partly exempt or have nonbusiness activities when costs are incurred for the capital goods scheme (CGS) to apply. The value of a capital item is the VAT-exclusive value of the item. Only the value of standard or reduced-rated taxable supplies is considered. The value is determined by reference to total expenditure on an asset. This includes both business and nonbusiness expenditure on an asset.

Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's business use in the VAT year of acquisition. The scheme requires adjustments to be made to the initial amount of VAT claimed. This reflects the differences in the use of capital items over a period of time. This period is known as the "adjustment period." If, during the adjustment period, there is any change in the proportion of taxable use, then the taxable person must make a corresponding adjustment to input tax.

In the Isle of Man, the capital goods adjustment applies to the following assets for the number of intervals (normally a year) indicated:

- Land and buildings and related property expenditure valued at GBP250,000 or more are adjusted for a period of 10 intervals.
- Individual computer hardware valued at GBP50,000 or more is adjusted for a period of five intervals.
- The CGS also includes ships and aircraft valued at GBP50,000 or more; the adjustment period is five intervals.

If, in any subsequent interval, the amount that the item is used to make taxable supplies increases or decreases compared with its use in the original deduction period, a CGS adjustment is required in that subsequent interval. No retrospective adjustments are made after the end of the first interval. The actual input tax adjustment (if any) required in a subsequent interval is calculated by dividing the total VAT on the capital item by the total number of intervals in the adjustment period (usually either 5 or 10) and then multiplying by the adjustment percentage.

In the Isle of Man, the capital goods adjustment does not apply to any services.

Refunds. If the amount of VAT recoverable (i.e., input tax) exceeds the amount of VAT payable (i.e., output tax) in a period, a refund may be claimed. This is done automatically through the submission of the periodic VAT return. A taxable person that receives regular repayments of VAT may request permission to submit monthly returns.

Note that Isle of Man-established businesses that have incurred VAT in the EU can still claim refunds of VAT from the EU after the end of the Brexit transitional period but need to refer to the local EU Member State, as each EU Member State has its own process for refunding VAT to non-EU businesses. *For full details, see the chapter on the EU.*

Pre-registration costs. VAT incurred on the purchase of goods for a taxable business still on hand at the time of VAT registration can be recovered, subject to the normal rules, up to four years prior to the effective date of VAT registration. VAT incurred on services purchased for a taxable business can be recovered, subject to the normal rules, up to six months prior to the effective date of VAT registration.

Bad debts. Where a business has made supplies to its customers and has not been paid, it can claim relief for the VAT on bad debts provided a number of conditions are met. The main conditions for claiming VAT bad debt relief are that the business must already have accounted for the VAT on the supplies and paid it to the Customs and Excise Division, the business must have written off the debt in its VAT accounts, and the debt must have remained unpaid for a period of six months after the date of the supply and the date payment was due, whichever is later. If, however, payment is subsequently received, VAT must once again be accounted for.

Noneconomic activities. Input tax incurred upon purchases that are used for noneconomic activities is not recoverable in the Isle of Man.

VAT incurred on purchases that are used partly for business purposes and partly for nonbusiness purposes must normally be apportioned between economic and noneconomic use before dealing with any partial exemption calculation.

Government bodies, local authorities and similar organizations can recover VAT incurred on certain costs relating to their nonbusiness activities under sections 41 and 33 of the VAT Act 1996.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Isle of Man is recoverable. Customs and Excise Division refunds VAT incurred by businesses that are neither established nor registered for VAT in the Isle of Man. Non-established businesses may reclaim Isle of Man VAT to the same extent as VAT-registered businesses.

Businesses established outside the Isle of Man may be entitled to recover VAT incurred on goods and services supplied in the Isle of Man.

The Isle of Man does not generally exclude businesses from any country from eligibility.

Find below specific rules for the Isle of Man:

- Refunds are based on the period from 1 July to 30 June (a prescribed year), and the final deadline for refund claims is 31 December following the end of the prescribed year in which the tax was incurred.
- The applications must be submitted in English.
- The minimum claim period is three months, unless a period of less than three months is all that remains of the prescribed year and the maximum period is one prescribed year. The minimum claim for a period of less than a year is GBP130. For an annual claim, or for a period of less than three months when that is all that remains of the prescribed year, the minimum amount is GBP16.

  Postal applications must be sent to the following address:

  HM Revenue and Customs
  Compliance Centres
  VAT Overseas Repayment Unit
  S1250
  Benton Park View
  Newcastle Upon Tyne
  NE98 1YX

Applications should be submitted using form VAT 65A (available online) and accompanied by a Certificate of Status, relevant invoices and other supporting documentation.

Claims may also be submitted electronically using HMRC's Secure Data Exchange Service (SDES) system. The system is optional and is still in the testing stage (as of October 2022). You need to register to use the system on or before 30 November ahead of the 31 December deadline.

Refunds will be made within six months of receiving a satisfactory application. If the application is in order, the invoices showing that VAT has been paid will be returned as soon as the application is authorized for payment.

H. Invoicing

VAT invoices. An Isle of Man taxable person must generally provide a VAT invoice for all taxable supplies made to other taxable persons, including exports. Invoices are not automatically required for B2C supplies, such as retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or refund.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the

value of the original supply. A credit note must be issued within one month after the discovery of the mistake or overcharge, and it must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is allowed in the Isle of Man, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the Isle of Man. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the Isle of Man. The requirements related to electronic invoicing are the same as those for paper invoicing.

Isle of Man Treasury has not mandated B2G, B2B or B2C e-invoicing. However, as part of its VAT system there are legal requirements relating to the issuing, receiving and storing of e-invoices. Businesses need to adhere to these where they or their customers have agreed to receive e-invoices on a voluntary basis.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A retailer does not have to issue a full VAT invoice unless a customer request one. Retailers can issue simplified invoices for supplies under GBP250. For businesses that are not retailers, but the total value of their supply does not exceed GBP250, it can issue its customer with a simplified invoice.

Self-billing. Self-billing is allowed in the Isle of Man. However, a written agreement must be in place between the customer and supplier. The agreement must have an expiry date, it must allow the customer to issue invoices on the supplier's behalf and contain confirmation that the supplier won't issue VAT invoices for goods/services covered by the agreement. Authorization is not required to operate self-billing as long as all the relevant conditions are met.

Proof of exports. Isle of Man VAT is not chargeable on supplies of exported goods. However, to qualify for VAT zero-rating, the goods must be exported from the Isle of Man within three months of the time of supply and valid evidence of export must be obtained.

Acceptable proof includes official customs documentation and commercial documentation, such as consignment notes and airway bills. In all cases, the evidence must clearly identify the supplier, the customer, the goods and the destination. The evidence must be obtained within three months of the time of supply and be retained for at least six years.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, the VAT value must be converted into the domestic currency, which is the British pound sterling (GBP), using an acceptable exchange rate and stated in the invoice. Suppliers may use any of the following rates:
- The UK market selling rate at the time of supply
- The UK tax authorities' published exchange rate for the period
- Any other acceptable commercial rate agreed to in writing with the Customs and Excise Division

Supplies to nontaxable persons. Full VAT invoices are not automatically required for supplies to nontaxable persons, such as retail transactions, unless requested by the customer.

Records. In the Isle of Man, the records that must be held for VAT purposes include a record of sales and purchases and a separate summary of VAT known as a VAT account. A taxable person must also keep copies of all invoices that it issues and those that it receives, plus import and export documents and other general business records. The type of additional records to be retained will depend on the nature of the business.

In the Isle of Man, VAT books and records can be kept outside of the country. However, whilst generally records must be retained at the principal place of business, this can be changed if agreed with the Customs and Excise Division. Records must be available for inspection locally on request.

Record retention period. Generally, business records for VAT purposes must be retained for at least six years.

Electronic archiving. Electronic archiving is allowed in the Isle of Man. Taxable persons can maintain records on paper, electronically or as part of a software program. Electronic archiving is permitted with approval from Isle of Man Customs and Excise.

I. Returns and payment

Periodic returns. VAT returns are generally submitted quarterly. VAT return quarters are staggered into three cycles to ease the Customs and Excise Division administration. The following are the cycles:

- March, June, September and December
- February, May, August and November
- January, April, July and October

At the time of registration, each taxable person is informed about the return cycle that it must use. However, the Customs and Excise Division may consider a request to use VAT return periods that correspond with a taxable person's financial year. In addition, a taxable person whose accounting dates are not based on calendar months may request permission to adopt nonstandard tax periods.

Taxable persons that receive regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

VAT returns must generally be submitted by the last day of the month following the end of the return period. However, in most cases, taxable persons that submit their VAT returns electronically have an additional seven calendar days after the normal due date in which to file their returns and make payments. Businesses that use the annual accounting scheme or are required to make payments on account do not qualify for this seven-day extension.

Periodic payments. Payments of VAT due must be made electronically. Payment must generally be made by the last day of the month following the end of the return period. However, in most cases, taxable persons that submit their VAT returns electronically have an additional seven calendar days after the normal due date in which to file their returns and make payments (businesses that use the annual accounting scheme or are required to make payments on account do not qualify for this seven-day extension and must make a number of payments throughout the period).

VAT returns must be completed in GBP but return liabilities may be paid in GBP or euros (EUR).

Electronic filing. Electronic filing is mandatory in the Isle of Man for all taxable persons. To submit returns electronically, a taxable person must first register to use online services via the Isle of Man Government online service website. A taxable person must then select "Customs and Excise" from the available services and simply enroll following a few simple steps. An additional seven days are allowed for returns that are submitted online. A VAT agent may be used to submit VAT returns on behalf of a taxable person.

Payments on account. Payments on account are generally not required in the Isle of Man, except for certain taxable persons. Taxable persons whose annual VAT liability is greater than GBP2.3 million must make payments on account, which are interim payments made at the end of the second and third months of each VAT quarter. The balance of VAT payable for the period is made at the end of the quarter. The amount of the payment is generally based on the taxable person's

VAT liability for the preceding 12 months. Electronic transfers must be used for all payments on account.

Special schemes. *Cash accounting.* Businesses with annual turnover of less than GBP1.35 million (excluding VAT) may apply to use cash accounting. Under the cash accounting scheme, businesses account for output tax and reclaim input tax on the basis of cash received and paid, rather than on the basis of invoices issued and received. However, if their annual taxable turnover subsequently exceeds GBP1.6 million (excluding VAT), they must stop using the scheme.

Annual accounting. Businesses with annual turnover less than GBP1.35 million (excluding VAT) may apply to complete an annual VAT return. Businesses that use annual accounting must make either three quarterly or nine monthly VAT payments, depending on the level of turnover. Any balancing payment must be made with the annual return. The annual return is due by the last day of the second month following the end of the taxable person's VAT year. However, if their annual taxable turnover subsequently exceeds GBP1.6 million (excluding VAT) they must stop using the scheme.

Special accounting. A Flat Rate Scheme (FRS) exists for businesses with an annual taxable turnover of less than GBP150,000 (excluding VAT). Under the scheme, eligible businesses may opt to calculate VAT due based on a fixed percentage of their total turnover. The percentages range from 4% to 16.5%, depending on the trade sector of the business. A business ceases to be eligible for the FRS if their annual taxable turnover exceeds GBP230,000 (including VAT) in the period of 12 months ending with the anniversary of joining or if they expect it to end in the next 12 months or if the total income in the next 30 days alone is expected to be more than GBP230,000 (including VAT).

Retailers. A retail business with an annual VAT-exclusive turnover over GBP130 million must agree a bespoke scheme with Isle of Man Customs and Excise. For other retail businesses, there are five standard retail schemes available to choose from, provided conditions are met and Isle of Man Customs and Excise has not disallowed its use.

Secondhand goods. To avoid double taxation on goods that have previously borne VAT when sold as new, a business can opt to charge VAT on the profit margin on supplies of works of art, antiques or collectors' items; motor vehicles; secondhand goods; and goods through a person who acts as an agent, but in their own name, in relation to the supply.

There is also a Global Accounting Scheme under which VAT is accounted for on the difference between the total purchases and sales of eligible goods in each VAT period rather than on an item-by-item basis.

Tour operators. The Tour Operators' Margin Scheme (TOMS) is a special scheme for businesses that buy in and resell travel, accommodation and certain other services as principals or undisclosed agents (i.e., that act in their own name). In many cases, it enables VAT to be accounted for on travel supplies without businesses having to register and account for VAT in every EU Member State in which the services and goods are enjoyed. Post transition, the Isle of Man introduced a version of TOMS that applies in a similar way to EU TOMS, except the scope of the zero-rate has been extended so the margin on all travel services enjoyed outside the UK/Isle of Man will be zero-rated. This puts travel services enjoyed in EU Member States in the same position as travel services enjoyed in the rest of the world.

Other schemes. There are also special schemes for gold traders and farmers.

Annual returns. Annual returns are not required in the Isle of Man.

Supplementary filings. No supplementary filings are required in the Isle of Man.

Correcting errors in previous returns. In the Isle of Man, there are two methods for correcting errors from earlier VAT returns. For VAT errors of a net value that do not exceed GBP10,000, or errors of a net value between GBP10,000 and GBP50,000 that do not exceed 1% of the box 6 (net outputs) VAT return declaration due for the return period in which the errors are discovered, a taxable person may adjust its VAT account and include the value of that adjustment on its current VAT return. For VAT errors of a net value between GBP10,000 and GBP50,000 that exceed the above limit or for net errors greater than GBP50,000, or voluntarily for errors of any size, a taxable person must make a formal disclosure to Isle of Man Customs and Excise. The disclosure can be made using form VAT 652 MAN or by a letter containing details of the errors by VAT period.

Digital tax administration. There are no transactional reporting requirements in the Isle of Man. *At the time of preparing this chapter, there are no plans to implement the Making Tax Digital regime in the Isle of Man, which is currently in place in the UK.*

J. Penalties

Penalties for late registration. A penalty is assessed for late VAT registration, which is calculated as a percentage of the VAT due (output tax less input tax) for the "relevant period." The "relevant period" begins on the date on which the business is required to be registered and ends on the date on which the Isle of Man VAT authorities became fully aware of this liability.

The penalty rate that applies may range from 30% (in most cases) to 100% (for deliberate and concealed acts) of the VAT due. However, measures exist for the reduction of such penalties if the business discloses the failure to register to the Customs and Excise Division. The degree of mitigation depends on the "quality" of the disclosure.

Penalties for late payment and filings. *For VAT periods starting on or before 31 December 2022.* If a business with a turnover of GBP150,000 or more submits a VAT return or payment late, the taxable person is in default and is issued a Surcharge Liability Notice. The surcharge liability period initially lasts for 12 months from the date of the notice. Any further default within this period triggers a penalty and extends the notice period. The penalty is a percentage of the VAT due.

The following are the percentage penalties:
- For the first further default in the notice period: a penalty of 2% of the VAT due
- For the second further default in the notice period: a penalty of 5% of the VAT due
- For the third further default in the notice period: a penalty of 10% of the VAT due
- For the fourth and subsequent further defaults in the notice period: a penalty of 15% of the VAT due (for each further default)

In the 2% and 5% penalty bands, penalties are not imposed on amounts of less than GBP400. A minimum penalty of GBP30 is imposed for the 10% and 15% penalty bands. If a nil or repayment return is submitted late or payment is made on time, but the return is submitted late, no penalty is levied. However, the surcharge liability notice period is extended.

For businesses with turnover of less than GBP150,000, a help letter is issued at the first default stage. If the business defaults again within the next 12 months, a Surcharge Liability Notice is issued, followed by the same penalties listed above for further defaults.

The above rules are in effect until 31 December 2022. A new points-based penalty regime will come into effect for VAT periods starting on or after 1 January 2023. The new regime will replace the existing default surcharge and interest regimes where VAT returns and/or payments are made late. Any nil or repayment VAT returns received late will also be subject to late submission penalty points and financial penalties.

For late filings penalties on or after 1 January 2023. If a VAT return is submitted late, a point is incurred. The taxable person will be notified of its points by Isle of Man Customs and Excise.

A fixed financial penalty of GBP200 is incurred after the relevant points threshold is reached and a further GBP200 penalty for each subsequent late submission. The level of threshold points depends on the taxable person's VAT return submission frequency: annual return submission is two points; quarterly return submission is four points and monthly return submission is five points.

Individual penalty points accrued will expire after 24 months, provided the taxable person remains above the relevant points threshold. After the relevant points threshold has been reached, all points will expire after the person has complied with their VAT return filing obligations for specified periods of time: for annual VAT returns, it is 24 months, for quarterly VAT returns, it is 12 months and for monthly VAT returns, it is 6 months.

If the taxable person continues to fail to submit VAT returns by the due date after the points threshold is reached and a penalty has been issued, a further fixed penalty will apply for each additional missed VAT return deadline unless a reasonable excuse applies, in which case, points and penalties can be appealed.

Late payment penalties on or after 1 January 2023. The new regime aims to introduce proportionate penalties according to how much and how late the payment is. To avoid a penalty, a taxable person must either pay the VAT due or agree to a time to pay (TTP) arrangement.

No penalty will be chargeable on tax paid in full or a payment plan agreed up to 15 days after the due date. A first penalty at 2% will be chargeable on tax paid in full or a payment plan agreed between 16 and 30 days after the due date. If the tax remains unpaid after 30 days, a first penalty will be chargeable at 2% of the tax owed at day 15, plus 2% on the tax owed at day 30, a second penalty will be chargeable calculated at a daily rate of 4% per year for the duration of the outstanding balance; this is calculated when the outstanding balance is paid in full or a payment plan agreed.

Period of familiarization. A first late payment penalty will not be charged for the first year from 1 January until 31 December 2023, if the tax is paid in full within 30 days of the payment due date.

Interest on or after 1 January 2023. From January 2023, the VAT interest rules will also change. When an amount of VAT is not paid by the due date, late payment interest will be charged to the taxable person from the date that payment was due up until the date the payment is received by Isle of Man Customs and Excise. Late payment interest will apply to VAT returns, VAT amendments, assessments and payments on account. Late payment interest is calculated at the Bank of England base rate plus 2.5%.

Repayment interest on or after 1 January 2023. Repayment supplement will be withdrawn for accounting periods starting on or after 1 January 2023. From that date, Isle of Man Customs and Excise will instead pay repayment interest on any VAT owed. This will be calculated from the day after the due date or the date of submission (whichever is later) until the day Isle of Man Customs and Excise pays the repayment VAT amount in full. Repayment interest will be calculated as the Bank of England base rate minus 1%. The minimum rate of repayment interest will always be 0.5%, even if the repayment interest calculation results in a lower percentage.

Penalties for errors. If a business makes an error on a VAT return despite taking "reasonable care," it should not be liable to a penalty. Otherwise, the penalty rate depends on the behavior giving rise to the error (rather than the size of the error) and may range from 30% (for "careless" errors) to 100% (for "deliberate and concealed" acts) of the VAT due. However, provisions exist

for the reduction of such penalties if the business makes an unprompted disclosure to the Customs and Excise Division. The degree of mitigation also depends on the "quality" of the disclosure.

The late notification or failure to notify changes to a taxable person's VAT registration details to the tax authorities, may result in a range of potential penalties. The amount would depend on the nature of any regulatory breach and the business' compliance history. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A 30% penalty for participation in VAT fraud applies to businesses where they knew or ought to have known their transactions were connected with VAT fraud. The Isle of Man Treasury has the option to name those who are penalized, and no penalty reduction is given for prompted or unprompted disclosure.

Disclosure of tax avoidance schemes. Scheme promoters are primarily responsible for disclosing indirect tax avoidance schemes to the Treasury in the Isle of Man. The scope of the current regime includes all indirect taxes and moves the responsibility for disclosing VAT avoidance schemes to scheme promoters. The measure affects all those who promote schemes.

Any arrangements or proposals for arrangements are notifiable and must be disclosed to the Treasury where:

- They enable or might be expected to enable any person to get a tax advantage in relation to indirect taxes
- That tax advantage is, or might be expected to be, the main benefit or one of the main benefits
- They fall within any description (the "hallmarks") prescribed as detailed in HMRC VAT Notice 799

Penalties can apply if notifiable proposals or arrangements are not disclosed accurately and at the right time.

Personal liability for company officers. Company officers can be held personally liable for penalties arising from VAT fraud in the Isle of Man. The penalty is equal to 30% of the VAT lost through the fraud and can apply to company officers as well as businesses. The Isle of Man Treasury has the option to name those who are penalized, and no penalty reduction is given for prompted or unprompted disclosure.

Statute of limitations. The statute of limitations in the Isle of Man is four years. The time limit for tax authorities and taxable persons in respect of careless errors or errors made despite taking reasonable care is:

- Four years from the end of the prescribed accounting period in which the error occurred in respect of underdeclared and overdeclared output tax and overclaimed input tax
- Four years from the due date of the return for the prescribed accounting period in which the error occurred in respect of underclaimed input tax

In cases of deliberate inaccuracies, the time limit is 20 years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Mass erech mussaf (Ma'am)
Date introduced	1 July 1976
Trading bloc membership	None
Administered by	Ministry of Finance (Israeli Tax Authority) (www.taxes.gov.il/vat)
VAT rates	
Standard	17%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXX
VAT return period	
Bimonthly	Taxable persons with annual turnover below NIS1.615 million
Monthly	General rule
Threshold	
Registration	NIS107,692
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is charged on the following transactions:

- A sale of an asset, including real estate, by a taxable person in the course of its business, if the asset is located in, delivered in or exported from Israel (delivery from a location outside Israel to another location outside Israel is out of the scope of the Israeli VAT law; this has implications for the input tax deduction (see *Section F*)

- Sale of intangibles or the provision of services by a taxable person in the course of its business
- Sale of an asset if the input tax on its purchase or import has been deducted
- An occasional transaction with respect to real estate (depends on the status of the seller and the purchaser and the classification of the asset sold) and including incidental service or sale of goods for commercial purposes
- Provision of "services" by non-Israeli suppliers to Israeli customers
- Support benefit or subsidy – including those not directly linked to the price of any supply (this may even extend to debt forgiveness) – provided a taxable person unless an exemption applies
- Importation of goods (including intangible property) into Israel

The term "taxable person" refers to a person or an entity that sells assets or provides services in the course of its business, provided that it is not a nonprofit organization or a financial institution, which are subject to different tax regimes. (In general, a nonprofit organization is subject to salary tax at the rate of 7.5%, which is calculated based on its salary expenses. A financial institution is subject, in addition to salary tax at the rate of 17%, to profit tax at the rate of 17%, which is calculated based on its profits.)

Taxable persons also include entities that make occasional transactions. An entity that has annual turnover not exceeding NIS102,292 and that does not fall under the list of exceptions (for example, advisors and professionals) is not liable to VAT register as a trader but must nevertheless register as an exempt entity for VAT purposes.

The term "asset" includes real estate and goods. "Goods" include all kinds of tangible and intangible property and all kinds of rights or interests but not securities, shares or similar negotiable instruments.

The term "service" includes all types of services provided to others for a consideration – including, importantly, credit transactions and money deposits. It does not include services provided by an employee to their employer.

An occasional transaction is the supply of goods or services in the course of a commercial activity. For real estate, it includes the sale of real estate by entities that are not in the real estate business to taxable persons, as well as the sale of land (excluding certain residential properties) by such sellers to nonprofit organizations, financial institutions or to certain purchasers specified in the Real Estate Tax Act.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Israel, no services are subject to the "use and enjoyment" provisions.

However, there may be a circumstance under which a business can apply to the Israeli tax authorities to receive approval that it is not required to register for VAT in Israel. Such an approval depends on the specific circumstances and is given on a case-by-case basis.

Transfer of a going concern. Transfer of going concern rules do not apply in Israel. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In general, any international transaction between related parties is required to be on an arm's-length basis. For example, an intercompany loan is required to bear interest on an arm's-length basis. In addition, a transaction between related parties should

be reported for VAT purposes based on the market value of similar transactions made between unrelated parties.

C. Who is liable

A taxable person is liable for VAT on the sale of assets or the supply of services.

Several exceptions to the above rule exist, such as the following (in which the reverse charge applies):
- For supplies of services or intangible property by non-Israeli suppliers to Israeli customers
- For certain supplies of services made by individuals, that their main income is derived from salary, allowance or pension
- Similarly, for certain purchases of real estate, the purchaser is liable to reverse charge the VAT

For imported goods, the importer of record is liable for VAT.

Exemption from registration. The Israeli VAT law does not contain any provision for exemption from registration. However, there might be a circumstance under which a business can apply to the Israeli VAT tax authorities to receive approval that it is not required to register for VAT in Israel. Such an approval depends on the specific circumstances and is given on a case-by-case basis.

Voluntary registration and small businesses. The VAT law in Israel does not contain any provision for voluntary VAT registration.

Group registration. Registration as a VAT group is possible for two or more VAT-registered entities that are the following:
- A company and its subsidiaries
- Two or more subsidiaries owned by the same parent company
- A partnership and a partner that holds 50% or more of the rights in the partnership
- Entities whose bookkeeping is done jointly

The group members share a group VAT number and submit a single monthly or bimonthly VAT report. In addition, each member must submit an annual detailed digital VAT report, detailing the annual sum of output tax and input tax with respect to intragroup supplies and the sum of output tax and input tax with respect to third parties. Invoices for intragroup supplies are not reported as part of the group's monthly/bimonthly report, unless the VAT is not deductible as input tax.

Group members are jointly and severally liable for each other's VAT liabilities. In practice, they may also be liable for other tax liabilities in certain circumstances.

There is no minimum time period required for the duration of a VAT group.

Fixed establishment. According to the VAT law, where a foreign corporation is required to be registered for VAT in Israel, it must appoint an Israeli representative if it carries out business in Israel. It is noted in the Circular that a foreign corporation may be regarded as carrying out business in Israel where the foreign company meets any of following conditions:
- The activities of the foreign corporation for the purpose of income tax constitute a permanent establishment (PE) in Israel.
- The foreign corporation has a branch in Israel and/or it employs Israeli employees and/or leases offices in Israel, etc.
- The foreign corporation has business activities for providing services in Israel with the assistance of or in cooperation with an Israeli representative/Israeli affiliate.
- The foreign corporation has a significant economic presence in Israel.

Non-established businesses. A foreign resident that makes transactions in Israel, as defined in the VAT law, or that acts as a financial institution or nonprofit organization in Israel must register

for VAT in Israel and appoint a local representative (see below) to act on its behalf with respect to VAT matters within 30 days of beginning to carry on such activities in Israel. The term foreign resident means an individual who permanently resides outside Israel or a company that is registered or incorporated outside of Israel. For the purpose of zero-rate VAT for supplies made to foreign residents, additional requirements apply to meet the definition of "foreign resident."

Tax representatives. Where a foreign resident is liable to register for VAT in Israel, for example, because it plans to make taxable supplies, it also must appoint a local representative, being both an Israeli citizen and resident, which would be liable to the tax authorities jointly and severally with the foreign resident.

Reverse charge. Supplies of services received from overseas must be self-accounted by the Israeli recipient. As for supplies of intangible property from overseas, the VAT on this should generally be withheld by the Israeli bank transferring payment to the overseas supplier. Failing that, the VAT should be self-accounted.

Domestic reverse charge. The domestic reverse charge applies in various scenarios, such as where certain services are supplied by a nontaxable person to a taxable person and also where land is sold or leased by a nontaxable person, so as to amount to an occasional transaction, etc.

Digital economy. The Israeli tax authorities have published a circular regarding internet activity of foreign entities in Israel. According to the circular, if it has been established that where a foreign entity provides services via the internet to Israeli customers and the services are connected to Israel, it is required to register for VAT purposes in Israel. In these circumstances, the foreign entity will be subject to the provisions of the Israeli VAT law. Such a position may be established via certain indicators, such as the fact that the services are directed and aimed at Israeli customers, it has been established that the foreign entity has a permanent establishment in Israel for income tax purposes, the foreign entity has a business mechanism in Israel, economic presence in Israel, etc.

It should be noted that if a foreign entity that provides internet services to Israeli customers is required to register for Israeli VAT in accordance with the circular, it will not be considered as a "foreign resident" for certain VAT issues, and therefore services rendered to it by Israeli service providers, as well as intangibles sold to it by Israeli vendors, will be subject to VAT at the full rate.

In general, a foreign service provider that meets all the conditions specified in the circular is requested to register for VAT purposes is Israel. However, it should be noted that according to the Israeli Court ruling, the tax authorities currently do not enforce the registration duty.

In addition, the Israeli Ministry of Finance has published a draft bill to amend the Israeli VAT law, according to which foreign companies that provide "digital services" (as defined in the bill) to nontaxable persons, i.e., private consumers that are not business/nonprofit organizations/financial institutions (business-to-consumer (B2C) transactions), will be required to register in Israel. The registration will not be a "regular VAT registration" but rather a special designated registration only regarding this specific activity. Note that the bill has yet to pass and is not enacted and enforced. However, if the service is provided by the foreign supplier to the dealer, nonprofit or financial institution, the recipient of the service will be the taxpayer, in accordance with the current legal framework. There are no other specific e-commerce rules for imported goods in Israel.

At the time of preparing the chapter, the government plans to levy VAT at the standard rate on sales of electronic services to customers by nonresident businesses. The new tax is expected to be levied from 1 January 2024 and will also be applicable to the following e-services: (i) streaming, (ii) games, (iii) music applications, (iv) films, (v) e-books, (vi) e-journals and (vii) internet services. However, this legislation has not been passed and it is not known when and if it will be enacted.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Israel. As outlined above under the *Digital economy* subsection, the suggested regime will also apply to online marketplaces and platforms that provide digital services and/or intangible assets to private consumers (B2C).

Registration procedures. An application must be submitted within 30 days of exceeding the registration threshold to register for VAT. Failure to do so will result in a fine of 1% of missing VAT plus interest. To register as a business, the registration should be made at the local VAT office nearest to the company's office. Online registration is not possible for overseas taxable persons, though it is for Israeli taxable persons.

The application's relevant documents include, among other things, appropriate forms (VAT Form 821), certificate of incorporation/registration with the Israeli Registrar of Companies, articles of association, certain shareholders' minutes, information regarding company directors (including copy of ID/passport), proof of the existence of an Israeli bank account, lease agreement (or other sufficient documents, as applicable), etc. For foreign companies, an additional form is required (VAT Form 22) of the appointment of a fiscal representative.

For some documents, the original hard copy is required to be submitted.

Deregistration. Israel has no separate registration and deregistration thresholds. A business whose turnover falls below the registration threshold may be deregistered.

Changes to VAT registration details. Within 15 days from the date of the change, the taxable person (referred to as a "dealer") needs to notify the VAT office in which it is registered using Form 822, "Dealer details update form," or a letter stating the change.

Common changes include change of type of activity, change of address, change of means of communication, etc.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 17%
- Zero-rate: 0%

The standard rate of VAT applies to supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Moreover, profit tax and salary tax at the rate of 17% apply to financial institutions, and salary tax at the rate of 7.5% applies to nonprofit organizations.

Examples of goods and services taxable at 0%

- Exports of goods
- Supplies of intangibles to foreign residents
- Supplies of services to foreign residents, subject to broad use and enjoyment restrictions (for example, the services do not relate to assets in Israel, and the services are not also provided to an Israeli resident in Israel):
  - The term "foreign resident" is defined as an individual who permanently resides outside Israel or an entrepreneur that is registered or incorporated outside Israel, provided that the individual or entrepreneur is not engaged in a business activity in Israel
- Hotel accommodation for tourists
- Leasing private cars to tourists

- Tourist transportation
- Supply of monitor services, as well as inspection and coordination services, with regard to clinical trials conducted in Israel

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Leasing of apartments for residence purposes for a period that does not exceed 25 years
- Transactions made by a business that is below the registration threshold
- Sales of diamonds and precious stones

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Israel.

E. Time of supply

For the supply of goods, generally the chargeable event takes place upon delivery – except for qualifying small manufacturers; these use the cash basis.

For the supply of services, the cash basis generally applies. However, the chargeable event takes place when the services are supplied in the following circumstances:

- The consideration of services is affected by the fact that the transaction is between related parties.
- The consideration has not been agreed.
- At least some of the consideration is not in cash.
- The services are supplied by certain businesses whose annual turnover is over NIS15 million.

Where the services are supplied in parts, a chargeable event occurs in respect of each part. Where services cannot be said to be made up of different parts, a chargeable event takes place upon each payment being made, in respect of that amount, or on completion of the services, whichever happens first.

Deposits and prepayments. In general, an amount paid as a deposit or as a guarantee to return borrowed goods or to ensure the performance of a transaction or the rights of a person connected to a transaction will be deemed part of the transaction price after six months from the day they were paid, unless they have been returned or became part of the price of the transaction previously. However, if the parties agreed in writing that the deposit or guarantee will be for a period longer than six months, then they shall be deemed part of the price one month after the end of the agreed period.

Continuous supplies of services. Where the services are supplied in parts, a chargeable event occurs in respect of each part. However, where services cannot be said to be made up of different parts, a chargeable event takes place upon each payment made, in respect of the amount paid, or on completion of the services, whichever happens first.

Goods sent on approval for sale or return. There are no special time of supply rules in Israel for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above), and the time of supply is when the delivery of goods takes place.

However, in cases of consignment, if agreed in writing that not more than 10% of the consideration (or a higher percentage set by the Minister of Finance) shall be paid before the sale of the goods, and if not sold they can be returned, the time of supply will be deemed when the goods are sold by the consignee.

Reverse-charge services. Both for supplies of services received from overseas and those that fall within domestic reverse-charge rules, the chargeable event takes place upon each payment in respect of the amount paid, or on completion of the services, whichever happens first.

Leased assets. Leasing of assets is included within the definition of a "sale." However, the chargeable event takes place on a cash basis, i.e., upon each payment, in respect of the amount paid.

Imported goods. VAT on imported goods is due when the goods are cleared through customs. A tax clearance mechanism is in place between Israel and the Palestine Autonomous Areas for transfers of goods between their territories. VAT, purchase taxes and import taxes are based on the actual transfer of goods (not on the reported transfer of goods).

Real estate transactions. For real estate transactions, VAT is due when the possession of the asset is transferred to the purchaser or when the asset is registered in the name of the buyer, whichever is earlier. For construction work, the tax is due when the work is completed or when the possession of the asset is transferred to the customer, whichever is earlier.

In addition, with respect to the above rules, if a payment is made before the above dates, VAT is due for that payment on the date of payment.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is the VAT charged on assets (purchased locally or imported) or services supplied to that taxable person for business purposes, if such items are used or will be used for taxable transactions. This excludes, for example, private expenditure and expenditure that is used for out-of-scope transactions or exempt transactions.

A taxable person generally recovers input tax by deducting it from output tax, which is the VAT charged on supplies made by it, provided that the proper tax invoices or importation documents are received in support of the input tax deduction and that the deduction is claimed within the time limit of six months after the date of issuance of these documents (a procedure for an extension is available).

The time limit for a taxable person to reclaim input tax in Israel is six months. However, there is an option to apply for an approval for late deduction up to five years (60 months).

Nondeductible input tax. As mentioned above, input tax can only be deducted if purchases are used for taxable transactions, provided all technical requirements are fulfilled. Accordingly, nondeductible input tax includes among other things, certain types of business and staff entertainment, and input tax attributable to particular transactions such as costs related to share transactions, out of scope transactions, certain pre-registration costs (see below), etc.

Examples of items for which input tax is nondeductible

- Certain employee benefits, e.g., gifts to the employees
- Purchase/import of a private vehicle, with the exception of certain types of dealers
- Accommodation and hospitality expenses, excluding expenses related to the accommodation of persons from abroad
- Expenses relating to the sale or purchase of shares, subject to exceptions

Examples of items for which input tax is deductible (if related to a taxable business use)

- Vehicle maintenance expenses if the vehicle does not leave the business premises. Note, there is a proposal to add a new regulation to the existing VAT regulation that determines that no input tax deduction will be allowed for fuel used for vehicles unless measuring fuel consumption has been installed in the vehicle for which the deduction was claimed. Also required is a monthly concentration report in respect of all refueling regarding the vehicle for that month. *At the time of preparing this chapter, the proposal has not been confirmed or implemented.*
- Accommodation and hospitality expenses related to the accommodation of persons from abroad
- Petty cash and certain refreshments

Partial exemption. Rules related to partial exemption may apply to expenses used for both taxable and nontaxable transactions, e.g., business and private use, a business that makes both taxable and exempt supplies, etc. In such cases, the partial exemption percentage is generally calculated on a pro rata basis according to the nonbusiness use of the expense. Unless the taxable person's calculation is rebutted or otherwise determined by the VAT Director, it is presumed that where most of the input tax is used for making taxable supplies, two-thirds of the input tax is deductible; whereas, where most of the input tax is used for making nontaxable supplies, only one quarter of the input tax may be deductible.

Approval from the tax authorities is not required to use the partial exemption standard method in Israel. However, the implementation of the standard method may be examined during a VAT audit. Special methods are not allowed in Israel.

Capital goods. Input tax incurred on the purchase of capital goods may be deductible subject to the general input tax deduction rules (see above). Accordingly, if the goods are used for taxable supplies input tax may be fully deducted, subject to the general VAT rules. If the goods are used for both taxable and nontaxable or exempt transactions, a partial deduction may apply.

Refunds. If the amount of VAT recoverable exceeds the amount of VAT payable in a reporting period, the excess amount may be refunded within 30 days. A refund can be obtained by submitting the periodic VAT report, the additional detailed digital report and copies of the tax invoices exceeding the relevant amount if requested by the authorities. The authorities may postpone the refund and conduct an examination or audit.

Pre-registration costs. Input tax on such costs is generally nondeductible. However, on application by a taxable person, the tax authorities may allow input tax incurred before registration to be deducted, where the authorities are satisfied that the relevant inputs are setup costs, i.e., inputs bought at a time when the business was being set up and used for that purpose.

Bad debts. VAT paid by a taxable person in connection with bad debts (i.e., if a supply was made and the VAT was declared, but the customer did not pay the consideration agreed) may be recoverable by issuing a credit note, provided all conditions and requirements stipulated in the VAT regulations as well as in the VAT authorities' guidelines are met.

The main conditions for issuing a credit note and reclaiming VAT paid on bad debts includes insolvency or liquidation of the customer, as well as proof of reasonable collection efforts. Such a reclaim requires notice to the authorities. Such a reclaim may be submitted not earlier than six months from the date on which a tax invoice was issued and not later than three years from that date (however, an extension is available under certain conditions).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Israel.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Israel is not recoverable. While Israeli law has no mechanism that allows for this per se, i.e., any equivalent to the EU's 13th Directive, the scope of certain types of relief under Israeli law is broader than under EU law, with the result that non-established businesses may not incur VAT on supplies that would attract VAT in their home jurisdictions. One example of this is hotel accommodation supplied to foreign resident persons, including incidental supplies such as catering.

H. Invoicing

VAT invoices. Only a taxable person may issue a tax invoice and it must do so if requested by the customer. A tax invoice is required to support a claim for input tax deduction. The invoice must

be issued within 14 days. The authorities intend to assign invoice numbers to each VAT-registered entity.

Credit notes. A VAT credit note may be used to reduce the amount of VAT charged on a supply. The credit note must reflect a genuine mistake, an overcharge, an agreed reduction in the value of the original supply or cancellation of the transaction. A credit note may also be used in a case of bad debts if all reasonable efforts have been exhausted to collect the debt and if all the regulation requirements are fulfilled.

Electronic invoicing. Electronic invoicing is allowed in Israel, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Israel. It may only be used subject to strict technical rules concerning digital signature, electronic delivery, record keeping, etc. A taxable person who wishes to send computerized documents must notify the tax authorities by registered mail, before sending the first computerized document, and receive the customer's approval before sending the first computerized document and save such approval as part of its bookkeeping. However, it is recommended that the taxable person examines whether the computerized documents meet all the tax authorities' requirements before it starts working with such documents.

As of 31 March 2024, each tax invoice (whether electronic or paper) above NIS25,000 (for 2024) will require an approval, as well as "authorized serial number" by the Israeli tax authorities. The authorized serial number is required to deduct the input tax included on the tax invoice, and therefore required for tax invoices that include VAT at the standard rate and are issued to dealers who wish to deduct such income tax, subject to the threshold mentioned. Note that by 2028 the authorities plan for this requirement to apply to invoices over NIS5,000, and the process will occur gradually.

Simplified VAT invoices. In general, simplified tax invoices are not permitted. However, for retail supplies, the cashier slip might be used as an invoice, subject to certain conditions.

Self-billing. Self-billing is not allowed in Israel.

Proof of exports. The export declaration issued by Israeli Customs and the commercial invoice are generally sufficient evidence for export.

Foreign currency invoices. The taxable amount must generally be stated in the domestic currency, which is New Israeli shekel (NIS). A foreign currency may be shown in addition, provided that the exchange rate on the day the invoice is raised is also shown. Alternatively, taxable persons may apply to the authorities for permission to raise foreign currency-only invoices.

Supplies to nontaxable persons. There are no special rules regarding invoices issued for supplies made by taxable persons to private consumers.

Records. In Israel, examples of what records must be held for VAT purposes include invoices, receipts, inventory lists, fixed assets registrar and more. The Israeli tax regulations dictate the format, nature and timing of each document recorded in the books. The use of an electronic record system is permitted if the bookkeeping software is approved by the tax authorities. The accounting records language can be either Hebrew or Arabic but using English may be permitted if an approval is obtained in advance from the tax authorities. The accounting records should be maintained in the domestic currency (New Israeli shekel) unless a special approval is received from the tax authorities.

In Israel, VAT books and records must be held within the country. Records should be kept in Israel unless a special exemption is obtained by the tax authorities.

Record retention period. VAT invoices and other bookkeeping records must be kept for a period of seven years from the end of the year, to which the records relate, or six years from the day on which the tax return for the relevant year was submitted, whichever is later.

Electronic archiving. Electronic archiving is allowed in Israel. Records may be stored electronically and must be updated quarterly. Note that there are specific requirements in this regard. The server on which the company's accounting records are recorded should be located physically in Israel; however, the tax authorities may grant an authorization to hold the server outside of Israel if an accessible online backup is available at the company's site for inspection purposes.

I. Returns and payments

Periodic returns. VAT reports must be submitted on a monthly basis if annual turnover exceeds NIS1.53 million or on a bimonthly basis if annual turnover does not exceed NIS1.53 million. Reports must be submitted by the 15th/19th/23rd day of the month following the end of the reporting period (the deadline depends on the taxable person's turnover and reporting obligations).

Periodic payments. Payment of VAT due in full is also due by the same date as the VAT return submission deadline, i.e., by the 15th/19th/23rd day of the month following the end of the reporting period (depends on the reporting date). Payment can be made using an Israeli bank account.

Electronic filing. Electronic filing is allowed in Israel, but not mandatory. VAT reports are generally filled electronically via the Israeli tax authority's website. The reports are due by the 15th/19th/23rd day of the month following the end of the reporting period (depends on the taxable person's turnover and reporting obligations).

Payments on account. Payments on account are not required in Israel.

Special schemes. *Profit margin.* The taxable amount for certain types of supplies may only be the profit margin on the sale. This includes supplies of secondhand movable goods, works of art and certain residential properties where any of these supplies are made by a qualifying dealer.

Annual returns. Annual returns are only required for VAT groups. VAT group members must file a certain type of annual return as to taxable persons in the Eilat free trade zone.

Supplementary filings. *Yearly VAT group report.* This is only relevant for taxable persons who report in a VAT group (see above). It should be noted that if the VAT report is a return, additional information (e.g., copies of invoices) might be required.

Correcting errors in previous returns. If there is an error in the VAT report, it is possible to submit a "corrective report" and indicate the correct details. The corrective report should only be submitted to the regional VAT office where the dealer is registered. Such amendment may lead to additional charges (VAT, as well as interest, linkage differences, etc.).

Digital tax administration. *VAT online detailed report.* Certain taxable persons are required to provide a detailed electronic report, including all invoices issued and received in the relevant period including the following: dealers with an annual turnover over NIS2.5 million, nonprofit organizations with an annual turnover over NIS20 million and financial institutions with an annual turnover above NIS4 million. Taxable persons are required to keep their books in accordance with the dual accounting system. In addition, a nonprofit organization or a financial institution should submit an online digital report as well.

As outlined above, an online detailed digital report is required if a taxable person's annual turnover exceeds NIS2.5 million or if the taxable person is required to keep its books in accordance with the dual accounting system. Electronic reports must be submitted by the 23rd day of the month following the end of the reporting period. Payment in full is also due by the same date.

J. Penalties

Penalties for late registration. For the late registration of VAT, penalties may be up 1% of the taxable turnover, on top of the VAT itself, plus interest, and adjusted for inflation.

Penalties for late payment and filings. A VAT-registered entity that fails to submit a report when required is liable to pay a fine of NIS214 for every two weeks of tardiness.

If a VAT-registered entity fails to pay an amount of tax when required, linkage differentials (such amount multiplied by the rate of increase of the consumer price index during the period in question) and interest are payable on the amount unpaid.

Penalties for errors. If there is an error in recording any amount required in the report, it is possible to file a corrective report to state the correct details. The corrective report must be submitted only to the regional VAT office where the file is being handled. As a result, the taxable person may be charged with interest, linkage differences and fines.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details is treated as a violation of the VAT law and is subject to the general penalties listed in these sections.

Penalties for fraud. There are various offenses stipulated in the VAT law, such as making false statements submitted knowingly, or under circumstances amounting to gross negligence, omission of reporting, assistance in unlawful deduction of VAT, forgery, concealment or destruction of documents, the use of fictitious invoices, etc. These offenses may result in additional payment of interest, linkage differences and fines, including double tax, and may even result in imprisonment if the offense is characterized as criminal.

Personal liability for company officers. According to the VAT law, those who are liable for a company include: an active manager, secretary, trustee, proxy, active partner, accountant, bookkeeper and any other responsible clerk. Accordingly, a company's officers might be held responsible under certain circumstances, inter alia, according to the Israeli Companies Law. Penalties, as well as criminal sanctions, may be the same as the company's under certain circumstances.

Statute of limitations. The statute of limitations in Israel is five years. Generally, according to the Israeli VAT law, the period of limitation regarding VAT in Israel is five years, based on a monthly basis (i.e., 60 months).

However, it should be noted that there are no "close/final" VAT assessments, meaning that as long as the respective month is within the period of limitation, it can be reviewed and audited by the authorities, even if it was previously audited.

Italy

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposta sul valore aggiunto (IVA)
Date introduced	1 January 1973
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.finanze.it)
VAT rates	
Standard	22%
Reduced	4%, 5%, 10%
Other	Zero-rated (0%) and exempt
VAT number format	IT 0 4 1 9 6 7 6 0 0 1 3
VAT returns	Annual
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling services	EUR10,000
Intra-Community acquisitions	None
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- Supplies of goods or services made in Italy by a taxable person
- Intra-Community acquisitions of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- Reverse-charge services received by a taxable person in Italy (that is, services for which the recipient is liable for the VAT due)
- Imports of goods from outside the EU, regardless of the status of the importer

For VAT purposes, Italy consists of the territory of the Republic of Italy excluding the municipalities of Livigno and Campione d'Italia and the Italian waters of Lake Lugano. Special arrangements apply to goods exchanged between Italy and the Vatican City or Republic of San Marino, which do not form part of the territory of the Republic of Italy.

San Marino. The Italian Ministry of Economy and Finance issued a Ministerial Decree on 21 June 2021, enacting updated rules on supplies of goods and related services carried on between Italy and San Marino, including the newly introduced electronic invoicing obligation for qualifying taxable persons.

Under the Ministerial Decree, taxable persons established, resident or registered in Italy for VAT purposes will be required to issue invoices in the electronic format through the tax authorities' Interchange System (SdI) (*sistema di interscambio*) with respect to supplies of goods, and related services falling within the scope of Article 71 of the VAT Act, i.e., transactions with taxable persons resident or registered in San Marino. The tax authorities of Italy and San Marino will exchange relevant data to check if the VAT due is correctly paid at the moment of importation of the goods, and taxable persons will be able to verify the checks' outcome through a dedicated telematic channel. The new rules will also apply to credit notes. Transactions for which the issuance of electronic invoices is not mandatory under specific domestic provisions will be excluded from the scope of application of the new rules.

Under the Ministerial Decree, the transfer of goods to or from San Marino for processing or similar works will not be relevant for VAT purposes where the processed goods are returned back to the owner. Specific rules will also apply to supplies of goods to nontaxable persons (B2C), sales of new means of transportation and distance sales.

The new rules generally apply from 1 October 2021, but the rules on electronic invoicing entered into effect on 1 July 2022. However, qualifying taxable persons could opt for electronic invoicing from 1 October 2021. A non-established taxable person supplying goods to customers in San Marino and merely identified in Italy for VAT purposes is not obliged to issue e-invoices for these transactions (see Ruling 557/2022 of the ITA).

The Law No. 111, dated 9 August 2023 (better known as the *Enabling Law for Tax Reform* or, simply, the Enabling Law), published on 14 August 2023, delegates the Italian Government to issue, within the next 24 months, one or more legislative decrees providing a general review of the Italian tax system. This tax reform law includes a series of amendments to VAT rules and principles. These changes include reviews of VAT requirements, VAT-exempt transactions, VAT rates and VAT deduction rules. Taxable persons and practitioners will need to review their deduction plans based on these changes. *At the time of preparing this chapter, no details have been published on this Enabling Law.*

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The Quick Fixes have been implemented into the domestic Italian regulation through Legislative Decree No. 192/2021, effective as of 1 December 2021, by amending Law Decree No. 331/1993. Specifically, the Quick Fixes in Italy cover:

- Intra-EU supplies of goods constitute nontaxable transfers, provided that the transferee has communicated to the transferor the VAT identification number assigned by another Member State, valid for VIES purposes, and that the transferor files the Intrastat lists or justifies their non-compilation (Article 41 paragraph 2-ter of Law Decree No. 331/1993)
- The EU harmonized discipline for transactions under the call-off stock regime is transposed in Italian regulation, both for purchases and for supplies of goods (Articles 38-ter and 41-bis of Law Decree 331/93)
- Chain supplies (i.e., subsequent supplies of goods subject to a single shipment or transport from one Member State to another) by an intermediate operator are regulated by new Article 41-ter of Law Decree No. 331/1993, according to which only the transfer made to the intermediate operator is considered a nontaxable, intra-Community transfer. However, if the intermediate operator communicates to the first transferor a VAT identification number attributed by the State of dispatch, the supply carried out by the intermediate operator is considered an intra-Community transfer.

As for the documentary evidence to prove the movement of goods from one Member State to another one, the Italian tax authorities issued some guidance stating that the national practice issued before 1 January 2020 continues to be valid, but to benefit from the presumption, the taxable persons should be in possession of a set of documents according to the EU Regulation.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Italy, the following services are subject to the "use and enjoyment" provisions:

- The supply of short-term leasing, including financial leasing, rental and similar services, of means of transport when these are made available to the customer in Italy, and they are used within the European Union territory or when they are made available outside the EU but used within Italy.
- The supply of leasing, including financial leasing, rental and similar services, not on a short-term basis, of means of transport other than pleasure boats, when the customer is a nontaxable person resident in Italy, provided they are used within the EU, or when the customer is non-EU, provided they are used within Italy.
- The supply of leasing, including financial leasing, rental and similar services, not on a short-term basis, of pleasure boats, provided that the boat is actually made available in the territory of the State, the service is rendered by taxable persons established therein and the boat is used within the European Union territory.
- The supply of leasing, including financial leasing, rental and similar services, not on a short-term basis, of pleasure boats when the boat is made available in a country outside the EU, the supplier is established in the same country and the boat is used in Italy.
- The supply of leasing, including financial leasing, rental and similar services, not on a short-term basis, of pleasure boats when the supplier is established in a country different from the one where the boat is put at disposal of the customer, when the customer is a nontaxable person resident in Italy, provided they are used within the EU, or when the customer is non-EU, provided they are used within Italy.

According to the Budget Law for 2021, the effective use inside the Italian territory of pleasure boats should be attested by a declaration to be filed with the Italian tax authorities, and the protocol number indicated in the receipt should be indicated in the invoice for that provision of service. This rule is applicable with effect from 14 August 2021.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Italy, the VAT law does not provide for a definition of a TOGC, therefore, reference must be made to the Civil Code, to the principles set forth in the EU Court of Justice and Italian case law and to the guidance provided by Italian tax authorities. In particular, to qualify as a TOGC, the assets transferred must constitute an autonomous organization sufficient to allow the exercise of a business activity, although it is not necessary that all elements belonging to the supplier are transferred or that they should be integrated by supplementary resources of the purchaser.

Whilst the TOGC is outside the scope for VAT purposes in Italy, the transaction is still subject to registration tax for which the applicable rate depends on each type of asset transferred and can vary from 0.5% to 9%.

Transactions between related parties. When taxable transactions take place between related parties, (i.e., directly or indirectly controlling, controlled or under common control) the supply is deemed to take place at market value when it is carried out or received by a company able to recover VAT only partially.

C. Who is liable

The term "taxable person" refers to any individual or legal entity that makes supplies of goods or services in the course of a business, or that performs an artistic or professional activity in Italy.

The occasional supply of goods or services is not generally within the scope of Italian VAT. However, any supply of goods or services made by a corporate entity is regarded as a business activity, unless it is specifically treated as a nonbusiness activity by the Italian VAT law.

Exemption from registration. The VAT law in Italy does not contain any provision for exemption from registration. However, a special regime is provided for taxable persons whose turnover is no higher than EUR65,000 per year (see the below subsection *Voluntary registration and small businesses*)

Voluntary registration and small businesses. The VAT law in Italy does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all taxable persons are obliged to register for VAT purposes irrespective of their turnover). However, a special regime is provided for taxable persons whose turnover is less than EUR85,000 per year (the Budget Law 2023 increased the annual turnover threshold to be eligible for the application of the flat tax scheme to EUR85,000; until FY2022 the limit was EUR65,000). In this case, no VAT is applicable on supplies and no input tax on purchases is recoverable. These persons are subject to a 15% (or 5% in the first five years of activity) tax, substitute of VAT and income taxes.

Group registration. Two different VAT grouping arrangements are available in Italy.

The first one (hereinafter also "group VAT liquidation") is an optional administrative scheme, whereby group members retain separate VAT numbers and VAT is chargeable on supplies made between group members. The optional scheme allows the offsetting VAT payments and repayments among group members. A corporate body that controls one or more other companies may apply to form a VAT group. The controlling company must form part of the group, but it is not necessary for all the companies that it controls to be included. Under this scheme, the VAT group

is not treated as a single taxable person. EU entities that are registered for VAT in Italy may be part of an Italian VAT group.

There is no minimum time period required for the duration of this type of VAT group (i.e., it is in place until revoked).

All members of a VAT group in Italy are jointly and severally liable for VAT debts and penalties. For a VAT group liquidation, the controlling company is liable only for omitted VAT payments, while each controlled entity is liable for all other substantial and formal errors and omissions.

The second one (hereinafter also "VAT group") is an optional scheme whereby all group members lose their distinct VAT status, and the group becomes a single taxable person for transactions with third parties. All transactions between group members are disregarded for VAT purposes.

The minimum time period required for the duration of this type of a VAT group is three financial years.

Relevant law provisions bring within the scope of VAT certain head office-to-branch and branch-to-branch transactions, where one or both are members of a VAT group. The provisions reflect the decision in the Skandia case, which held that VAT groups are separate taxable persons for VAT purposes.

This clarification forms part of the provisions related to Italian VAT grouping rules. Specifically:
- Transactions (both supplies of goods and services) made by an Italian VAT-grouped company (or branch) to its overseas branch (or head office) are treated as supplies made by the Italian VAT group to a third party. Likewise, supplies from the overseas branch (or head office) to its Italian VAT-grouped head office (or branch) are also within the scope of VAT.
- Transactions made by an Italian company or branch to its overseas branch (or head office) that is part of a VAT group in another EU Member State are supplies for VAT purposes. Similarly, supplies made by an overseas branch or company that is VAT grouped in another EU Member State to its Italian branch(es) or head office (whether grouped or not in Italy) are within the scope of VAT. This is commonly referred to as the "reverse Skandia" principle.

The provisions also state that if a consideration is not provided for the transactions, the taxable amount must be the fair market value pursuant to Article 13, paragraphs 1 and 2 of the Italian VAT Act Law implementing Article 80 of the EU VAT Directive.

Holding companies. In Italy, a pure holding company cannot be a member of a VAT group. This is because in Italy a pure holding company is not deemed a taxable person.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Italy. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Italian VAT law).

According to Italian VAT law, an exemption is provided for the supply of services to consortia or members by consortia, including consortia and cooperative societies with consortia functions, set up between persons for whom, in the three preceding calendar years, the deduction percentage was not more than 10%. The supplies to members are exempt from tax provided that the consideration due by the consortia or members of qualifying consortia and companies does not exceed the costs attributable to the supply of the services.

Fixed establishment. The definition of a fixed establishment for VAT purposes is not provided for in the Italian VAT law. As such, to assess the presence of a fixed establishment in Italy, the Italian tax authorities make reference to the definition in Article 11 of Regulation 282/2011 and the ECJ case law. *For further details see the chapter on the European Union*.

In particular, a fixed establishment is any organization, other than a head office, characterized by:
- A sufficient level of permanence
- A suitable structure in terms of personnel and technical means to enable it "to receive and use the services supplied to it for its own needs" and "to provide the services to which it supplies"

Non-established businesses. A "non-established business" is a business that has neither the main establishment nor a fixed establishment in Italy. A non-established business must register for Italian VAT if it makes certain supplies, such as the following:
- Supplies of goods located in Italy at the time of supply to nontaxable persons or other non-established businesses
- Intra-Community acquisitions in Italy or intra-Community sales from Italy
- Exports from Italy
- Distance sales to Italian B2C customers greater than the annual threshold (*see the chapter on the EU*)
- Supplies of services taxable in Italy to nontaxable persons or other non-established businesses

If a non-established business supplies goods or services to an Italian taxable person, the Italian-established taxable person is liable to account for the VAT due, under reverse charge. Under this type of accounting, the taxable customer must self-assess the tax due.

A non-established business that receives taxable supplies of goods or services in Italy may choose to register for Italian VAT even if registration is not compulsory.

In any case, non-established entities registered for VAT in Italy cannot issue invoices applying Italian VAT to Italian-established taxable persons (since reverse-charge applies).

Tax representatives. A foreign business that is established in another EU Member State or in a non-EU country that has suitable mutual-assistance provisions with the EU may directly register in Italy for VAT without the appointment of a VAT representative (i.e., the United Kingdom (UK) and Norway).

Foreign businesses established in countries other than the countries mentioned above must appoint a VAT representative to register for VAT. The representative must be granted a power of attorney to act on behalf of the non-established business.

Reverse charge. The reverse-charge mechanism applies to taxable supplies of goods and services by non-established persons to taxable persons established in Italy and to intra-Community acquisitions of goods and services.

Domestic reverse charge. Under the Italian VAT law, a domestic reverse charge applies in the following cases (i.e., the reverse charge applies to all affected transactions, irrespective of where the supplier or the recipient is established):
- Sale of industrial gold for which the seller opted for the application of VAT
- Services rendered under a subcontractor agreement in the construction industry
- Sale of residential buildings or commercial buildings for which the seller opted for the application of VAT
- Sale of mobile phones and microprocessors
- Sale of PCs, laptops, tablets and game consoles
- Sale of scrap, waste and residue of ferrous metals, shredded paper, bone waste, skin waste, glass waste, rubber and plastic waste deemed to include even those related to the aforementioned goods that have been recleaned, selected, cut, compacted, transformed into ingots or subjected to other treatments to facilitate their use, transport and storage without modifying their nature; and scrap, waste and residue of nonferrous metals included in specific categories such as refined copper and raw nickel

- The provision of cleaning services, building demolition services, provision of installation systems and the services related to the completion of a building
- Certain transactions in the energy sector
- The provision of services rendered by consortium members to consortiums acting as contractors toward public administrations (the effectiveness of this provision is subject to specific approval by the Council of the European Union)
- The provision of services performed through contract work, subcontracts, assignment to consortium or through other types of contracts, if such services are carried out through the prevalent use of labor (so-called labor intensive) at the premises of the customer with the use of capital goods owned by the customer or connected to it in any form. The effectiveness of this provision is subject to specific approval by the Council of the European Union

Under the reverse-charge mechanism, the supplier must issue an invoice without VAT, and the recipient must self-assess the VAT due.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Italy there are no additional specific local rules that apply.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Italy, under the Union scheme, a taxable person can register in Italy if it is the relevant Member State of identification (i.e., if the business is established or has a fixed establishment in Italy or if Italy is the place of transport or dispatch of goods).

To access the OSS, EU businesses must be registered to Italian Revenue Agency online services

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Italy, for IOSS, it is possible to register via the dedicated portal in Italy and receive an Italian individual VAT identification number.

However, taxable persons not established in the EU or in a third country with which the EU has concluded a VAT mutual assistance agreement is required to appoint an Italian established intermediary to fulfill its VAT obligations under the IOSS regime. In such event, the VAT identification number will be allocated to the intermediary.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Italy there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased

and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

New obligations have been introduced by the Budget Law 2023 for e-commerce platforms (digital marketplaces). In particular, it is envisaged that taxable persons who facilitate, through the use of an electronic interface, the supply of goods, which will be identified by a decree of the Minister for the Economy and Finance, will have to transmit the data on suppliers and transactions carried out with final customers to the Revenue Agency. *At the time of preparing this chapter, this decree, several months after the publication of the Budget Law 2023, has yet to be enacted. For more details about the rules for online marketplaces, see the chapter on the EU.*

Central electronic system of payment information: new reporting obligation for PSPs. As of 1 January 2024, new reporting and archiving obligations will be introduced for payment service providers (PSPs) with reference to "cross-border" payments. These new obligations are part of the European Union's action plan to fight VAT fraud in e-commerce.

A new EU platform called Central Electronic System of Payment (CESOP) information was established for the reporting and storage of payment information and for further processing of this information by national anti-fraud officers. This data will be made available to the local tax authorities under specific conditions, including data protection aspects.

Local tax authorities have not yet published any documentation regarding technical specification/requirements for the submission of the relevant data. That said, the officer in charge, in a meeting, analyzes the procedure where the PSP will have to submit the relevant data to the Italian tax authorities either: (i) via the "Sistema di Interscambio flussi Dati" (SID, Italian tax authorities interchange system) or (ii) via certified email address (PEC address). Moreover, the PSP will have to be registered in the "Registro Elettronico degli Indirizzi" (REI).

Considering that the abovementioned fulfilment is in force starting from 1 January 2024, it is expected that the Italian legislator will enact a provision law within the end of the year 2023. *At the time of preparing this chapter no provision has been enacted.*

Vouchers. Effective 1 January 2019, Italy has implemented provisions of the Council Directive (EU) 2016/1065. Changes in the local legislation defined single-purpose vouchers (SPV) and multi-purpose vouchers (MPV) and set the VAT rules for taxation in both cases. SPVs are payments instruments for which the VAT treatment of the supply of goods/services for which the voucher has been issued is already known at the time it is issued. Any transfer of ownership of the voucher occurring before the supply of goods/services is carried out triggers the tax point, and the voucher is considered as used. MPVs are payment instruments for which the VAT treatment of the supply of goods/services is not known at the time it is issued. MPVs are only subject to VAT when the voucher is redeemed, i.e., no VAT is due when the voucher is transferred through the supply chain.

Registration procedures. Legal entities established in Italy or permanent establishments in Italy of foreign businesses must register for VAT purposes by submitting the AA7/10 Form at the tax office competent for their tax domicile. The form must be submitted within 30 days of the commencement of economic activities.

Form AA7/10 is included in the comprehensive form called "ComUnica," which has been compulsory since 1 April 2010 for the establishment of a company. The ComUnica Form must be submitted to the Italian Business Register electronically or in digital form. It includes all the forms necessary to satisfy all administrative requirements to be entered in the Italian Business Register, and it is valid for VAT registration.

This registration procedure usually takes one or two days.

Artists, professionals and individual businesses resident in Italy must fill in Form AA9/12 and file it in one of the following ways:
- In duplicate, submitted in person or by a duly delegated person, if necessary, to one of the tax authorities' offices, regardless of the tax domicile of the entity
- A single copy by registered post, enclosing a photocopy of an identity document of the declarant, to be sent to any one of the tax authorities' offices regardless of the tax domicile of the entity (deemed submitted on the date mailed)
- Electronically, submitted by the taxable person or by the person or entity entrusted with its electronic submission

The form must be submitted within 30 days of the commencement of economic activities, and the registration procedure usually takes one or two days.

To register for Italian VAT purposes, non-EU entities must appoint an Italian VAT representative.

To carry out the VAT registration procedure, the following documents are needed:
- Deed of appointment of the VAT representative signed by the company's legal representative and the signature must be legalized either by the local Italian consulate or by a notary public, in the latter case the signature of the notary shall be certified by the apostille according to The Hague convention
- AA7/10 Form for requesting the VAT registration in Italy, to be signed by the VAT representative and filed electronically

Direct VAT registration (only for taxable persons established in an EU Member State, plus Norway and UK – see above) is accomplished by submitting Form ANR/3 to the Italian Revenue Operational Centre in Pescara, which has exclusive competence in such matters:
- In person, to the office (by the taxable person or a duly delegated person) or by registered post and delivered to the following address:

  Agenzia delle Entrate – Centro operativo di Pescara
  Servizio identificazione soggetti non residenti
  Via Rio Sparto, n. 21
  65129 Pescara
  Italy

The following documents should be enclosed:
- A copy of an identity document of the declarant, together with a certificate demonstrating the taxable status held by the requesting person in the Member State of establishment
- Chamber of commerce certificate of the country of establishment
- A description of the business activity, the reason why a VAT registration is required and a self-certification on absence of a fixed establishment in Italy

The registration procedure must be completed before the commencement of economic activities and usually takes around one month.

A new measure has been included in the Budget Law 2023 to prevent VAT numbers from being opened and closed in short periods with the aim of evading tax. Following a risk analysis, the taxable person may be required to file a series of documents to prove that it is actually carrying out the said activity/activities. If taxable persons are unable to pass the required checks, the tax office may close the VAT number and charge the taxable person with an administrative penalty of EUR3,000. A new VAT number can only be obtained if a bank or insurance guarantee for a minimum of three years and not less than EUR50,000 is filed.

Deregistration. Taxable persons can cancel their registration for VAT purposes using the same forms used for obtaining a registration (see *Registration procedures* above). Taxable persons must deregister within 30 days of the end of business activity.

Changes to VAT registration details. A taxable person can change all registration details using the same form used for the original VAT registration.

The taxable person must use the ANR/3 Form for VAT identification. The declaration of variation of data must be submitted, pursuant to Article 35-ter, paragraph 4, within 30 days from the date on which the variation subject to communication occurred.

To allow the correct acquisition of the data, the form must always be filled in completely. It should be noted that several variations occurring on the same date may be communicated using a single form.

Split payment. For supplies of goods and services supplied to certain public bodies, although invoices are issued with VAT, the related VAT amount is paid to the tax authorities by the recipient. As a consequence, the public body does not pay the amount of VAT to the supplier, but directly to the Italian tax authorities. This procedure does not apply to transactions subject to the reverse-charge mechanism.

The split payment is applicable for supplies to:
1) National, regional and local economic public entities, including special companies and public service companies
2) Foundations owned by public administrations for an overall percentage of the endowment fund not lower than 70%
3) Companies controlled by the Government or by individual Ministries
4) Companies directly or indirectly controlled by public administrations or by companies under 1), 2), 3) and 5)
5) Companies owned, for an overall percentage of capital not lower than 70%, by public administrations or by entities and companies under 1), 2), 3) and 4)
6) Listed companies included in the FTSE MIB index of Borsa Italiana (i.e., the Italian stock exchange) identified for VAT purposes

Public bodies, as well as entities that should be subject to the split payment mechanism are listed in lists published online by the Ministry of Economics and Finance (http://www1.finanze.gov.it/finanze2/split_payment/public/).

The validity period of the split payment mechanism has been granted until 30 June 2026 by the European Council.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
• Standard rate: 22%

- Reduced rates: 4%, 5%, 10%
- Zero-rated: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Intra-EU supplies of goods
- International transportation services (this does not include transport services rendered to parties other than: the exporter of the goods, the holder of the transit regime, the importer, the consignee of the goods and the supplier of dispatch services referred to under Article 9 paragraph 1 no. 4 of Presidential Decree 633/72.
- Export supplies
- Bunkering to high-sea vessels and to airlines chiefly engaged in international transports

Examples of goods and services taxable at 4%

- Books, newspapers and periodicals
- Certain foodstuffs
- E-books and all other e-publishing materials identified with codes ISBN (International Standard Book Number) and ISSN (International Standard Serial Number)
- Medical equipment
- Supplies of food and drink in a staff restaurant

Examples of goods and services taxable at 5%

- Supply of social, health and education services (e.g., medical diagnostics, provision of hospital services and care) by Cooperative Sociali and their consortiums (i.e., special entities aimed at rehabilitation and care of socially disadvantaged persons) to certain categories of people, such as the elderly, the disabled, drug-addicted persons and AIDS patients
- Supply of anti-COVID-19 goods (*with effect from 1 January 2021*)
- Supply of natural gas used for combustion for civil and industrial uses: Italy published Decree-Law No. 131 on 29 September 2023, which extends the reduced VAT rate of 5% on natural gas for civil and industrial purposes. Previously extended for natural gas consumed in the months of July, August and September 2023, the reduced rate is now further provided for natural gas consumed in the months of October, November and December 2023. The Decree-Law entered into force on 30 September 2023. The reduced VAT rate of 5% will also apply to supplies in execution of "energy service" contracts and to the supply of district heating services accounted for in the invoices issued for estimated or actual consumption for the period October to December 2023 (reduction is only temporary for such months). *At the time of preparing this chapter, no further changes have been released.*

Examples of goods and services taxable at 10%

- Medicines
- Supplies of food and drink in restaurants, bars and hotels
- Supplies of electricity, methane and liquid petroleum, all for domestic use
- Electricity and gas for use by extraction enterprises and industrial enterprises
- Accommodation services rendered by marina resorts
- Supply of pellet (VAT rate reduced from 22% to 10% with effect from 1 January 2023)
- Supply of baby products such as powdered milk; preparations foodstuffs of flour, groats, meal, starch or malt extract for feeding infants or young children *(note the VAT rate on such supplies increases from 5% to 10% with effect from 1 January 2024)*
- Supply of feminine hygiene products, compostable according to the UNI EN 13432: 2002 standard or washable and menstrual cups and other different feminine hygiene products, not compostable or washable *(note the VAT rate on such supplies increases from 5% to 10% with effect from 1 January 2024)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Education (under certain conditions)
- Finance
- Insurance
- Postal services
- Medical services

Option to tax for exempt supplies. Under certain circumstances, the seller can opt for the application of VAT to supplies that are listed as exempt, such as:

- Sale of social housing
- Sale of residential buildings where the seller is a construction company that has built or renovated the relevant property more than five years prior to the sale
- Sale of commercial buildings where the seller is not a construction company that built or renovated the relevant property
- Sale of commercial buildings where the seller is a construction company that has built or renovated the relevant property more than five years prior to the sale
- Renting or leasing of residential buildings carried out by a construction company that has built or renovated the relevant properties
- Rental or leasing of commercial buildings
- Sale of industrial gold and related intermediation activities

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." Time-of-supply rules vary according to the nature of the transaction.

For immovable property, the time of supply is the date on which the agreement to transfer the property is signed. For movable property, the time of supply is the date of delivery or dispatch of the goods. The time of supply may be an earlier date if an invoice is issued or if full or partial payment is received before the goods are supplied.

The time of supply for services is the date of full or partial payment of the consideration. The time of supply may be earlier if an invoice is issued before the services are supplied. No time of supply is triggered on the date of performance or completion of the service, in the absence of any payment or invoice.

If the services are performed on a continuous basis over a period longer than one year, and they do not entail advanced payments within the same period, even partial payments, the time of supply is at the end of each calendar year up to the completion of the services.

For purchases of services under Article 44 of the EU VAT Directive (implemented in Italy by Article 7-ter of Italian VAT Law) from a non-established taxable person, the time of supply is the date when the services are completed or, if the services are supplied periodically or on a continuous basis, when the consideration accrues.

If the consideration is wholly or partly paid in advance, i.e., before the services are completed or the consideration is accrued, VAT becomes chargeable at the time when the payment is made and for the amount of said payment. The same rule applies to cross-border services supplied by a taxable person established in Italy to a non-established taxable person, when not falling under derogation rules provided by Article 47 and following the EU Directive (implemented in Italy by Articles 7-I and 7-quinquies of Italian VAT Law).

Deposits and prepayments. The receipt of a deposit or prepayment for a particular supply of goods or services creates a time of supply for up to the amount paid.

Continuous supplies of services. For services supplied periodically or on a continuous basis, the time of supply is when the consideration accrues.

If the consideration is wholly or partially paid in advance, VAT becomes chargeable at the time when the payment is made and for the amount paid. If the services are performed on a continuous basis over a period longer than one year, and they do not entail advance payments within the same period, even partial, the time of supply is at the end of each calendar year up to the completion of the services.

Goods sent on approval or for sale or return. The time of supply for goods sent on approval or for sale or return is the date on which the goods are accepted by the customer or 12 months after their removal, whichever is the earlier.

Reverse-charge services. The time of supply for services purchased from a non-established person by an Italian taxable person is the date when the services are completed.

If the consideration is wholly or partly paid in advance, VAT becomes chargeable at the time when the payment is made and for the amount of said payment. The same rule applies to cross-border services supplied by a taxable person established in Italy to a non-established taxable person, when not falling under derogation rules provided by Article 47 and following the EU Directive (implemented by Articles 7-1 and 7-quinquies of Italian VAT law).

Leased assets. Leasing of an asset is regarded as a supply of services for VAT purposes. The time of supply is the same as per other services, i.e., if an invoice is issued or a consideration is wholly or partly paid, the transaction is deemed to be carried out, within the limits of the invoiced or paid amount, at the invoice date or at the date of payment.

For leasing of movable property, if the lease involves a non-established taxable person (this can be the lessor or lessee), the time of supply is the date when the consideration accrues, since leasing is a service typically supplied on a continuous basis. If the consideration is wholly or partly paid, the transaction is considered to be carried out, up to the amount of the payment, at the date of payment. This means that the normal tax point is when the consideration accrues, but if the payment comes before the consideration accrual, the tax point is then the time of payment.

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

Intra-Community acquisitions. The time of supply for intra-Community acquisitions of goods is the date when transport or dispatch of the goods to the customer begins in the territory of the Member State of departure, whether Italy or another Member State.

The time of supply may be an earlier date if an invoice is issued before the transport or dispatch of the goods begins.

Continuous intra-Community acquisitions of goods lasting for periods longer than one calendar month shall be regarded as being completed at the end of each calendar month.

Intra-Community supplies of goods. The time-of-supply rule for intra-Community supplies of goods is the time when transport of goods or dispatch starts or, if earlier, when an invoice is issued.

Distance sales. There are no special time of supply rules in Italy for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services in Italy, VAT paid on imports of goods and VAT self-assessed on intra-Community/domestic acquisitions of goods and reverse-charge transactions (*see the chapter on the EU*).

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

The time limit for a taxable person to reclaim input tax in Italy is within the annual VAT return for the year in which the invoice is received.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

Input tax may not be recovered for the following items of business expenditure unless these goods or services are incurred by a taxable person in order to supply them in the course of its business activity.

- Passenger transportation services
- 60% of the VAT paid on the lease, rental or purchase of a car used for business purposes, maintenance costs, lubricants and fuel
- Costs relating to aircraft and leisure yachts
- Residential dwellings
- Food and beverages
- Representation expenses
- Business gift of which the costs exceed EUR50

Examples of items for which input tax is deductible (if related to a taxable business use)

- 100% VAT paid on the lease, rental or purchase of a car used for business purposes, including maintenance costs and fuel
- 100% VAT paid on mobile phones used for business purposes only

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If an Italian taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." Exempt with credit supplies are treated as taxable supplies for these purposes.

In Italy, the standard partial exemption calculation method is based on the ratio of taxable turnover to total turnover. Recovery percentages are rounded up or down to the nearest whole number (for example, a recovery percentage of 77.5% is rounded down to 77%, while a recovery percentage of 77.6% is rounded up to 78%).

Approval from the tax authorities is not required to use the partial exemption standard method in Italy. Special methods are not allowed in Italy.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the destination or use of the goods and/or on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time if the destination or use of the goods changes and/or the taxable person's partial exemption recovery percentage changes during the adjustment period by more than 10 percentage points.

In Italy, the capital goods adjustment applies to the following assets and services for the number of years indicated:
- Land and buildings (adjusted for a period of 10 years)
- Other capital assets as defined in the Italian civil code (adjusted for a period of five years)
- Services relating to the renovation of the capital goods
- Intangible assets defined as such according to the income tax legislation

The adjustment is also applied to non-depreciable goods and any kind of services depending on their actual first use.

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

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed annually or quarterly if specific conditions are met, and if a taxable person meets the conditions to claim both annually and quarterly, it may choose either. If the conditions for requesting a refund are not met, the input tax credit may be carried forward to offset output tax in the next VAT period.

Annual VAT refund. An annual VAT refund may be claimed if any of the following conditions are met:
- The average VAT rate paid by the taxable person on purchases exceeds the average VAT rate applied to its sales, increased by 10 percentage points.
- Exports, intra-Community supplies or international services make up more than 25% of the taxable person's total turnover.
- The VAT credit arises from purchases or imports of depreciable assets or purchases of goods and services for research and development (R&D) activities. However, the repayment is limited to the amount of VAT on purchased or imported depreciable assets and R&D goods and services.
- Most transactions are out of the scope of VAT under the place-of-supply rules.
- The taxable person is a non-established business registered for VAT in Italy.
- The taxable person has an input tax credit in the annual VAT return for three consecutive years. In this case, the repayment is limited to the lowest of the credit amounts in the three years.

Quarterly VAT refund. A quarterly refund may be claimed if any of the following conditions are met:
- The average VAT rate paid by the taxable person on purchases exceeds the average VAT rate applied to the taxable person's sales, increased by 10 percentage points.
- Exports, intra-Community supplies or international services make up more than 25% of the taxable person's total turnover.
- The VAT credit arises from the purchase or import of depreciable assets, which represents more than 2/3 of the total amount of purchases subject to VAT. The repayment is limited to the amount of purchased depreciable assets.
- The taxable person is a non-established business registered for VAT in Italy.
- The taxable person renders to non-established taxable persons, for an amount higher than 50% of its total turnover, services related to tangible moveable goods, transport of goods and related intermediation services, services ancillary to transport of goods and related intermediation services, supply of banking, insurance and financial services to non-EU persons or regarding goods for exportation.

The VAT credit refund procedure may trigger the requirement to file a bank/insurance guarantee with the tax authorities. Starting from 2015, the bank/insurance guarantee is not due if the VAT credit claimed for refund lower than EUR30,000.

For VAT refunds higher than EUR30,000, under certain conditions, the filing of the bank/insurance guarantee can be replaced by a "certification" of the VAT credit by the auditing body or other authorized professionals. These professionals shall assess the existence and amount of the VAT credit through a check of the annual VAT return and of the VAT ledgers and proper bookkeeping. Moreover, the taxable person should issue a self-declaration attesting to be an active business.

The obligation to file a bank/insurance guarantee for VAT refunds higher than EUR30,000 is still applicable in some specific cases:
- VAT refunds claimed by companies that started their business activity less than two years prior
- VAT refunds claimed by taxable persons that in the previous two years received a tax assessment regarding the amounts declared in the annual VAT return
- VAT refunds claimed by taxable persons that did not provide for the VAT credit certification or the self-declaration
- VAT refunds claimed by taxable persons in the last year of activity

In all the cases that require a bank/insurance guarantee, the legislation foresees that the taxable person asking for the VAT refund may receive a lump sum amount, as relief for costs sustained for the issuance of the bank/insurance guarantee itself, equal to 0.15% of the guaranteed amount for every year of validity of the bank/insurance warranty. This lump sum must be paid when it is recognized by the tax authorities that the taxable person is entitled to receive the VAT reimbursement. This provision applies with effect from the VAT claims made through the annual VAT return related to fiscal year 2018 and quarterly VAT refund requests related to the first quarter of 2018.

Taxable persons may use a VAT credit shown in the annual VAT return to offset other Italian tax liabilities and social security contributions:
- For offsets higher than EUR5,000, the VAT credit must be "certified."
- The offset may not exceed EUR2 million per year (threshold increased with effect from 1 January 2022).

Recovery of the VAT incorrectly charged. A procedure for recovering VAT incorrectly charged by the supplier has been introduced into the Italian VAT law. The new provision foresees that, in the case of a transaction that has been incorrectly subjected to VAT:
- The supplier can ask the tax authorities for a refund of the VAT wrongly charged and paid within two years:
  - From the payment date of the undue VAT; or, if subsequent
  - From the day when the VAT is repaid to a customer who has asked for restitution because it has received a definitive assessment from the tax authorities that VAT was wrongly charged and is therefore non-recoverable as input tax
- The customer can ask for the restitution of the VAT charged by the supplier within the ordinary time frame of 10 years.

For the sake of completeness, this reimbursement procedure does not apply in cases that may involve a tax fraud.

Taxable persons can exercise the right of deduction of the VAT into the VAT computation related to the period in which the transaction has been carried out, provided that the relevant purchase invoice has been received and duly booked within the 15th day of the month following the one in which the transaction is carried out. This rule does not apply when the invoices received refer to transactions performed in the previous year; in such case, the relevant VAT must be deducted

in the year in which the invoice has been received. As a general rule, taxable persons can exercise the relevant right of deduction of VAT when both the following circumstances occur:
- The VAT has become chargeable.
- The relevant invoice has been received.

Once both the above conditions are met, the right of deduction of VAT can be exercised by the taxable person at the latest within the date of filing the annual VAT return for the financial year in which the relevant invoice has been received, provided that such document has been booked in the VAT ledgers within such term, in accordance with Article 25 of the Italian VAT law.

Pre-registration costs. Italian VAT law does not specifically provide for the recoverability of the VAT on preregistration costs. However, the recovery of VAT on pre-registration costs is accepted if it takes place within the terms provided by the Italian VAT law, i.e., with the submission of the annual VAT return relating to the year in which the purchase invoice is received.

Bad debts. In principle, the VAT on bad debts can be recovered by issuing a credit note, subject to certain conditions.

If the adjustment occurs as a result of an agreement between the parties, an adjustment VAT credit note cannot be issued later than one year after the transaction was carried out.

In the case of a bankruptcy procedure or an individual enforcement procedure, to recover the relevant VAT, the credit note had to be issued no later than the deadline to file the VAT return related to the year in which the right of deduction arises, i.e., the year in which the procedure was concluded.

However, Article 26 of Presidential Decree 633/1972 has been amended so that the supplier of the goods or service has the right to issue a credit note in the event of nonpayment of the consideration, in whole or in part, by the recipient of the supply starting from the date in which:
- The latter is subject to an insolvency procedure (i.e., from the beginning of the procedure)
- The decree approving a debt restructuring agreement referred to in Article 182-bis of Law 16 March 1942, n. 267 is published
- A certified plan pursuant to Article 67, third paragraph, letter d), of Law 16 March 1942 n. 267 is published

If in a later stage the consideration is paid, in whole or in part, the supplier must issue a debit note for the relevant amount and the recipient has the right to deduct the corresponding VAT.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Italy.

Frequent exporters regime. The Italian VAT law provides that repayments are made within three months after the deadline for the claim. However, particularly for credit amounts higher than EUR2 million, long delays are common because refunds exceeding this amount are subject to an audit process by the tax authorities. This delay may cause a severe cash flow problem for businesses involved in international trade because they are frequently in a VAT credit position. To ease the situation, the Italian VAT law provides that "frequent exporters" may purchase, import and acquire goods and services without payment of VAT.

To qualify as a "frequent exporter," export supplies must exceed 10% of a taxable person's annual turnover. VAT-free purchases are limited to the value of the taxable person's export supplies either in the preceding calendar year or in the preceding 12 months (at the option of the taxable person). For these purposes, exports include exports of goods, zero-rated services and intra-Community supplies. The frequent exporter scheme is not applicable to the purchase of

buildings, building areas, goods and services where the recovery of VAT is not allowed, petrol and fuel with the only exception of commercial diesel for some specific subjects.

To avoid fraud in relation to the use of the frequent exporter regime, the Italian tax authorities have strengthened their audits related to such transactions. If during an audit they find out that the letter of intent has been wrongly issued, they can invalidate the same.

In particular, in case of a negative outcome of the audit activities:
- The declarations of intent are invalidated through electronic confirmation of the filing to the Italian tax authority
- The taxable person is inhibited from the issuance of new declarations of intent through the electronic system of the Italian tax authority

In case of an indication of the protocol number of an invalidated letter of intent, the Interchange System will inhibit the supplier to the issuance of the electronic invoice bearing the title of non-taxability of VAT pursuant to Article 8 paragraph 1 letter c) of Presidential Decree No. 633/1972.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Italy is recoverable. The Italian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Italy. Non-established businesses may claim Italian VAT to the same extent as VAT-registered businesses.

Entities not established in Italy, but with a fixed establishment in Italy or registered for VAT purposes either directly or through a tax representative, can exercise their VAT rights in the same way as established entities. Therefore, they can either offset their VAT credit or claim a refund through the VAT return.

Non-established taxable persons that are not registered for VAT in Italy may claim VAT refunds using specific procedures, differing depending on whether they are established in another EU Member State or in a third country.

In addition, non-established taxable persons may also voluntarily register for VAT in Italy just to recover input tax even if they do not carry out supplies of goods or services relevant for VAT purposes in Italy. For further details, see *Section C. Who is liable,* subsection *Non-established businesses*.

EU businesses. For businesses established in the EU, a refund is made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Italy during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Italy:

Taxable businesses established in another EU Member State can claim the refund of VAT paid in Italy on imports and purchases of goods and services if they meet the following conditions:
- The taxable person does not have a fixed establishment in Italy
- The taxable person has not carried out any transactions within scope of Italian VAT or has only carried out transactions subject to reverse charge, zero rated transport and transport-related services or supplies of goods or services taxable in Italy for which the taxable person opted for OSS or IOSS.

Entities established in another EU Member State that meet the requirements can apply for the refund of the input VAT paid on the import of goods and the purchase of goods and services in Italy, if the tax is deductible under Italian legislation and they carry out transactions giving rise to the right of recovery in their country of establishment. In the case of partial exemption, the refund is made by applying the same pro rata applied by the country of establishment.

Nonresident entities established in another EU Member State must submit their refund application electronically to the tax authorities of the taxable person's state of establishment. The applications are then sent on to the Italian tax authorities that manages the refunds (*Agenzia delle Entrate – Centro Operativo di Pescara*).

Non-EU businesses. For businesses established outside the EU, a refund is made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

Italy applies the "principle of reciprocity," which means the country where the claimant is established must also provide VAT refunds to Italian businesses. Israel, Norway and Switzerland are included in this category. *At the time of preparing the chapter, the UK has not been added to this list.*

Non-EU entities established in the three countries mentioned above may claim VAT refunds on purchases and imports of movable property and services relating to the exercise of their business, art or profession, provided such VAT is deductible under the Italian VAT legislation.

Find below specific rules for Italy:
- Non-EU entities must submit Form VAT 79, drafted in Italian or English, to the address below:

  Agenzia delle Entrate – Centro operativo di Pescara
  Servizio identificazione soggetti non residenti
  Via Rio Sparto, n. 21
  65129 Pescara
  Italy

- The application can be submitted by hand delivery, post or express courier.
- The refund thresholds are the following: for quarterly applications, EUR400 or the equivalent amount in national currency; for annual applications, EUR50 or the equivalent amount in national currency.
- Applications must be submitted by 30 September of the calendar year following the reference year. Only quarterly and annual applications are allowed.
- Businesses established in other non-EU countries should appoint a VAT representative in order to be able to recover input tax.
- Italian VAT law provides that payment of recoverable VAT must be made no later than six months after the date on which the application is filed.

The same option applies to those entities that, while established in a non-EU country, have joined the OSS or IOSS scheme, even if they have carried out distance sales of goods or supplied services to final customers for which VAT is due in Italy.

Late payment interest. In case of late VAT refund payments for non-established businesses (for both EU and non-EU), interest accrues at a rate of 2% per year effective from 2010. The date when interest starts accruing varies, as it depends on whether additional documentation is requested and on the timing of its filing.

H. Invoicing

VAT invoices. An Italian taxable person must generally provide a VAT invoice for all taxable and exempt supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. If an Italian taxable person that purchases goods or services from an Italian supplier does not receive a correct invoice by the end of the fourth month following the month when the acquisition occurred, it must regularize the purchase by disclosing it and paying VAT to the tax authorities by the end of the fifth month following the supply.

Invoices can be issued within 12 days from the date in which the transaction takes place, by giving evidence of the time of supply on the document (i.e., both the date of supply and the date of issuance of the invoice should be mentioned, if different). The VAT is still due with reference to the month in which the taxable event takes place.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the so-called 8th VAT Directive or EU 13th VAT Directive refund schemes.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must reflect a genuine mistake or overcharge or an agreed reduction in the value of the original supply and must be issued only in the particular cases listed under Italian law. The document must be marked "credit note," it must be numbered, and it must refer to the original VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Italy, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Italy. Electronic invoicing is currently only mandatory for supplies made by established taxable persons. Electronic invoicing is allowed but not mandatory for supplies made by non-established taxable persons.

The application for B2G supplies is in line with EU Directive 2014/55/EU (*see the chapter on the EU*). This is with effect from 31 March 2015. Italy has obtained EU authorization up to 31 December 2024. For other taxable persons (B2B, B2C), electronic invoicing is also mandatory in Italy, in line with EU Directive 2010/45/EU (*see the chapter on the EU*).

Starting from 2019, a general B2B and B2C electronic invoicing obligation applies; the electronic invoicing obligation only applies to transactions between established/resident persons.

Exclusion from issuing e-invoices has been extended to 2023 for those entities that: (i) are required to send data to the Health Card System, with reference to invoices relating to transactions whose data must be sent to such system ("*Sistema tessera sanitaria*") and (ii) although not required to send data to the Health Card System, issue invoices relating to health care services provided to individuals.

From 1 July 2022, the transmission of data relating to cross-border transactions via the Interchange System (SdI) will be mandatory with the format of the electronic invoice and the so-called Esterometro will be abolished.

Mandatory e-invoicing has been introduced for supplies between Italy and San Marino as from 1 July 2022. A transitional period is envisaged from 1 October 2021 to 30 June 2022, during which invoices may be issued in both electronic and paper format, while from 1 July 2022 invoices must only be issued in electronic format.

Law decree no. 36, dated April 30, 2022, (the so-called "PNRR 2") has extended the obligation of electronic invoicing also to the so-called "minor taxpayers" (those who fall under the minimum regime and those who apply the flat tax regime) and to amateur sports associations. In particular, the electronic invoicing obligation is mandatory from the following dates:

- From 1 July 2022, for taxable persons that in the previous year had a turnover exceeding EUR25,000; for such taxable persons there is also an exemption from penalties in the third quarter of 2022, provided that the electronic invoice is issued within the month following the tax point
- From 1 January 2024, for all other taxable persons

Invoices for cross-border transactions. Invoices for exports, intra-Community supplies of goods and exempt supplies must mention "zero-rated transaction" and "exempt transaction" to support the fact that VAT has not been charged. Invoices may indicate the applicable provision of the

Italian or EU law. To account for Italian VAT on an intra-EU acquisition, the Italian purchaser (VAT-taxable person) must "integrate" the foreign invoice, i.e., the applicable Italian VAT rate and the corresponding Italian VAT must be written on the foreign invoice. The invoice must be booked into the taxable person's purchases and sales ledgers. If the supplier does not issue an invoice for the transaction, the Italian acquirer of the goods must self-invoice by the 15th day of the third month following the month in which the acquisition occurred.

From 1 July 2022, the transmission of data relating to cross-border transactions via the Interchange System (SdI) has become mandatory. For purchases of goods and services from non-established suppliers, the taxable person must communicate on a monthly basis each relevant transaction through single xml files within the 15th of the month following the one of receipt. For sales of goods and services to non-established customers, the taxable person shall communicate the transactions through an xml file to be transmitted through the SDI whose technical specifications are the same as the domestic e-invoicing procedure.

Sales invoices must be issued in euros, rounding up to the cent. Invoices received from foreign suppliers and issued in foreign currency must be converted to euros by the recipient using the exchange rate at the time of the supply. If this information is unknown at the date of invoice, the conversion into euros may be made based on the exchange rate published by the European Central Bank.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A simplified invoice may be issued with respect to supplies for which the taxable basis is not higher than EUR400.

Also, a simplified credit note can be issued. For simplified invoices issued for adjustments (credit note or debit note), it is mandatory to mention the reference to the initial invoice issued and adjusted, as well as the date of the data adjusted as for the correction made.

Simplified invoices cannot be issued for intra-EU supplies and for any transaction made to a person liable for VAT in another EU Member State.

Self-billing. Self-billing is allowed in Italy. If an Italian established taxable person receives a supply of goods or services from a non-established person, a reverse charge applies, and it must issue a self-invoice, showing all the details of an Italian tax invoice and the correct VAT due. The self-invoice must mention "self-invoice" and must be recorded in both the purchases and sales ledgers of the taxable person.

For Article 44 services received from an EU supplier, instead of issuing a self-invoice, Italian taxable persons must apply the reverse-charge mechanism via the "integration" of the invoice. In practice, the taxable person must follow the same reverse-charge procedure that is applicable to intra-Community acquisitions of goods (see below).

Even though the supplier normally has the obligation to issue the invoice, the Italian VAT law provides the opportunity for the invoice to be issued directly by the customer ("self-invoice") or by a third party ("outsourced invoice") on behalf of the supplier who, in any case, remains liable for obligations to the Italian tax authorities (Article 21 of Presidential decree n. 633/1972). Based on the common commercial practice, the parties involved (the supplier and the third party issuing the invoice) agree their intention in a written contract (written agreement is not mandatory but strongly recommended) according to which the supplier grants to the third party a specific authorization to issue invoices on its behalf. In addition, both parties must expressly acknowledge the specific procedure to be adopted and their reciprocal rights and obligations.

To coordinate the e-invoicing obligation and the self-billing agreement, the technical specifications released by the Italian tax authorities for the filing of the XML file provide for specific rules.

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

- For exports, copies of the export documents or invoices officially validated by customs or indicating the Movement Reference Number (MRN)
- For intra-EU supplies, the signed transport document or the validated copy of the "Convention des Merchandises par Route" (CMR) a bill of lading, an airway bill, an invoice issued by the freight forwarder, the relevant Intrastat forms, proof of payment

The Italian tax authorities issued specific guidance stating that the documents listed above shall still be deemed as valid for the purposes of the application of the zero-rated regime, even following the implementation of the Quick Fixes package. However, the supplier may also decide to collect and have at its disposal the documents under Article 45a of the Council Implementing Regulation (EU) 2018/1912 of 4 December 2018, i.e., documents for the application of the EU rebuttable presumption regarding intra-Community supplies. In addition, the zero-rated regime shall apply only if the recipient provides the supplier with its valid VAT ID for VIES purposes in advance and if the intra-Community supply is correctly reported in the Intrastat return of the supplier.

For the Quick Fixes, the Italian tax authority released Circular Letter 12/E (12 May 2020) to clarify the new proof of delivery requirements introduced by the VAT Quick Fixes regime. The proof of delivery rules, introduced by Council Implementing Regulation (EU) 2018/1912 amending Implementing Regulation (EU) No 282/2011, are applicable since 1 January 2020, without the need for implementing legislation. New Article 45a of Regulation (EU) No 282/2011 provides that the transport of the goods is presumed to have taken place if certain conditions are satisfied, depending on whether the transport is arranged by the supplier or the recipient of the goods. In instances when the transport is arranged by the recipient of the goods, the recipient must deliver a declaration to the supplier, confirming that the goods have arrived at their destination. There is no specific format required for this declaration. Where the goods are transported by the supplier, a transportation document (e.g., CMR) signed by the supplier, transporter and recipient is regarded as sufficient proof of transportation, but not legally binding.

Foreign currency invoices. In Italy, the amounts that appear on the invoice may be expressed in any currency, provided that the amount of VAT payable or to be adjusted is expressed in the domestic currency, which is the euro (EUR), using the official conversion rate for the date of supply.

Supplies to nontaxable persons. Some types of taxable persons (i.e., those who carry out retail and similar businesses) are exempted from the obligation to issue full VAT invoices, if not expressly requested by the customer. However, where a full VAT invoice is not issued, it is mandatory to electronically store and transmit daily receipts electronically. These obligations must be fulfilled by means of the instruments specifically identified by the tax authorities.

In any case, the taxable person should issue the commercial receipts/documents. The commercial receipt must include the following information:

- The progressive numbering by calendar year attributed to the fiscal receipt
- The date of issuance
- Company name or name and surname for physical persons, tax domicile, VAT number, location where the activity is carried out
- Nature, quality and quantity of the goods or services provided
- Amount including VAT

This receipt constitutes title for the exercise of warranty rights against defects in the item sold or rights arising from other types of warranty.

The data storage and transmission obligations (as well as the issuance of the commercial document) do not apply where receipts are documented by means of an invoice (ordinary or simplified).

Distance selling. For intra-Community B2C distance sales (over the threshold of EUR10,000), a full VAT invoice must be issued. However, if the supplier operates the OSS regime EU, then no full VAT invoice is required unless requested. If the invoice is issued, the Italian invoicing rules, in which the supplier is registered for the OSS regime EU, apply.

Records. In Italy, examples of what records must be held for VAT purposes include VAT ledgers, VAT purchase registers and VAT sales registers. Additional ledgers can be requested for specific transactions, invoices, credit notes, customs bills, and proof of transport for intra-EU supplies and of exports.

In Italy, VAT books and records can be kept outside the country. For Italian-established businesses such records can be held in or outside of Italy, in this latter case under certain conditions (i.e., access in Italy to the software and the possibility to print documents upon request). The place where the records are kept must be indicated in the declaration of the start of the activity or of a change in data. For non-established businesses that are directly VAT registered in Italy, such records can be kept abroad and submitted to the Italian tax authorities upon request by a certain deadline.

Record retention period. According to Italian law, invoices issued and received, credit notes and all the documents relevant for VAT purposes (documents of transport, etc.) must be kept for VAT purposes up to the end of the statute of limitation period:

- 31 December of the fifth year following the one of filing of the annual VAT return; (for years prior to 2016, the term was the fourth year)
- 31 December of the seventh year following the one in which the (omitted) annual VAT return should have been filed (for years prior to 2016, the term was the fifth year)

The retention period can be extended under certain circumstances (e.g., in case of tax litigation).

For civil law purposes, all the VAT relevant documents (books, ledgers, invoices, correspondence, etc.) must be kept for 10 years.

Electronic archiving. Electronic archiving is allowed in Italy. It is mandatory for electronic invoices, according to the requirements of Italian law. The Italian tax authorities offers a free-of-charge archiving service. In particular, the e-invoice files are kept by the Italian tax authority's e-invoicing platform, "*Sistema di Interscambio*" (SDI) until 31 December of the eighth year following the one of submission of the related return or until the definition of eventual court trials. The same files could be used by the tax police in the performance of the economic and financial police tasks and by the tax authorities and by the tax police for risk analysis and the checks carried out for tax purposes.

Electronic storage of fiscal documents, including tax returns, is allowed provided that specific requirements are met, such as search criteria, a description of the archive and the archiving process, and a clear delegation plan for the responsibility of the archiving process.

The electronic archiving process must be completed within three months from the deadline for filing the related annual tax return.

Electronic archiving of electronic invoices is mandatory. The electronic archive can be located also in another jurisdiction, provided that such tax authorities have a legal instrument to regulate reciprocal assistance with Italy.

The taxable person established in Italy ensures, for control reasons, the automatic access to the archive and that all documents and information contained therein, including those related to the

guarantee of the authenticity and the integrity of the documents, are printable and transferable onto other electronic storage media.

I. Returns and payment

Periodic returns. All Italian taxable persons must submit an annual VAT return. The VAT return period is the calendar year. The annual VAT return must be filed from 1 February through 30 April of the following year.

Periodic payments. Italian taxable persons calculate VAT payments on a monthly or quarterly basis, depending on turnover, and pay the VAT. All taxable persons must communicate on a quarterly basis the data of periodic VAT liquidations, independent of their obligation to pay the VAT on a monthly or quarterly basis. VAT may be paid on a quarterly basis if the turnover realized during the previous year (or anticipated for the first year of activity) does not exceed EUR500,000 for supplies of services or EUR800,000 for supplies of goods. Interest at a rate of 1% must be added to quarterly VAT payments.

Monthly payments are due by the 16th day of the month following the month for which VAT is due.

Quarterly payments are due by the 16th day of the second month following the quarter for which VAT is due, except for the last quarter. The balance for the last quarter is due on 16 March of the following year if the taxable person spontaneously opts for quarterly payments (that is, a taxable person that has revenues under certain thresholds and that opts to calculate the VAT balance on a quarterly basis instead of a monthly basis).

Starting from 1 December 2012, taxable persons whose turnover did not exceed EUR2 million in the previous year can opt to account for VAT using cash accounting.

VAT is paid using the F24 Form and a specific tax code, which is different for each month. The F24 Form must be filed electronically, either through the tax authorities' website, provided the taxable person is registered to access Entratel/Fisconline (this requires a specific procedure to be completed) or through an authorized bank. A list of authorized banks is published online by the tax authorities.

Non-established businesses directly registered for VAT in Italy, who do not have an Italian bank account can pay VAT due by direct SWIFT transfer, using the TARGET system.

As from 1 July 2022, retailers using advanced systems to collect tax considerations through debit or credit cards, or other forms of electronic payment can store and transmit the data of the receipts through the same instruments

Electronic filing. Electronic filing is mandatory in Italy for all taxable persons. All VAT returns must be filed electronically directly by the taxable person, using the tax authorities' electronic services (i.e., Entratel or Fisconline services) or through authorized intermediaries such as business consultants and accountants. The filing receipt is transmitted electronically by the tax authorities to the user who filed it.

Payments on account. Payments on account are required in Italy. An advance payment is due by 27 December of the current year. Different methods are available to calculate the advance payments (i.e., forecast, historical or transactions actually carried out). The balancing payment of the VAT due for the month of December is due by the 16th of January.

Special schemes. *Tour operator margin scheme.* Travel agencies and tour operators who organize and sell tour packages comprising trips, holidays, "all-inclusive" packages, and related services for their own account or through an agent, benefit from a special VAT scheme. Output tax is applicable only on the margin, calculated as the difference between the amount received from the

customer and the amount paid to the suppliers, gross of VAT. Businesses cannot recover, deduct or claim for refund the input tax charged on such travel services and goods.

Margin scheme for secondhand goods, works of art, antiques or collectibles. Output tax is applicable only on the margin calculated on the difference between the amount that the businesses receive from the customer and the amount they pay to their suppliers, including ancillary costs. Businesses cannot recover, deduct or claim for refund the input tax on purchases of goods.

VAT scheme for publishers. For sale of daily newspapers, periodicals, books and the related additional media and catalogs, the VAT is due by publishers on the basis of the sale price to the public, in relation to the number of the copies sold. The tax may optionally be applied in relation to the number of copies delivered or posted, reduced by 70% for books and 80% for daily newspapers and periodicals, excluding pornographic material and the ones supplied together with supplementary package.

VAT scheme for telecommunications providers. A special scheme is available for services rendered by public telephone service providers as well as for sales of any technical means, including the supply of access codes, for use of fixed or mobile telecommunication services, as well as electronic services. The VAT is due by the holder of the license or by the authorized service provider on the basis of the consideration due by the user or, if not already determined, on the basis of the average price for the sale to the public in relation to the amount of phone traffic made available by technical means.

The same provisions are applicable to nonresidents selling or distributing technical means in Italy through their permanent establishment or their tax representatives or through direct identification pursuant to Article 35-ter, as well as to agents, other intermediaries and third parties who sell or distribute in Italy technical means acquired from nonresidents.

Cash accounting. Taxable persons can opt for cash accounting under specific circumstances if turnover did not exceed EUR2 million in the previous year, with reference to transactions carried out with taxable persons.

Under cash accounting, rules for the supplier are as follows:
- VAT is due when the supplier receives payment for supplies of goods or services (but in any case, not later than one year from the date in which the goods are supplied or the services are performed).
- VAT on purchases is recoverable when the consideration has been paid.

The invoice shall make specific reference to cash accounting and the pertaining legal provision.

A taxable person that purchases goods or services from a supplier that opts for cash accounting can deduct the relevant VAT when the transaction is deemed to be performed for VAT purposes, even if the payment for the supply has not yet been made.

Some supplies and purchases from a supplier that uses cash accounting are excluded from this regime.

Other special schemes. Special schemes also available for the following activities:
- Trading salt and tobacco – VAT is paid only by the State Agency, i.e., the monopoly reseller, based on the final price to the public
- Trading matches – for the final part of the supply chain, VAT is paid by the industry association *Consorzio Industrie fiammiferi* based on the price to the public
- Entertainment activities, games and the other activities – under the tariff attached to Presidential Decree Nº 640 of 26 October 1972, under certain conditions a flat rate calculation of input VAT is applicable

- Sales of COVID-19 goods to the European Commission – a nontaxable VAT regime applies for sale of goods to the European Commission or to an agency or body established under European Union law, where such Commission or agency or body acquires such goods or services while carrying out the tasks conferred by European Union law to respond to the COVID-19 pandemic, unless the goods and services purchased are used, immediately or subsequently, for the purposes of further supplies or services for consideration by the Commission or that agency or body.

Annual returns. Annual returns are not required in Italy. Aside from the general VAT return (which the period is the calendar year), a separate additional annual return is not required in Italy.

Supplementary filings. *Communication of transactions with foreign counterparties.* The so-called Esterometro has been abolished as from 1 July 2022. However, starting from 1 July 2022, the transmission of data relating to cross-border transactions will be mandatory via the Interchange System (SdI), with the format of the electronic invoices.

Frequent exporters. Frequent exporters must file declarations of intent with the Italian tax authorities.

Suppliers can issue zero-rated VAT invoices to frequent exporters only upon checking that the declaration has been electronically filed with the Italian tax authorities. Law Decree no. 34/2019 introduced relevant changes in the discipline regarding the declaration of intent effective as of 1 January 2020. The main changes are:

- Frequent exporters are no longer obliged to provide their suppliers or customs offices the declaration of intent and related filing receipt (the supplier is obliged to verify using the tax authorities' electronic services that the declaration of intent has been filed). In the absence of providing this check, penalties from 100% to 200% of the VAT not charged could apply.
- Frequent exporters and suppliers are no longer required to proceed with the progressive numbering of the declaration of intent or the annotation in a specific VAT book.
- The supplier must quote the protocol number attesting the receipt of the declaration on the invoice issued. Specific checks are carried out by the Italian tax authorities between the declaration, the available ceiling and the e-invoice issued.

If no declaration of intent is received, fines ranging between 100% and 200% of the VAT not charged could apply.

Intra-Community archive. Italian VAT taxable persons that make intra-Community acquisitions or sales of goods must be included in the "Archive of Entities Authorized to Perform Intra-Community Transactions."

An entity that registers for VAT when it begins a business activity in Italy must inform the Italian tax authorities in writing if it intends to perform intra-Community transactions. VAT registration is automatically included in the intra-Community archive, i.e., VIES; however, the VAT registration number is excluded from the VIES archive, upon communication from the Italian tax authorities, if the taxable person does not file any Intrastat listings for four continuous quarters.

Due to the implementation of the Quick Fixes package, the registration to VIES has become mandatory to apply the zero-rated regime for intra-Community transactions.

Intrastat. Italian taxable persons that trade with other EU Member States must complete fiscal and statistical reports, known as Intrastat. Separate reports apply to intra-Community supplies of goods and intra-Community supplies of services (Intrastat Dispatches) and simplifications for the completion of the Intrastat forms or exception from their submission apply.

The Intrastat return for the intra-EU acquisitions of goods is mandatory on a monthly basis only for statistical purposes and only if the total amount of acquisitions is greater than EUR350,000 for at least one of the four previous quarters.

No Intrastat return for intra-EU acquisitions of goods needs be filed by taxable persons who do not exceed the above threshold.

The Intrastat return related to the intra-EU purchases of services is mandatory only for statistical purposes on a monthly basis and only if the total amount of intra-EU purchases of services for at least one of the four previous quarters is equal or higher than EUR100,000.

No Intrastat return for purchases of services needs to be filed by taxable persons who do not exceed the above threshold.

The Intrastat return related to intra-EU dispatches of goods remains mandatory. However, the submission of statistical information is optional for taxable persons who submit an Intrastat return on a monthly basis with a total amount of intra-EU supplies of goods, during at least one of the four previous quarters, that is less than EUR100,000. In addition, starting from 1 January 2022, the data related to non-preferential origin of the goods must be included in the form.

The Intrastat return related to the intra-EU supplies of services remains mandatory. However, the service code necessary to identify the specific service supplied is related to a simplified list of codes, which means that it should be easier to connect services with the related codes than it was previously.

Statistical information is required from businesses that mainly file monthly reports. Columns (which is the section of the Intrastat return for the statistical value), regarding delivery conditions and transport conditions must be filled in if the threshold of EUR20 million is exceeded or in the case of a movement of goods without the transfer of property or similar rights.

Intrastat declarations must be filed in EUR. Returns, if due, are due on a monthly basis, by the 25th day of the month following the return period (the returns on a quarterly basis, under certain conditions, is no longer in force).

A new specific Intrastat form is introduced from 1 January 2022 for the communication of call-off stock transactions, pursuant to the Quick Fixes implementation.

In addition, a simplification has been introduced for Intrastat returns related to intra-EU dispatches of goods and for intra-EU acquisitions of goods, on which for transactions not higher than EUR1,000, no specific customs code shall be included, but rather a generic standard one.

EU Sales Lists. In Italy, all information related to intra-Community transactions is reported using the Intrastat form. No separate EU Sales List is used.

Quarterly communication of periodic VAT calculations. A taxable person must electronically file a communication of the periodic VAT computations on a quarterly basis, irrespective of its obligation to pay the VAT on a monthly or quarterly basis.

The form must be filed electronically though specific means accepted by the Italian tax authorities (i.e., Entratel and Fisconline).

Taxable persons are requested to file this communication on a quarterly basis by the end of the second month following the quarter of reference:
- By 31 May for the quarter January-March
- By 30 September for the quarter April-June
- By 30 November for the quarter July-September

- By the last day of the month of February of the following year for the quarter October-December

Correcting errors in previous returns. To correct errors in periodic filings, taxable persons should submit a supplementary return and pay the penalties, if applicable. Referring to penalties, they are reduced by an amount depending on the time period between the original filing and the voluntary disclosure. The supplementary return should be filed electronically.

Digital tax administration. Digital tax administration in Italy implies, among others, e-invoicing, communications of transactions to the tax authorities (e.g., shop sales data), prefilled VAT returns and ledgers prepared by the Italian tax authorities, e-audits, etc.

J. Penalties

Penalties for late registration. Late registration for VAT may result in various penalties, depending on the errors committed. Penalties include the following:

- Failure to inform Italian VAT authorities regarding the beginning of activities: a penalty ranging from EUR500 to EUR2,000.
- Failure to issue and record invoices for taxable transactions: a penalty ranging from 90% to 180% of the VAT not invoiced or posted.
- Failure to issue and record invoices for exempt and exempt-with-credit transactions or certain transactions not subject to VAT: a penalty ranging from 5% to 10% of the amount not invoiced or posted. However, if the violation is not relevant for the assessment of the income, a penalty ranging from EUR250 to EUR2,000 applies.
- Failure to make payments of VAT: a penalty of 30% of the payment not made, plus interest on the late payment.
- Failure to maintain VAT records: a penalty ranging from EUR1,000 to EUR8,000.
- Failure to file the annual VAT return: a penalty ranging from 120% to 240% of the VAT due, a minimum amount of EUR250, applies. However, if the VAT return is filed within the legal term foreseen for the submission of the VAT return relevant for the following year and, in any case, before any audit is started, the penalty is reduced to half (i.e., ranging from 60% to 120% of VAT due), with a minimum amount of EUR200.

Penalties for late payment and filings. If the annual VAT return is omitted, the penalty is 120% to 240% of the VAT due. The minimum penalty is EUR250.

If the annual VAT return is submitted more than 90 days after the deadline but within one year from it, the penalty is 60% to 120% of the VAT due, if any. The minimum penalty is EUR200.

The penalty for the late payment of VAT is equal to 30% of the VAT paid late. However, if the late payment does not exceed a period of 90 days from the statutory deadline, the penalty is reduced by half; if the late payment does not exceed 15 days from the statutory deadline, the penalty is reduced to an amount equal to 1/15 for every day of delay. In addition, interest is accrued or charged at an annual rate of 5% (starting 1 January 2023) in the case of voluntary settlement and 3.5% in the case of settlement of the tax audit report and in certain other circumstances.

Penalties for errors. In the case of omitted, incomplete or inaccurate reports of the VAT calculations data, penalties ranging from a minimum of EUR500 to a maximum of EUR2,000 may apply.

In case of omitted or incorrect communication of transactions with foreign counterparties, a penalty of EUR2 for each invoice applies, with a maximum of EUR400 for each quarter of reference.

The penalty may be reduced to half (EUR1 per invoice, with a maximum amount of EUR200 for each quarter) if, within 15 days from the statutory deadline for the submission, a taxable person:
- Submits the previously omitted communication
  Or
- Amends the incorrect communication submitted in order to correct the mistakes made

If the annual VAT return is submitted with incorrect data, the penalty ranges from 90% to 180% of the amount of output tax incorrectly declared or the VAT credit incorrectly used.

Penalties for violations of the VAT reverse-charge mechanism are as follows:
- Taxable persons with full right of VAT deduction who omit application of the VAT reverse-charge mechanism are subject to penalties ranging from EUR500 to EUR20,000.
- In some circumstances, proportional penalties also apply. For example, where transactions subject to the reverse-charge mechanism are not even registered by taxable persons for general accounting purposes, penalties ranging from 5% to 10% of the taxable amount apply, with a minimum penalty of EUR1,000.
- Taxable persons who omit the payment of VAT as a consequence of an infringement in applying the reverse-charge mechanism (e.g., taxable persons with a limited right of VAT deduction) face the same penalties applicable for undue VAT deduction (90%) and for unfaithful annual VAT return filing (from 90% to 180%).
- The inappropriate application of the VAT reverse-charge mechanism by the supplier and/or the purchaser is subject to penalties ranging from EUR250 to EUR10,000 (except in the case of fraudulent intent of the parties, where penalties from 90% to 180% of relevant VAT may apply).

As from 1 January 2023, VAT deduction is not allowed in cases of nonexistent taxable transactions when it is proved that the recipient was aware of the fraud. In this case the proportional penalty applies to the transferee.

The terms of the statute of limitation rules are applicable to tax assessments issued by Italian tax authorities. A taxable person could be subject to a tax assessment up to the end of the fifth year following the year of filing of the relevant tax return and up to seven years from the failure to file the tax return.

Mistaken or missing Intrastat returns are subject to a penalty ranging from EUR500 to EUR1,000 per return, which may be reduced by half if the return is filed within 30 days from the issuance of an official request issued by the tax authorities. Penalties may not apply if a spontaneous regularization occurs under certain conditions.

Penalties for violations of a statistical nature apply only to taxable persons that performed, in the month of reference, transactions equal to or higher than EUR750,000. Penalties apply only once for each incorrect Intrastat form, regardless of the number of violations related to the Intrastat form.

However, if penalties apply, the taxable person could benefit from the spontaneous regularization mechanism (subject to conditions) to largely reduce these fines.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of a minimum EUR500 and a maximum of EUR2,000. The penalty may be reduced by voluntary disclosure. To submit a voluntary disclosure, the taxable person must use the AA7/10 Form for the fiscal representative, fixed established or for a domestic taxable person. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Pursuant to Legislative Decree no. 742000, fraud and tax evasion are considered to be criminal offenses and are subject to the following criminal penalties:

- Omitted VAT return, when the amount of VAT evaded is higher than EUR50,000, is punished with detention from two to five years.
- Unfaithful return is punished with detention from two to four years and six months of detention with specific punishment thresholds (i.e., when the amount of evaded VAT is higher than EUR100,000 and the net amount of the assessed taxable transactions, is higher than 10% of the taxable amounts indicated in the VAT return or anyway is higher than EUR2 million).
- Omitted VAT payment based on the annual VAT return is punished with detention from six months to two years when the amount of omitted VAT is higher than EUR250,000.
- Tax consulting could expose tax advisors to the risk of participation in an offense performed by their client; nevertheless, it is not always easy to define the perimeters of the respective responsibilities also in light of Italian case law.

Personal liability for company officers. If the above criminal offenses are committed, the legal representative of the company is personally liable for the related penalties. Such penalties are outlined under the subsection *Penalties for fraud* above.

Statute of limitations. The statute of limitations in Italy is five years. As a general rule, a specific financial year (FY) shall be deemed time-barred under Italian tax law after the end of the fifth year after the one of filing of the relevant annual VAT return (i.e., FY + six years). For example, audit activities for FY2018 shall be deemed as time-barred at the end of 2024, as this is the sixth year after the relevant FY or fifth year after the year in which the annual VAT return for FY2018 was filed (2019).

The statute of limitation is extended by two years if the annual VAT return for the FY has not been filed, i.e., in such event, a FY shall be deemed time-barred after the end of the seventh year after the one in which the relevant annual VAT return should have been filed (therefore, FY + eight years).

It should be noted, however, that assessments for 2017 and 2018 can be notified with a delay of 85 days from the due date because of audit suspension during the COVID-19 period. This means that, for example, assessments for FY2017 can be notified up until 25 March 2024.The statute of limitation is also extended in case of request of information and documents by the tax authorities. In fact, if documents are not filed within 15 days from the receipt of the request, the ordinary statute of limitation is extended by the number of days of delay.

Jamaica

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A. At a glance

Name of the tax	General Consumption Tax (GCT)
Local name	General Consumption Tax (GCT)
Date introduced	26 July 1991
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Tax Administration Jamaica (TAJ) (https://www.jamaicatax.gov.jm)
GCT rates	
Standard	15%
Reduced	10%
Other	5%, 25%, zero-rated and exempt
GCT number format	XXX-XXX-XXX (9 digits)
GCT return periods	Monthly
Thresholds	
Registration	JMD10 million
Recovery of GCT by non-established businesses	No

B. Scope of the tax

GCT applies to the supply of goods and services in Jamaica by a registered taxable person in Jamaica and to the importation of goods and services into Jamaica. Certain export services and business transfers are zero-rated for GCT purposes based on the rules below.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons.

In Jamaica, services that are supplied to a recipient who uses or obtains the advantage or benefit of the service outside of Jamaica or services which are effectively used or enjoyed at the time and

place where they are physically performed and the performance of the services takes place outside of Jamaica, are generally taxable at a rate of zero percent.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Jamaica, a TOGC is treated as zero-rated where the following conditions are met:

- The sale, transfer or other disposition of the activity is from one registered taxable person to another
- The activity is a going concern at the time of the sale, transfer or disposition
- The assets to be sold, transferred or otherwise disposed of are intended for use by the new owner in carrying on the same kind of business
- There shall not be a series of sales, transfers or other disposition of the business
- There is no significant break in the normal trading pattern before or immediately after the sale, transfer or disposition
- Both parties to the transaction agree in writing that there is a supply of a going concern
- Both parties of the transaction intend that the activity is capable of being carried on as a going concern by the purchaser
- There is a supply of all the assets that are central to the taxable activity or part thereof that is the subject of the sale, transfer or other disposition

Transactions between related parties. As a general rule, supplies between related/connected parties should be at market value. Where there is no consideration for such transactions, the value of the supply will be taken to be the open market value.

C. Who is liable

All persons engaged in a taxable activity in Jamaica whose annual turnover exceeds JMD10 million per year are required to register for GCT as a registered taxable person.

Exemption from registration. Anyone who is engaged solely in one or more of the following does not have to register for GCT in Jamaica:

- Persons whose annual turnover are below JMD10 million
- Persons whose activities are carried out essentially as a private recreational pursuit or hobby
- Any engagement (i.e., employment), occupation or employment under any contract of services or as a director of a company
- Persons who supply only goods and/or services that are exempt from the GCT

Voluntary registration and small businesses. A person with gross revenue of under JMD10 million may voluntarily apply for GCT registration.

A person who proposes to carry on a taxable activity (not under a partnership) may apply (using the prescribed form) to be provisionally registered for GCT as a registered taxable person. Note that the Tax Administration Jamaica (TAJ) may require other documents prior to approving such a registration, for example, the requirement to provide a deposit for security. If the application is approved, the taxable activity by the business, must begin within 24 months of being registered.

Group registration. Group GCT registration is allowed in Jamaica. The entities in the GCT group must also be Jamaican entities (including branches of overseas companies) and must be affiliated with every other entity within the GCT group. There are several other requirements.

All members of a GCT group in Jamaica are jointly and severally liable for GCT debts and penalties. Within the GCT group, each member is jointly and severally liable for any tax payable (inclusive of any GCT debts and/or penalties) by the representative entity of the GCT group and

any other liability incurred while the entity was within the GCT group, unless an entity has ceased to be within the GCT group.

There is no minimum time period required for the duration of a GCT group.

Fixed establishment. A permanent establishment is defined in the GCT Act to mean a fixed place of business through which the business of a business organization is wholly or partly carried on and includes the following:

- A place of management
- A branch
- An office
- A factory
- A workshop
- A mine, an oil or gas well, a quarry or any other place of extraction of natural resources, but does not include a building site or construction or installation project that does not last for more than three months
- The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the business organization
- The maintenance of a stock of goods or merchandise belonging to the business organization solely for the purpose of storage, display or delivery
- The maintenance of a fixed place of business solely for the purpose of carrying on for the business organization
- The maintenance of a fixed place of business solely for the purpose of carrying on for the business organization any other activity of a preparatory or auxiliary character
- The maintenance of a fixed place of business solely for any combination of activities mentioned if the overall activity of the fixed place of business resulting from that combination is of a preparatory or auxiliary character.

Non-established businesses. Businesses must be established/registered with the Companies Office of Jamaica. The GCT Act does not provide details about non-established businesses (i.e., overseas entities doing business in Jamaica). However, once a non-established business is deemed to have a permanent establishment (specifically defined in the GCT Act, which is similar to the definition provided in the Income Tax Act) in Jamaica (i.e., registering a branch or subsidiary in Jamaica), it is required to register for GCT (where its annual turnover exceeds JMD10 million). If the non-established business' activities do not meet the criteria for creating a permanent establishment, there is no requirement to register.

Tax representatives. Tax representatives are optional in Jamaica, and the use of a tax representative is the prerogative of the taxable person.

Reverse charge. The reverse charge is a GCT reporting mechanism for taxable imported services. Where a Jamaican taxable person purchases services from a non-established business from outside Jamaica, GCT is not charged by the non-established business, but the Jamaican customer, as the recipient of the services, is obliged to report GCT and pay the GCT where applicable. The GCT is an in-and-out entry (GCT reported as input tax and output tax) if the Jamaican recipient taxable person supplies only taxable services (has no exempt services).

Domestic reverse charge. There are no domestic reverse charges in Jamaica.

Digital economy. There are no specific rules in Jamaica relating to the taxation of the digital economy and no specific references in the GCT Act. As such, the general GCT rules apply.

Nonresidents that provide electronically supplied services in Jamaica do not need to register for GCT unless they have a permanent establishment in Jamaica and meet the GCT threshold for registration. If a nonresident is not required to register for GCT for business-to-business (B2B)

supplies, the reverse-charge mechanism applies and the customer self-accounts for GCT due. For business-to-consumer (B2C) supplies, no GCT is accounted for.

There are no other specific e-commerce rules for imported services in Jamaica.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Jamaica.

Registration procedures. The registration procedure involves the completion of a GCT application form (GCT-1, which may be obtained online or collected from a Revenue Service Center) and the submission of specific documents that may be requested by TAJ (for example, certified copies of IDs of the directors of the company). Before registering for GCT, a person must first obtain a valid taxpayer registration number (TRN). The application form for the TRN may be obtained online or from any TAJ tax office. Once the application is received by TAJ, further documentation may be requested.

Deregistration. The Commissioner General may cancel the GCT registration of any registered taxable person if they are satisfied that the registered taxable person no longer qualifies for registration. The Commissioner General may notify the taxable person that it will be deregistered, stating the reason for deregistration. The taxable person may object, in which case the Commissioner shall inform the person in writing of the decision and of the right of appeal. Where the person is a registered taxable person, it must return the Certificate of Registration to the Commissioner when notified of the decision. A taxable person may also voluntarily deregister for GCT if it no longer qualifies for registration, by formally writing to the Commissioner General and requesting deregistration.

Changes to GCT registration details. The taxable person is required to advise TAJ in writing where there is a change to its GCT registration details (such as company's name, address, type of business or GCT status). There are no specific timelines or penalties associated with any change of registration details.

D. Rates

The term "taxable supply" refers to a supply of goods and services that is liable to GCT, including a supply taxed at the zero rate.

The GCT rates are:
- Standard rate: 15%
- Reduced rate: 10%
- Zero-rate: 0%
- Special rate: 5%, 25%

The standard rate of GCT applies to all supplies of goods and services, unless a specific measure provides for a reduced rate, the zero rate, special rate or an exemption.

Examples of goods and services taxable at 0%

- Goods purchased or taken out of bond and services performed under a contract by or on behalf of a foreign government or multinational lending agency.
- Food produced exclusively for the feeding program of a school approved by the minister responsible for education that is not for resale to the general public.

Examples of goods and services taxable at 5%

- Importation of certain goods into Jamaica, by commercial importers, and the 5% is treated as an advanced GCT payment

Note it is not possible to provide specific examples of goods the 5% rate applies to, as the GCT Act only provides a guideline of goods for which it would not apply. Also, after importation, the

GCT rate on certain goods would be higher because the 5% advance payment would be in addition to the standard rate.

Examples of goods and services taxable at 10%

- Certain services provided by certain entities in the tourism sector including the following:
  - A hotel
  - A resort cottage
  - Tour operators
  - Water sports

Examples of goods and services taxable at 25%

- Telecommunication services, including the sale of telephone cards
- Telephone instruments

The term "exempt supplies" refers to supplies of goods and services that are not liable to GCT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Certain energy saving devices, e.g., LED bulbs, solar panels and tubes for solar water heating systems and lighting control units
- Construction services as defined, e.g., demolition, repair or alteration of any building or the construction, repair or alteration of part of a land
- Imported chicken, which is not subject to any process other than freezing, chilling, salting or otherwise immersion in a brine solution or packaging
- Brown sugar

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Jamaica.

E. Time of supply

The time of supply is important in determining when a taxable supply takes place for GCT purposes. The GCT Act defines the "time of supply" as the earliest of the following events:

- When an invoice for the supply is issued by the supplier
- Payment is made for the supply
- The goods are made available to the recipient, or the services are rendered

Deposits and prepayments. The time of supply for deposits and prepayments is when the deposit or prepayment is made.

Continuous supplies of services. For contractually agreed continuous supplies of services that provide for the consideration to be paid from time to time upon the supplier issuing invoices, the time of supply takes place at the earlier of following:

- An invoice for the supply is given by the supplier
- Payment is made for the supply
- Payment for the supply becomes due

Goods sent on approval for sale or return. The time of supply for the supply of goods sent on approval for sale or return is considered to be when the goods are made available to the recipient.

Reverse-charge services. There are no special time of supply rules in Jamaica for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. For assets supplied under hire purchase or lease agreement, either with or without an option to purchase, the supply takes place when the goods are made available to the recipient.

Imported goods. There are no special time of supply rules in Jamaica for supplies of imported goods. As such, the general time of supply rules apply (as outlined above).

GCT is generally payable on the importation of taxable supplies, when the goods enter Jamaica, unless the goods benefit for deferral under the import GCT deferral scheme. For further details, see the *Special schemes* subsection below. In addition to the standard rate of GCT (as outlined above in *Section D. Rates*), a 5% advanced GCT payment is payable by commercial importers on the importation of certain goods into Jamaica.

F. Recovery of GCT by taxable persons

GCT incurred on expenses may be recovered by way of an input tax credit, bearing in mind any restrictions that are contained in the GCT Act. The excess of input tax over output tax for a particular taxable period may be claimed as a refund or may be credited against GCT payable in a subsequent period. GCT that cannot be claimed as an input tax credit is generally deductible for income tax purposes, subject to any restrictions that are contained in the legislation. The time limit for a taxable person to reclaim input tax in Jamaica is six years.

Nondeductible input tax. GCT on private (nonbusiness) and exempt goods and services may not be recovered via an input tax credit.

Examples of items for which input tax is nondeductible

- Services relating to a contract of life assurance
- Expenses for personal use
- Expenses relating to exempt goods and services such as construction services

Examples of items for which input tax is deductible (if related to a taxable business use)

- Utility costs/bills
- Inventory purchases
- Business entertainment
- Purchases of fixed assets
- Travel expenses
- Professional and other services provided to the business

Partial exemption. Where a taxable person makes taxable and exempt supplies and is unable to separately identify the input tax paid/payable relating to both, it is entitled to claim as a credit, the proportion of the input tax that is attributable to the taxable supplies based on the formula taxable supplies/total supplies X total input tax creditable.

Approval from the TAJ is not required to use the partial exemption standard method in Jamaica.

An alternative formula may be used by the taxable person (i.e., a special method), if approved by the Commissioner General.

Capital goods. An input tax credit may be claimed for GCT incurred on capital goods acquired for the making of taxable supplies, subject to any restrictions that are outlined in the GCT Act. There are no special input tax recovery rules for capital goods in Jamaica.

Refunds. A registered taxable person may tick the appropriate box on the GCT return to request a refund of the excess of GCT input tax credited over GCT output tax. The application for refund on excess taxes paid must be made within six years. However, if the applicant ceased to be a registered taxable person, the application for the refund should be made within two years after the date upon which they ceased to be a registered taxable person. Generally, if a refund is not made by the TAJ within three months after the date on which the claim was received by the Commissioner, interest at the rate prescribed by order under Section 2A of the Tax Collection Act shall be payable to the taxable person and end on the date on which the refund is made.

The GCT Act states that where a registered taxable person charges no output tax during the taxable period but does incur input tax during that period, it may apply to the Commissioner for a

refund of the input tax or it may carryforward the amount if input tax as a credit to a subsequent taxable period.

Pre-registration costs. Input tax incurred on pre-registration costs in Jamaica is not recoverable.

Bad debts. The write off of bad debts is permitted in Jamaica. However, the tax treatment for the write off of bad debt would need to be analyzed on a case-by-case basis.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Jamaica.

G. Recovery of GCT by non-established businesses

Input tax incurred by non-established businesses that are not registered for GCT in Jamaica is not recoverable.

H. Invoicing

GCT invoices. A taxable person must provide a tax invoice for all taxable supplies made to registered taxable persons. A tax invoice is necessary to support a claim for input tax recovery. A tax invoice must include such particulars as prescribed by the GCT Act.

Credit notes. A registered taxable person may issue a debit or credit note in circumstances including, but not restricted to, the following: to reflect an alteration in the supply or correction of the tax rate that was applied, correction of the terms of a transaction or a return of goods or services to the supplier, etc. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Jamaica, but it is not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Jamaica. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Jamaica.

At the time of preparing this chapter, there is no specific legislation for electronic invoicing in Jamaica.

There are no separate requirements for the format of electronic invoices; however, they must contain the relevant information as required for a normal GCT invoice and the original invoice should be available in case TAJ requests it.

Simplified GCT invoices. Simplified GCT invoicing is not allowed in Jamaica. As such, full GCT invoices are required.

Self-billing. Self-billing is not allowed in Jamaica.

Proof of exports. Invoices should be prepared for goods that are exported, even though such goods attract GCT at a rate of 0%. To qualify as zero-rated, exports must be supported by evidence that confirms that the goods have left Jamaica. Copies of relevant supporting documents such as contracts invoices, freight and packing details, export documents and evidence of payment supply, etc., should be kept.

Foreign currency invoices. Invoices may be issued in a foreign currency. However, the amounts must be converted to the domestic currency, which is the Jamaican dollar (JMD) for GCT reporting purposes (i.e., in the GCT return). The conversion must be made using the Bank of Jamaica's (BOJ) weighted average exchange rate, which can be found on the BOJ's website (http://www.boj.org.jm).

Supplies to nontaxable persons. A registered taxable person who makes a taxable supply to a person who is not a registered taxable person is required to show the consideration for the taxable

supply separate from the GCT by either issuing a receipt showing the consideration and the GCT payable or affixing to the taxable supply the consideration and the GCT payable.

Records. Registered taxable persons are required to keep accounts and records as prescribed by the GCT Act. In Jamaica, examples of what records that must be held for GCT purposes include financial statements, trial balance, invoices, etc.

In Jamaica. GCT books and records can be kept outside of the country. However, if records are held outside of Jamaica, such records must be available in a timely manner, at the request of TAJ.

Record retention period. Registered taxable persons must keep books and records for at least six years from the end of the taxable period to which they relate. The books and records that should be kept are based on best practice.

Electronic archiving. Electronic archiving is allowed in Jamaica. Records and books of accounts can be kept in an electronic format, as long as they are retrievable when requested by TAJ.

I. Returns and payment

Periodic returns. The GCT reporting period is monthly. Returns must be filed by the last working day of the month after the end of the taxable period.

Periodic payments. Any tax due for the GCT reporting period must be remitted to the TAJ by the last working day of the month after the end of the taxable period (e.g., GCT payable for June 2023 is due the last working day of July 2023). Payment can be made by check, wire transfer, cash or credit card. All payments can be made at any TAJ's offices. Payments can also be made online at https://www.jamaicatax.gov.jm.

Electronic filing. Electronic filing is mandatory in Jamaica for all taxable persons. All registered taxable persons are required to file their GCT returns online with TAJ (https://www.jamaicatax.gov.jm).

Payments on account. Payments on account are not required in Jamaica.

Special schemes. *Import deferral scheme.* The Commissioner General may grant approval (on such terms and conditions as they consider fit) for the importation of specific goods by a registered taxable person without the payment of GCT to the Commissioner of Customs at the time of importation. The registered taxable person must be up to date and compliant with the required GCT filings and the other GCT payments. If approved, the GCT would be deferred and accounted for by the registered taxable person when filing the GCT return for the taxable period in which the specified goods were imported.

Cash accounting. Only specific taxable persons can file using cash accounting, including, but not restricted to, taxable persons who supply general insurance, professional services and telephone services. The GCT Act specifies the categories of taxable persons that may be permitted to account for GCT on the cash basis, on the written approval of the Commissioner General.

Annual returns. Annual returns are not required in Jamaica.

Supplementary filings. There are no supplementary filings required in Jamaica.

Correcting errors in previous returns. The GCT legislation specifies that a registered taxable person may, after filing a GCT return, request the Commissioner to amend that return and the Commissioner shall do so if satisfied that the amendment is required. However, an amended return is generally filed to accommodate major changes or amendments to a return that was previously filed (such as the correction of an error).

To amend a previously filed return, a new return must be filed by a registered taxable person and the revised return box on the GCT form should be ticked before submission to the TAJ.

Digital tax administration. There are no transactional reporting requirements in Jamaica.

J. Penalties

Penalties for late registration. A person who fails to register for GCT is subject to a penalty of the greater of JMD10,000 or the tax that would have been payable had the person been a registered taxable person during the applicable period. Interest (compounded) will be applicable at the rate of 16.6% per annum.

Penalties for late payment and filings. Late payment of GCT attracts a penalty of 10% of the amount unpaid and interest at the rate prescribed by order made under Section 2A of the Tax Collection Act until the date of payment (compounded). Late filing of a GCT return attracts a penalty of the greater of JMD10,000 or 10% of the tax, which is due up to a maximum of JMD100,000, and interest at the rate prescribed by order made under Section 2A of the Tax Collection Act until the date of payment. The current prescribed interest rate is approximately 16.6% per annum.

Penalties for errors. There are no specific penalties in Jamaica for errors. The penalty and interest charges that would apply are dependent on the impact of the error on the GCT payable for the relevant period. If there is additional GCT payable, the regular charges (described above) would apply.

There are no specific penalties associated with the late notification or failure to notify TAJ of changes to a taxable person's GCT registration details. For further details, see the subsection *Changes to GCT registration details* above.

Penalties for fraud. Criminal penalties may apply for fraudulent conduct. The person would be liable on summary of conviction in a Residents Magistrates Court to a fine as determined or to imprisonment or to both a fine and imprisonment. The fine can range from JMD1 million or three times the tax payable if greater, and imprisonment is usually for a term not exceeding 12 months.

Personal liability for company officers. The GCT Act specifically states that the managing director, manager or other officer concerned in the management of a body corporate will be liable for offenses, unless at trial they can prove that the offense was committed without their knowledge. The penalties that may apply are outlined in the subsection above *Penalties for fraud.*

Statute of limitations. The statute of limitations in Jamaica is six years.

Japan

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A. At a glance

Name of the tax	Consumption tax (CT)
Local name	消費税
Date introduced	1 April 1989
Trading bloc membership	None
Administered by	National Tax Agency Japan (NTA) (http://www.nta.go.jp)
CT rates	
Standard	10%
Reduced	8%
Other	Exempt-with-credit and exempt
CT number format	Registration number (T+13 digits - T0000000000000)
CT return periods	Monthly, quarterly, biannually and annually
Thresholds	
Registration	JPY10 million
Recovery of CT by non-established businesses	No

B. Scope of the tax

CT applies to the following transactions:
- The supply of goods or services made in Japan by a "taxable person"
- The importation of goods into Japan
- The purchase of services subject to reverse charge

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for CT in every jurisdiction where it has customers that are not taxable persons. In Japan, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Japan. As such, CT applies to all sales of a business or part of a business capable of separate operation, including assets.

Transactions between related parties. In Japan, there are no specific rules that indicate the value for CT purposes for transactions between related parties.

C. Who is liable

A "taxable person" is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in Japan.

However, the CT legislation provides for a small business exemption, the application of which depends on the taxable sales realized in previous fiscal years.

An entity qualifies for this exemption and is therefore not considered as a taxable person if it meets both following conditions:
- The taxable supplies (sales) in the "base period" (i.e., the fiscal year two years prior to the current fiscal year) did not exceed JPY10 million.
- The taxable supplies (sales) in the "specified period" (i.e., the first six months of the previous fiscal year, subject to exceptions) did not exceed JPY10 million. As an alternative condition, the enterprise may instead refer to the salaries paid in Japan during that period.

Other criteria apply to newly established corporations. Moreover, if a newly formed corporation purchases certain assets during its first two fiscal years, the corporation may not be eligible for exemption for the subsequent two fiscal years.

Exemption from registration. Aside from the small business exemption (*see detail above*), the CT law in Japan does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A business falling under the small-business exemption may elect for taxable person status (*see detail above*).

Group registration. Group CT registration is not allowed in Japan.

Fixed establishment. In Japan, there is no legal definition of a fixed establishment for JCT purposes. JCT can be taxable regardless of the permanent establishment rules under current JCT law. However, the permanent establishment rules that applies to direct taxation would be applicable for JCT when determining whether business-to-business (B2B) digital services are a domestic transaction.

The provision of B2B digital services is defined as where if such services are received by domestic businesses at overseas offices, if it is conducted outside Japan only, it would be considered as a foreign transaction (not subject to the reverse-charge mechanism). In addition, if a foreign business receives B2B digital services at a permanent establishment (which is referred to as overseas business establishments or permanent establishments under the income tax law or corporate tax law) that is necessary for the transfer of assets in Japan, it will be treated as a domestic transaction (subject to the reverse-charge mechanism).

As per the corporation tax law, a "permanent establishment" are those listed below. However, if a treaty for the avoidance of double taxation or the prevention of tax evasion with respect to taxes on income concluded by Japan contains provisions different from those listed below, a foreign

corporation to which that treaty applies shall comply with that treaty (limited to those located in Japan):
- Domestic branch offices, factories and other business establishments of foreign corporations specified by government ordinance
- Locations for construction or installation work in the country of foreign corporations, or for providing services of supervision, and other equivalents specified by Cabinet Order
- A person who has the authority to conclude a contract on behalf of a foreign corporation located in Japan or a person equivalent to this as specified by Cabinet Order

Non-established businesses. Non-established businesses that become or elect to become a taxable person should appoint a tax representative (*see below*). When a non-established business elects or becomes a taxable person, they must register for CT in Japan, under the normal registration rules (*see above*).

Tax representatives. A foreign business qualifying as a taxable person must appoint a resident tax representative to deal with its CT obligations, by submitting the appropriate form to the tax office.

Reverse charge. Under the reverse-charge mechanism, the purchase of certain services constitutes a taxable transaction, with the consequence that the recipient may be required to declare and pay the CT due thereon. The reverse charge applies to the following services:
- B2B digital services provided by a foreign business
- Services by a foreign business to another business, which mainly consist in the provision of services by film or theater actors, musicians, other entertainers and professional athletes

However, the recipient is not required to self-assess the CT in the following cases:
- If its taxable sales ratio is 95% or more
- The recipient applies the simplified system for calculating input tax deduction
- The recipient is not a CT taxable person

Domestic reverse charge. There are no domestic reverse charges in Japan.

Digital economy. Cross-border digital services are subject to specific rules. The notion of digital services covers most content and services provided through an electronic network, e.g., e-books, online newspapers, music, videos, game applications and software provided via the internet, online advertising, online language lessons.

The place of supply of digital services is where the recipient belongs, having regard to its address. For services to businesses, the place of supply is where the recipient has its head office, main office, or in certain circumstances, an establishment situated in another country that purchases the services for the purpose of its activities in that country.

A distinction is made between B2B and business-to-consumer (B2C) supplies, based on the nature of the service, as well as the terms and conditions of the contract. The classification of the supply as B2B or B2C impacts on the treatment applicable to cross-border digital services to customers in Japan:
- B2B digital services: a reverse-charge mechanism applies, whereby the recipient is required to declare and pay the CT due on the purchase, depending on the CT status (see the *Reverse-charge* subsection above). The nonresident providing B2B digital services must inform the customer beforehand that the reverse-charge mechanism is applicable.
- B2C digital services: the nonresident supplier is required to register for CT; charge CT; file CT returns and pay the CT to the tax office unless the supplier can benefit from the exemption for small businesses. Currently, Japanese resident businesses cannot credit input tax accounted for by overseas businesses on B2C digital services, unless the supplier is a "qualified invoice issuer" (this is with effect from 1 October 2023, and as such, the registered foreign business system was abolished.).

There are no other specific e-commerce rules for imported goods in Japan.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Japan. Even if digital content is listed on the platform, the supply of digital services should take place between the content provider and the customer if the contractual relationship indicates so.

On the other hand, the services provided by the platform to the content provider (listing the digital content) would fall under B2B digital services. If such service is provided by nonresident platforms to resident content providers, the reverse-charge mechanism would be applicable.

Registration procedures. A taxable person is required to submit a taxable person notification form to the tax office promptly. A business qualifying for the small-business exemption can elect to become a voluntary taxable person by filing a certain application to the tax office. In principle, the election becomes effective from the tax period following the tax period in which the application was made. These forms can be submitted to the jurisdictional tax office in paper or online.

Deregistration. A voluntary taxable person can cancel its registration by filing a certain application to the tax office. However, the cancellation is not allowed for two years after the election was made.

When a taxable person who is not a voluntary taxable person becomes qualified for the small-business exemption, it is required to submit a notification form that it is no longer a taxable person to the tax office promptly.

When a taxable person ceases its business, a certain form needs to be filed promptly with the tax office.

Changes to CT registration details. A notification form should be promptly submitted (by paper or online) when any of the following details have changed: registered address, name of the business, name of the tax representative, address of the tax representative, fiscal year or the amount of share capital.

The CT law in Japan does not stipulate a specific deadline to notify such changes to the tax authorities.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of consumption tax.

The CT rates are:
- Standard: 10% (7.8% national tax and 2.2% local tax)
- Reduced: 8% (6.24% national tax and 1.76% local tax)

Examples of goods and services taxable at 8%

- Supplies of food and drinks, excluding alcoholic beverages and dining out
- Subscriptions to newspapers (limited to newspapers that are issued at least twice a week and feature information on general topics such as politics, economics, society and culture)

The term "exempt-with-credit supplies" refers to supplies of goods and services that are not taxed but do give rise to a right of input tax deduction.

Examples of exempt-with-credit supplies of goods and services

- Exports of goods
- Exports of services
- International transportation of passengers and cargo

- Sales in export shops
- Supplies to foreign embassies and legations situated in Japan

The term "exempt supplies" refers to supplies of goods and services that are not taxed and that do not give rise to a right of input tax deduction.

Examples of exempt supplies of goods and services

- Bank interest
- Insurance
- Educational services
- Sales and leases of land
- Social welfare services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Japan.

E. Time of supply

The time when CT becomes due is called the "time of supply" or "tax point." CT is generally chargeable when ownership of goods is transferred, when a service is performed or when foreign cargo is removed from bonded areas.

Deposits and prepayments. The payment of deposits and prepayments is not subject to CT in Japan, but the payment of the original price is subject to CT depending on the type of the original transaction.

Continuous supplies of services. The time of supply rules for continuous supplies is when all the supplies have been delivered or completed.

Goods sent on approval for sale or return. The time of supply rule for supplies of goods sent on approval for sale or return is when ownership of the goods is transferred.

Reverse-charge services. There are no special time of supply rules in Japan for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. For finance lease transactions that are deemed as a transfer of leased assets under the provision of Japanese income tax law or corporate tax law, in principle, the time of supply is when the lessor delivered the leased assets to the lessee. For operating lease transactions, the time of supply is when the lessor should receive the lease fee.

Imported goods. For import CT, the time of supply for imported goods is the time when the goods are removed from bonded areas. For the domestic CT, there are no special time of supply rules in Japan for supplies of imported goods. As such, the general time of supply rules apply.

F. Recovery of CT by taxable persons

A taxable person has the right to recover input tax on imports and taxable supplies of goods and services made to it. Input tax is recovered by way of deduction from output tax.

The time limit for a taxable person to reclaim input tax in Japan is five years. This time limit runs from the filing deadline.

To be able to deduct input tax, the goods and services must be used for business purposes. The taxable person is required to keep books, qualified invoices and customs documents. The purchase statements and purchase calculation statements that were prepared by a business making taxable purchases and include certain information (applicable to documents confirmed by suppliers of the taxable purchases) can also be used as a record required for input tax credit purposes.

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

Examples of items for which input tax is nondeductible

- Purchase of goods and services from a business not registered as a qualified invoice issuer

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease, hire, maintenance and fuel for cars, vans and trucks
- Conferences and seminars
- Accommodation
- Mobile phones
- Business gifts
- Travel expenses
- Business entertainment

Partial exemption. A taxable person carrying out nontaxable activities is subject to a limitation of the amount to deduct CT if:

- Its taxable sales ratio is below 95%
  Or
- Its taxable turnover exceeds JPY500 million

The JCT legislation allows different methods to calculate the input tax credit:

- Proportional method (general pro rata method): the tax deductible is calculated by multiplying the total input tax by the "taxable sales ratio," i.e., the ratio between the turnover of taxable/exempt sales and the total turnover.
- Itemized method (direct allocation method): input tax attributable to taxable transactions can be fully deducted, while input tax attributable to nontaxable transactions is not deductible. Input tax relating to both categories of transactions can be credited according to the taxable sales ratio. Taxable persons can apply an alternative ratio based on reasonable factors, subject to prior authorization from the tax authorities.

Approval from the tax authorities is not required to use the proportional method or itemized method in Japan. Special methods are not allowed in Japan (aside from the Simplified credit – see the subsection below). To use either the proportional or itemized methods, a taxable person simply checks a box on the CT return for which method they choose (proportional or itemized).

Simplified credit. A taxable person with annual sales not exceeding JPY50 million may use a simplified formula to calculate the deductible CT by filing an application form of simplified credit system in advance to the jurisdictional tax office. Under this system, the deductible tax is calculated by multiplying the output tax by a deemed purchase ratio. This ratio ranges from 40% to 90%, depending on the type of sales. A taxable person that elects to use the simplified formula must use it for a minimum period of two years.

Capital goods. There is no definition or special treatment for "capital goods" in Japan. As such input tax recovery on capital goods (i.e., the sale and lease of property, large equipment and computers) are computed in accordance with the normal input tax recovery rules (as outlined above). Certain types of capital goods (e.g., the sale and lease of land) is exempt and no CT is charged.

Refunds. If the amount of input tax creditable in a taxable period exceeds the amount of output tax, the excess is refundable. In this case, an additional form that indicates certain transactions should be filed together with the tax return. The tax refund is made to the bank account stated on the tax return.

Pre-registration costs. Input tax incurred on pre-registration costs in Japan is not recoverable.

Bad debts. In the case of write-offs of bad debts due to the Confirmation of Rehabilitation Plans (which is an agreement on write-offs of bad debts under plans for reorganization bankruptcy, etc., in accordance with certain regulations/laws) and other certain reasons, CT on such bad debts are deductible in the taxable period in which such event occurs. Documentary evidence should be maintained.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not deductible in Japan.

G. Recovery of CT by non-established businesses

Input tax incurred by non-established businesses that are not registered for CT in Japan is not recoverable.

H. Invoicing

CT invoices. The qualified invoice system was introduced with effect from 1 October 2023. The system is a method to receive tax credit for CT corresponding to multiple tax rates on purchases. Under the system, for the buyer to deduct CT on purchases, as a general rule, keeping qualified invoices issued by qualified invoice issuers is required. For the seller to issue a qualified invoice, it must be registered as a qualified invoice issuer by the tax office. Only qualified invoice issuers are allowed to issue qualified invoices. Information on qualified invoice issuer (name and registration number) is listed on the NTA's website. If requested by the buyer, qualified invoice issuers are obliged to issue qualified invoices (with some exceptions, such as sales through vending machines) and keep a copy of the qualified invoices.

To become a qualified invoice issuer, a taxable person needs to submit the application to the tax office. The registration shall take effect on the date of registration by the Commissioner of the Tax Office. The 2022 tax reform (enacted 1 April 2022) has amended, among others, the registration process as provided below:

- The transitional measure allows an exempt taxable person to register as a qualified invoice issuer in the middle of a taxable period and become a qualified invoice issuer from the registration date, but only for the taxable period that includes any day between 1 October 2023 and 30 September 2029.
- If the expanded exception applies, the qualified invoice issuer cannot revert to an exempt taxable person for the following taxable periods until the taxable period that includes the day two years after the registration date.
- The tax authority will be entitled to reject the registration application by foreign businesses or revoke the registration of foreign businesses, which are required to assign a tax representative in Japan in accordance with General Law of National Taxes but are not compliant with such requirement.

The 2023 tax reform (enacted 1 April 2023) has amended, among others, the registration process as provided below:

- If an exempt taxable person intends to be registered as a qualified invoice issuer from the first day of the taxable period during which it becomes a taxable person, the application for registration must be submitted to the tax office 15 days prior to the first day of the taxable period.
- In the event that a qualified invoice issuer submits a notification requesting cancellation of registration to the head of the tax office, and the notification is submitted by the day 15 days prior to the first day of the tax period following the tax period to which the submission date belongs, the registration shall cease to be effective from the first day of the following tax period.

- If an exempt taxable person is subject to the transitional measures regarding the registration of a qualified invoice issuer after 1 October 2023, the desired date of registration (the date after the date on which it wishes to register, and 15 days have passed from the date of submission of the registration application) is stated in the registration application. In the above case, when a qualified invoice issuer is registered on the desired date of registration, it is deemed that the registration was received on the desired date of registration.

In terms of deductibility of CT on purchases after the introduction of the qualified invoice system, the percentage to deduct CT on purchases from an exempt taxable person is limited and eventually removed as follows:
- 80% (from 1 October 2023 to 30 September 2026)
- 50% (from 1 October 2026 to 30 September 2029)
- 0% (after 1 October 2029)

If an exempt taxable person becomes a taxable person after being registered as a qualified invoice issuer, the tax amount paid may be 20% of the sales tax amount for three years from the start of the qualified invoice system.

In the taxable period in which taxable sales in the base period are JPY100 million or less, or taxable sales in a specified period are JPY50 million or less, if the amount of consideration paid for taxable purchases between 1 October 2023 and 30 September 2029 is less than JPY10,000 in a single transaction, the purchase tax credit is applied by keeping only books containing certain items.

Credit notes. Under the qualified invoice system (which was introduced with effect from 1 October 2023), where the amount for the refund of consideration related to sales is less than JPY10,000, the obligation to issue a qualified return invoice is not be imposed.

Electronic invoicing. Electronic invoicing is allowed in Japan, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Japan. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Japan.

Previously, under the consumption tax law, only foreign businesses providing B2C digital services could issue electronic invoices. However, after the introduction of the qualified invoicing system on 1 October 2023, the issuance of qualified invoices in electronic format is allowed for all supplies. Under the qualified invoice system (which was introduced with effect from 1 October 2023), the data needs to be stored in compliance with Electronic Record Retention Law (ERRL) requirements when storing in electronic format.

Simplified CT invoices. Under the qualified invoice system (which was introduced with effect from 1 October 2023), for transactions related to retail, restaurant and taxi industries, etc., where sales are made to an unspecified number of counterparts, the "simplified qualified invoice" with simplified entry items may be issued. Simplified qualified invoices do not need to include the name of a business against whom the invoice is issued. Additionally, it is necessary to include only one of either applicable CT rates or total amount of CT categorized by CT rate, not both.

Self-billing. Self-billing is allowed in Japan. Purchase statements and purchase calculation statements can be prepared by a business making taxable purchases (i.e., the customer) and include certain information (applicable to documents confirmed by the supplier of the taxable purchases) can be used as a record required for input tax credit purposes.

Proof of exports. CT is not chargeable on supplies of exported goods. To qualify as exempt from CT, an export supply must be accompanied by official customs evidence stating that the goods have left Japan.

Foreign currency invoices. For CT purposes, if a qualified invoice is issued in a foreign currency, the CT amount in Japanese yen (JPY) should be stated. In principle, the conversion must be based on the telegraphic transfer middle rate (TTM), but the telegraphic transfer selling rate (TTS) and the telegraphic transfer buying rate (TTB) is allowed if applied continuously.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Japan. The CT law does not explicitly require a taxable person to issue a tax invoice for taxable supplies made to other taxable persons (or a credit note for adjustments). However, to deduct input tax, the recipient must hold an invoice containing certain mandatory information.

Records. In Japan, examples of what records must be held for CT purposes include all record transaction details in its books (date, description, name of counterparty, consideration).

In Japan, CT books and records can be kept outside the country. In principle, the records must be held at offices of the taxable person. However, practically, the records can be stored at a third party's storage, etc., if the taxable person may reach the records anytime upon necessity from the tax authorities.

Record retention period. Books and invoices must be kept for seven years in principle. However, during the sixth and seventh years of the retention period, retention of either books or invoices is allowed.

Electronic archiving. Electronic archiving is allowed in Japan. Generally, invoices received in paper form need to be kept in paper form, however, keeping them in scanned copies is acceptable if specific requirements are met. Additionally, invoices received in electronic form are allowed to be kept in electronic form if specific requirements are met.

I. Returns and payment

Periodic returns. Taxable persons must file CT returns annually. An individual entrepreneur must file its CT return by 31 March of the year following the end of the calendar year. A corporation must file its annual CT return within two months after its fiscal year-end. A taxable person may opt to file tax returns monthly or quarterly instead of annually.

The filing and payment due dates for consumption tax are two months from the end of the tax period. Tax authorities do not grant an extension of the filing/payment deadline. Effective from the fiscal year that ends on or after 31 March 2021, corporations that are granted extension of the filing of the corporate tax return are allowed to extend their CT return filing deadline for one month (i.e., three months after its fiscal year-end), if it submitted the CT Filing Deadline Extension form by the end of the fiscal year. The CT Filing Deadline Extension application form must be submitted by the end of the fiscal year in which the taxable person intends to apply the extension.

Periodic payments. An individual entrepreneur must pay the CT due by the same date as the CT return submission deadline, i.e., by 31 March of the year following the end of the calendar year. A corporation must pay the CT due by the same date as the annual CT return, i.e., within two months after its fiscal year-end.

CT due in Japan can be paid by the following methods:
- Direct payment (the tax can be paid online via "direct payment" using the e-Tax system, which is a direct deduction from the taxable person's bank account)
- Internet banking
- Credit card (accessed by the "National Tax Credit Card Payment Site")
- Convenience stores (only for tax payments of up to JPY300,000 in total amount per slip)
- Account transfer
- Over-the-counter payment

Electronic filing. Electronic filing is mandatory in Japan for certain taxable persons. For the fiscal year that starts on or after 1 April 2020, Japanese corporations whose amount of capital exceeds JPY100 million, insurance companies or other certain corporations are required to file the tax return electronically. Other taxable businesses and sole proprietorships can use electronic filing system under certain conditions, such as obtaining an ID number.

Payments on account. Payments on account are generally not required in Japan, except for certain taxable persons. Depending on the previous year's tax liability, a taxable person may be required to make interim CT returns and payments:
- If the national tax due exceeds JPY480,000: semiannually
- If the national tax due exceeds JPY4 million: quarterly
- If the national tax due exceeds JPY48 million: monthly

A taxable person who is not subject to this obligation may voluntarily make interim tax returns and payments.

Special schemes. No special schemes are available in Japan.

Annual returns. Annual returns are not required in Japan.

Supplementary filings. No supplementary filings are required in Japan.

Correcting errors in previous returns. Taxable persons should submit an amended tax return to correct any errors filed in previous returns. The amended tax return can be submitted in paper or online. See *Section J. Penalties* below for further details on what penalties may apply for such errors.

Digital tax administration. There are no transactional reporting requirements in Japan.

J. Penalties

Penalties for late registration. There is no specific penalty in Japan for the late registration of CT.

Penalties for late payment and filings. In cases of late payment of CT, late-payment interest is imposed, calculated at the following rates:
- First two months: 7.3% or special standard rate + 1% per annum, whichever is lower
- After two months: 14.6% or special standard rate + 7.3% per annum, whichever is lower

The special standard rate applicable in a given year (Y) is announced by the Minister of Finance by 30 November of the previous year (Y-1). It corresponds to the annual average contractual interest rate on bank short-term loans of each month from September of the second preceding year (Y-2) and August of the previous year (Y-1), plus 1% per annum. The special standard rate for 2023 is 1.4%. *At the time of preparing this chapter, the rate for 2024 has not been announced.*

In case of late filing of the CT return, the following penalties are imposed:
- 5% if the CT return is filed voluntarily (i.e., before receiving an audit notice) after the due date
- 10% (or 15% for the portion exceeding JPY500,000) if the CT return is filed after receiving an audit notice but before the audit
- 15% (or 20% for the portion exceeding JPY500,000) if an error is found as a result of a tax audit
- Furthermore, 10% will be added to non-reporting (late filing) penalties, if the taxable person that has been subject to penalties for non-reporting or fraud within the last five years due to a correction initiated by tax audit

Penalties for errors. Where the tax declared in the CT return is understated, the following penalties are imposed:
- 0% in case of voluntary disclosure (i.e., before receiving an audit notice)
- 5% (or 10% of the excess portion of additional tax over JPY500,000 or the original amount, whichever is greater) if the taxable person makes a voluntary disclosure during the period from receiving an audit notice to anticipation of correction
- 10% (or 15% of the excess portion of additional tax over JPY500,000 or the original amount, whichever is greater) after anticipation of correction

There are no specific penalties associated with the late notification or failure to notify of changes to a taxable person's CT registration details. For further details, see the subsection *Changes to CT registration details* above.

Penalties for fraud. If any such errors are related to fraudulent activity, the following penalties are imposed:
- 35% (if the tax declared in the CT return is intentionally understated)
- 40% (if the CT return is intentionally not filed)

If penalties for fraud are imposed, penalties for non-reporting or fraud are not imposed. A further 10% will be added if the taxable person has been subject to penalties for non-reporting or fraud within the last five years due to a correction initiated by tax audit.

Personal liability for company officers. In case a company evaded CT due or received a CT refund by deception or other wrongful acts, and an officer of the company has committed such deception or other wrongful act, the company officer shall be punished by imprisonment with work for not more than 10 years and/or a fine of not more than JPY10 million.

In case a company evaded CT due by intentionally neglecting to file a tax return by the due date, and an officer of the company has committed such neglect, the company officer shall be punished by imprisonment with work for not more than five years and/or a fine of not more than JPY5 million.

Statute of limitations. The statute of limitations in Japan is five years. The statute of limitations for both the tax authorities (to go back to review returns) and for taxable persons (to correct errors in previous CT returns) is five years from the filing due date. In case of fraud, the statute of limitation could be extended to seven years.

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A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Goods and services tax (GST)
Date introduced	6 May 2008
Trading bloc membership	Jersey has a special relationship with the European Union (EU). In simple terms, the Island is treated as part of the EU for the purposes of free trade in goods, but otherwise it is not part of the EU. *At the time of preparing this chapter, the Island's relationship with the EU is still under negotiation following the UK leaving the EU and therefore may be subject to change.*
Administered by	Comptroller of Revenue (http://www.gov.je/taxesmoney)
GST rates	
Standard	5%
Other	Zero-rated (0%) and exempt Flat rate International Services Entity (ISE) fee (predominantly financial services entities)
GST return periods	Quarterly Monthly (other periods on request)
GST registration number format	1234567
Thresholds	
Registration	JEP300,000
Deregistration	Less than JEP300,000
Recovery of GST by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

GST applies to the following transactions:
- The supply of goods or services made in Jersey by a registered person
- The importation of goods into Jersey, regardless of the status of the importer

- The supply of a service outside Jersey if all of the following conditions apply:
  - The supply is a taxable supply
  - The service is specified in schedule 3 of the GST law (reverse charge to GST)
  - The recipient is a Jersey resident
  - The service is performed in connection with a person, place or thing in Jersey, or is taken to be so performed

Businesses (predominantly in the financial services sector) may be exempted from GST accounting if they obtain approval for International Services Entity (ISE) status (see *Section D*).

As outlined above, Jersey has a special relationship with the EU. In simple terms, the island is treated as part of the EU for the purposes of free trade in goods, but otherwise it is not part of the EU. *At the time of preparing this chapter, the Island's relationship with the EU is still under negotiation following the UK leaving the EU and may be subject to change.*

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in every jurisdiction where it has customers that are not taxable persons. In Jersey, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a GST-registered or GST-registrable business will be subject to GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of GST. In Jersey, a TOGC is treated as outside the scope of GST where the transferor and the transferee are both registered taxable persons (i.e., both parties are registered for GST in Jersey).

Transactions between related parties. In Jersey, for a transaction between related parties, the value for GST purposes is calculated at the open-market value. The Comptroller may give a direction that the value of the supply shall be taken to be its open-market value if the value of the supply (but for the direction) is less than market value, the supplier and recipient are connected and, in a case where the supply is a taxable supply, the recipient is not entitled to credit all the GST on the supply. The direction is given by notice in writing to the supplier and shall not be given more than three years after the day when the supply was made.

C. Who is liable

A "registered person" is a business entity, including a branch or agency or individual, who makes taxable supplies of goods or services in the course of doing business in Jersey.

The GST registration threshold is JEP300,000.

The registration threshold is met if either of the following circumstances exists:
- If, at the end of any month, the business made taxable supplies in the preceding 12 months exceeding JEP300,000
- If, on any day, reasonable grounds exist for believing that the value of the taxable supplies made by the business in the 12 months after that date is likely to exceed JEP300,000

GST incurred before the incorporation of a company may be recovered if certain criteria are met.

Certain entities, predominantly financial services entities, may opt out of the GST system by becoming an International Services Entity (ISE). Generally, an entity meets the requirements of an ISE if not more than 10% of its supplies are to individuals resident in Jersey. GST is not chargeable on supplies to ISEs. If the entity obtains approval for ISE status, it pays an annual fixed fee.

Trust companies can also be authorized to maintain a list of administered entities that are ISEs. Under the ISE regime, businesses are not required to account for GST on their supplies and are entitled to end-user relief under which they are not charged GST by GST-registered businesses.

A business may be charged on retail purchases of less than JEP1,000, but the GST may be refunded on application.

The following fees are payable for an ISE entity:
- Bank (deposit-taking business), JEP78,300
- Trust company business, JEP13,100 as an affiliation leader and JEP300 for each administered entity
- Fund service business not registered as a managed manager, JEP4,700
- Entity holding a Collective Investment Fund (CIF) permit as a functionary but not as a managed manager or collective investment fund, JEP4,700
- Entity holding a CIF permit as a managed manager, JEP950
- Collective investment fund if listed by the Comptroller of Revenue or Alternative Investment Fund, JEP300
- Entity that is a body corporate or partnership, limited partnership or limited liability partnership, which is not included above, JEP750

Exemption from registration. If a taxable person only makes zero-rated supplies, the taxable person can apply to be exempt from registering for GST.

Voluntary registration and small businesses. A small business with taxable turnover of less than JEP300,000 a year may voluntarily apply to become a registered person. However, the value of exempt supplies cannot be included in calculating the taxable turnover. If the only supplies of goods and/or services are exempt, it is not normally possible to register for GST.

Group registration. Group registration is allowed for corporations or other taxable persons that are under common control. One entity must be the representative member.

There is no minimum time period required for the duration of a GST group.

Transactions between group members are disregarded for GST purposes.

All members of a GST group in Jersey are jointly and severally liable for GST debts and penalties.

As an alternative to GST registration, businesses in the financial services industry that predominantly serve nonresident clients may opt to pay an annual fee and be listed as International Service Entities to reduce their compliance and administrative obligations.

From 1 January 2024, group registrations for GST purposes are extended to groups that contain both online retailers based outside Jersey and those with an establishment in Jersey. Registration requirements have been changed to ensure that supplies made to businesses in Jersey by overseas retailers are ignored when calculating the turnover of a business for GST registration purposes.

Fixed establishment. Under the GST law, an establishment means a business establishment or fixed establishment. A fixed establishment has not been defined. However, under GST law, the

usual place of residence of a body corporate or any other person that is not individual is the place where its business is managed and controlled and a person carrying on a business through a branch or agency in a country will be treated as having an establishment there.

Non-established businesses. There is no distinction between established and non-established businesses for the purposes of Jersey GST. As such, a non-established business has a requirement to register for GST, to the same extent as an established business does.

Tax representatives. Tax representatives are not required in Jersey.

Reverse charge. The reverse-charge regime applies to services specified by the law if the following conditions are satisfied:
- A supply of services is made by a nonresident to a resident.
- The supply would be taxable if made in Jersey.
- The recipient of the supply is registered (or is required to be registered).

An input tax credit may be claimed with respect to the reverse charge to the extent that the service was acquired for the purpose of making taxable supplies.

Domestic reverse charge. There are no domestic reverse charges in Jersey.

Digital economy. For business-to-business (B2B) transactions, GST may apply. For GST purposes, certain electronically supplied services are considered to be supplied where the service is received. As such, the customer is generally expected to self-assess for the GST due.

For business-to-consumer (B2C) transactions, electronically supplied services are considered to be supplied where the service is received. Such services are typically GST-exempt in Jersey for consumers.

Physical goods received in Jersey and acquired through digital platforms are subject to GST in Jersey. The customer is required to declare the goods received and pay the relevant GST. A non-Jersey resident supplier is exempt from any GST registration or payment on the supply of goods to Jersey.

The States of Jersey Assembly introduced new legislation in the Finance Law (Budget 2022) (Jersey) Law in relation to the application of GST to goods imported into Jersey by private individuals where those goods are imported unaccompanied by the importer. In other words, the goods are ordered from Jersey by the customer and are dispatched by freight or post by the seller.

The purpose of the new legislation is to enable high street retailers in Jersey (who must charge GST on almost all sales) to be more competitive and to mirror similar legislation introduced in relation to VAT in the UK and the EU during 2021. The new legislation introduces the following:
- All goods imported unaccompanied by private individuals into Jersey from 1 July 2023 are subject to GST where the value of the imported goods exceeds JEP60. This threshold has been reduced from JEP135.
- Where online retailers trading outside Jersey sell goods to consumers in Jersey (online, through brochures, magazine sales or others) and where the value of such sales by any retailer to consumers in Jersey exceeds JEP300,000 per annum, such retailers have a requirement to register and account for Jersey GST on these sales.

When purchasing goods from overseas retailers who are registered for GST, Jersey consumers pay GST to the supplier (vendor) at the point of sale. The goods are then imported to Jersey with no requirement to pay tax at the point of entry.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Jersey.

Registration procedures. For businesses that already have an income tax reference number, the application can be submitted online (https://empret.jsytax.je/gst_main.aspx). For other businesses, a form can be obtained from the Jersey Income Taxes Office.

A company will need to register once if it has made taxable supplies of JEP300,000 or more in the preceding 12 months or if it is believed that the value of taxable supplies for the following 12 months is likely to exceed JEP300,000. It may also choose to register voluntarily.

The information that will need to be supplied for the application include: details of the person or entity applying for registration; the trading name (if different); the business address; relevant telephone numbers; and the name and legal status of the person making the application. In addition, during the registration process Revenue Jersey will request the expected annual taxable turnover; the nature of the business; and if there is any preference with regard to the months that the entity wishes to make its quarterly GST returns.

There is no restriction on who can make the registration on behalf of the company, but the registered person will be the legal entity that owns the business (for example, a limited company).

There is a different form for registering as an International Services Entity (ISE).

Deregistration. A taxable person that ceases to make taxable supplies must notify the Jersey GST authorities within 30 days after ceasing operations. If the GST authorities are satisfied that the taxable person's operations are not expected to recommence, they will cancel its GST registration.

A taxable person may deregister voluntarily if it can satisfactorily prove to the GST authorities that its taxable turnover for the foreseeable future is expected to be less than JEP300,000.

Changes to GST registration details. The Jersey GST authorities must be notified within 30 days of any change to the registration information previously provided (e.g., trading name, business address, etc.). The notification must be made on paper.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GST, including the zero rate.

The GST rates are:
- Standard rate: 5%
- Zero-rated: 0%

Examples of goods and services taxable at 0%

- Supplies of dwellings
- Prescription medicines
- Exported services and related services
- Services performed outside Jersey

The term "exempt supplies" refers to supplies of goods and services that are not liable to GST and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Insurance
- Postal services
- Medical and paramedical supplies
- Supplies by charities
- Education

- Childcare (supplied in registered day care accommodation under the Day Care of Children (Jersey) Law 2002)
- Burial and cremation

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Jersey.

E. Time of supply

The time when GST becomes due is called the "time of supply." The general rule is that a supply of goods takes place when the goods are removed or made available and that a supply of services takes place when the service is performed. However, if an invoice is issued or payment is received by the supplier prior to these times, the earlier date of the invoice is the time of supply.

Deposits and prepayments. The time of supply for deposits and prepayments is the date payment is received, or if an invoice is issued before the payment is made, the time of supply is the date of the invoice.

Continuous supplies of services. The time of supply for supplies of continuous supplies of services is the date payment is received, or if an invoice for the services is issued before the payment is made, the time of supply is the date of the invoice.

Goods sent on approval for sale or return. If the supply involved the removal of the goods, the supply of goods takes place at the time when the goods are removed. If the supply does not involve removal of the goods, the supply of goods takes place when the goods are made available to the person to whom they are supplied.

In the case of goods that are sent or taken on approval, on sale or return and are removed before it is known whether a supply will take place, the supply of the goods takes place when it becomes certain that the supply has taken place or, if sooner, 12 months after the day when the removal occurred.

Reverse-charge services. The time of supply for the supply of reverse-charge services is the date the supply of services takes place.

Leased assets. The time of supply for the supply of leased assets is the date payment is received, or if an invoice is issued before the payment is made, the time of supply is the date of the invoice.

Imported goods. The time of supply for the supply of imported goods is the date the goods are imported.

F. Recovery of GST by taxable persons

A taxable person may recover input tax, which is GST charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is GST charged on supplies made. Input tax includes GST charged on goods and services supplied in Jersey and GST paid on imports.

The time limit for a taxable person to reclaim input tax in Jersey is three years. GST charged on any supply or importation is to be excluded from credit if a claim for the GST is not made within three years after the end of the accounting period in which the relevant GST became chargeable, or within such longer period as the Comptroller may consider necessary, in the exceptional circumstances of a particular case, to avoid an injustice.

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

A registered person may recover GST in full if it acquires goods and services principally for the purpose of making taxable supplies.

Examples of items for which input tax is nondeductible

- Employee wages
- Private expenses or goods
- Certain goods incorporated in dwellings

Examples of items for which input tax is deductible (if related to a taxable business use)

- Raw materials used in the business
- Equipment (capital/office)
- Goods for resale
- Processing costs

Partial exemption. GST law provides for a partial exemption method if goods and services are acquired for making taxable supplies but are also used for making exempt supplies. One of the following methods of allocation may be used for making the input tax adjustment:

- A direct attribution method under which the taxable person's input tax is allocated to taxable and nontaxable supplies made to the extent it is directly attributable to either taxable or nontaxable supplies. Nontaxable is defined as any supply that is not subject to GST, including exempt supplies and supplies outside the scope of GST. Input tax directly related to taxable supplies is deductible in full, while input tax directly related to nontaxable supplies is not deductible.
- For input tax that is not directly attributable, a general pro rata method is used under which the taxable person's taxable ratio is based on the value of taxable supplies made compared with total supplies made. The taxable ratio is applied to the total amount of input tax incurred that is not directly attributable taxable or nontaxable supplies. This is the default method to apply for any input tax that is not directly attributable.
- A special calculation method can be used as an alternative to the general pro rata method but must be agreed in writing with the Jersey GST authorities prior to application.
- Approval from the tax authorities is not required to use the partial exemption standard method in Jersey.

Capital purchases greater than of JEP1 million (excluding GST) that are not zero rated or exempt from GST must be considered over a five-year period.

Capital goods. There are no special rules in Jersey for the input tax recovery for capital goods. Input tax deduction relating to capital goods that are used for making both taxable and exempt supplies should be calculated using the general refund rules, as well as the partial exemption calculations (see the *Partial exemption* subsection above).

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable, a refund may be claimed. GST refunds are generally made promptly after the receipt of a correct return or held as a credit against future returns unless otherwise requested.

Pre-registration costs. Input tax incurred on pre-registration costs in Jersey is not recoverable.

Bad debts. GST shall be refunded to a person if the following conditions are satisfied at the time that a claim for the refund is made to the Comptroller:

- A person has supplied goods or services for a consideration in money and has accounted for and paid GST on the supply.
- All or part of the consideration for the supply has been written in the person's accounts as a debt.
- A period of at least six months has elapsed since the supply.

- The value of the supply did not exceed its open-market value.
- In the case of a supply of goods, the property in the goods has passed to the recipient, whether or not the recipient still has property in the goods.
- The claim is person who made the supply.
- The claim is made within the approved time or, if no time has been approved, within 12 months after the day when the last writing off (as referred to above) occurred in respect of the consideration for the supply.
- The claim is in the approved form, or if no form has been approved, in any form sufficient to show that the set out in this paragraph (other than in this subparagraph)

Noneconomic activities. The Comptroller has issued a direction to the law stating that a charity or nonprofit organization shall be relieved of charge to GST on goods imported into Jersey if it is established for:

- The advancement of education
- Relief of poverty
- Purposes benefiting the community
- Furtherance of religion
- Cultural or artistic objectives financially supported by the States of Jersey

Charities must pay GST on their purchases and business expenses at the time of purchase but can claim refunds, provided certain conditions are met regarding the purpose of the purchases and expenses. To claim a GST refund, the charity must be a registered charity with the Jersey Charity Commissioner, must have a record of the sale, purchase or importation and the GST paid, have actually paid the GST, apply within the time limits and apply using the approved application form. The GST refund claim must be done online. The amount of the claim will determine how often the charity can claim.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in Jersey is recoverable. Refunds are made to persons not established in Jersey with respect to GST on goods and services for business use. The supply on which the GST arose must have been for the purpose of a business carried on by the claimant. The claimant's home country must operate a similar refund scheme that is available to Jersey businesses.

Refunds are made by way of a claim form to be sent to the following:

Treasury and Resources
Goods and Services Tax
Income Tax Office
Cyril Le Marquand
PO Box 56
The Parade
St. Helier
Jersey JE4 8PF
Channel Islands

Jersey has not set a maximum amount that can be reclaimed. However, it has a minimum reclaim amount of JEP50. Claims must be made within 12 months after the date of supply and must be made annually.

Claims must be accompanied by originals of all invoices, vouchers or receipts from suppliers. For amounts below JEP250, simplified invoices can be provided. Initial claims must be accompanied by an official certificate showing that the claimant is registered for GST (or similar tax) in its home jurisdiction. A certificate must be provided annually thereafter.

Tourist refund scheme. Visitors to the island who arrive on commercial flights are entitled to claim a refund of GST paid on goods bought from local retailers participating in the GST visitor refund scheme. The total value of the goods must exceed JEP300, the purchase must be made in a single transaction with a single retailer and the visitor must leave Jersey with the goods within one month of the date of purchase.

H. Invoicing

GST invoices. A Jersey registered person must generally provide a tax invoice for all taxable supplies. A credit note may be used to reduce the GST charged and reclaimed on a supply if the value originally charged was incorrect.

Credit notes. A credit note must indicate the reason why it was issued and must refer to both the GST originally charged and the corrected amount.

Electronic invoicing. Electronic invoicing is allowed in Jersey, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Jersey. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Jersey.

Invoices can be sent by electronic means such as email. The requirements related to electronic invoicing are the same as those for paper invoicing. The invoice will still need to satisfy the definition of a GST invoice.

Simplified GST invoices. Retailers (i.e., those making most of their sales to the general public) can provide simplified invoices, unless a full GST invoice is requested by the customer.

Self-billing. Self-billing is allowed in Jersey. It can be used by any GST-registered business subject to the following conditions:
- The business must obtain written approval from the Comptroller of Taxes to use self-billing.
- If the supplier is registered for GST, the invoice must show the tax chargeable on the value of the supply and the supplier's GST number. The invoice must also meet all requirements of a tax invoice.
- The business must obtain the written agreement of the supplier to use self-billing, informing it that it must not issue the business with a tax invoice that it has written itself and must advise the business within 30 days if it ceases to be registered for GST.

Proof of exports. There is no specific legislation in Jersey regarding proof of exports. In practice, delivery notes or proof of postage should suffice.

Foreign currency invoices. Foreign currency invoices must be converted into domestic currency, which is the Jersey pound (JEP), using the exchange rate effective on the date of the supply for inclusion on the GST return. The tax office may request evidence to support the exchange rate used. Note that the JEP is equivalent to the British pound sterling (GBP).

Supplies to nontaxable persons. Retailers (i.e., those making most of their sales to the general public) can provide simplified invoices, unless a full GST invoice is requested by the customer.

Records. A taxable person must keep accounts and records to substantiate amounts declared in GST returns. In Jersey, examples of what records must be held for GST purposes include the following:
- Annual accounts
- Import and export documents
- Purchase invoices and copy sales invoices
- Bank accounts, cash books and credit or debit notes

In Jersey, GST books and records can be kept outside of the country. Records can be held in or outside of Jersey. However, if held outside of Jersey, the records must be available for inspection by GST officers upon request.

Record retention period. Records must be retained for six years following the period to which the documents relate.

Electronic archiving. Electronic archiving is allowed in Jersey. While electronic archiving is not specifically covered by the Jersey GST legislation, in practice, if accounts and records can be provided to substantiate the amounts declared in GST returns, electronic archiving is permitted.

I. Returns and payment

Periodic returns. GST returns are generally submitted quarterly. Three cycles of quarterly returns are provided to stagger submission dates. A taxable person may request a change in its GST return cycle to ease administration.

Taxable persons may opt to submit GST returns monthly if they receive regular repayments of GST.

GST return periods generally end on the last day of a month. However, taxable persons may request different periods to align with their accounting records. GST returns must be submitted by the last business day of the month following the end of the return period. The GST return form indicates the due date for each return.

Periodic payments. Payment of any GST due must be paid by the GST return deadline, i.e., by the last business day of the month following the end of the return period. GST return periods are usually submitted per quarter. GST payments can be made by BACS, by check, online via the gov.je website or in person at the Jersey Taxes Office.

Electronic filing. Electronic filing is allowed in Jersey, but not mandatory. GST returns can be filed online. They can also be filed using the Tax Returns Submission System (TRSS), where returns are downloaded, completed offline and then submitted by email or data stream via a secure connection. Alternatively, they can be submitted in paper format.

Payments on account. Payments on account are generally not required in Jersey, except for certain taxable persons. The Comptroller may by direction require a taxable person to pay amounts of GST due, on account of any GST that the person may become liable to pay in respect of a prescribed accounting period. A person who without reasonable excuse fails to comply with a direction shall be guilty of an offense and liable to a fine of level three on the standard scale.

Special schemes. *Annual accounting.* The GST annual accounting scheme for small businesses requires only one return per year. The scheme can be used if the entity's taxable turnover, excluding GST on sales, for the previous 12 months did not exceed JEP500,000. The scheme can continue to be used until the taxable turnover for a year exceeds JEP600,000.

Cash accounting. The GST cash accounting scheme for small businesses allows entities not to pay GST on sales until payment is received from the customer. The scheme can be used if taxable turnover (excluding capital assets or GST) for the previous 12 months did not exceed GSP1 million. The scheme can continue to be used until the taxable turnover for a year exceeds JEP1.2 million.

Retailers. The GST retail scheme enables businesses to account for their total quarterly sales instead of individual sales, thereby reducing accounting and bookkeeping costs. To be eligible, 50% or more of total sales must be made to the general public.

Annual returns. Annual returns are not required in Jersey.

Supplementary filings. No supplementary filings are required in Jersey.

Correcting errors in previous returns. If the total value of errors is less than JEP250 for a quarterly return, or JEP83 for a monthly return, the error can be corrected on the next GST return to be filed. No penalties apply in relation to such errors.

If the total value of errors exceeds the thresholds noted, a disclosure must be made in writing to Jersey GST authorities. The letter must be headed "Voluntary disclosure of GST return errors" and must set out the following:
- The value of the errors
- Which GST returns they relate to
- If it was an input tax or output tax error
- The incorrect GST calculation
- A brief explanation of how the error was made

For further details on penalties that may be charged when a voluntary disclosure is not made, see *Section J. Penalties* below.

Digital tax administration. There are no transactional reporting requirements in Jersey.

J. Penalties

Penalties for late registration. A penalty is assessed for the late registration of GST for the higher of JEP200 or 10% of the relevant GST (if any).

Penalties for late payment and filings. A penalty is assessed for the late payment of GST. A penalty of 10% of the tax due is assessed on the day after the due date.

A penalty of JEP100 is charged for the late submission of a GST return for each month that the return continues to not be submitted, up to a maximum of nine months.

Penalties for errors. There are no specific penalties in Jersey for errors. If a taxable person makes inadequate returns for two consecutive accounting periods, the Comptroller may assess an amount of JEP200 by way of a surcharge.

The late notification or failure to notify the tax authorities of changes to a taxable person's GST registration details may be liable to a penalty under level 3 of the standard scale of fines (up to JEP10,000). For further details, see the subsection *Changes to GST registration details* above.

Penalties for fraud. There are no specific penalties in Jersey for fraud. If a taxable person makes inadequate returns for two consecutive accounting periods, the Comptroller may assess an amount of JEP200 by way of a surcharge.

There are penalties if, for the purpose of evading GST, a taxable person does anything or fails to do anything and that conduct involves dishonesty, the person will be liable to a penalty tax equal to the amount of GST evaded or sought to be evaded by the conduct.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in GST declarations and reporting in Jersey, except in cases of fraud or deliberate noncompliance.

Statute of limitations. The statute of limitations in Jersey is five years. Generally, an assessment of an amount of GST must not be made after the following:
- In the case of an assessment in respect of an importation of goods, the fifth anniversary of the day when the importation occurred
  Or
- In the case of any other assessment, the fifth anniversary of the last day of the last prescribed accounting period to which the assessment relates

In the case where a return or paperwork is inadequate, an assessment of GST will not be made until after the latest of the following anniversaries:

- The fifth anniversary of the last day of the prescribed accounting period to which the assessment relates
- The anniversary of the day when the Comptroller has evidence of facts sufficient, in the opinion of the Comptroller, to justify making the assessment
- The anniversary of the day when the Comptroller has further evidence (if any) of a person's conduct sufficient, in the opinion of the Comptroller, to justify making a further assessment

In the case of conduct involving dishonestly, there is no time limit on the assessment.

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A. At a glance

Name of the tax	Sales tax (ST) [the general sales tax law provides for two types of taxes, which are the general sales tax (GST) and the special sales tax (SST)]
Local name	Dareebat Al-Mabi'at
Date introduced	1 June 1994
Trading bloc membership	European Free Trade Association-Jordan Free Trade Agreement Greater Arab Free Trade Agreement Aghadir Agreement
Administered by	Income and Sales Tax Department (ISTD) (http://www.istd.gov.jo)
ST rates	
GST rates	
Standard	16%
Reduced	1%, 2%, 4%, 5%, 10%
Other	Zero-rated (0%) and exempt
SST rates	Various (20 types of goods and one type of service are subject to percentage rates or fixed amounts)
ST number format	9999999
ST return periods	
GST return periods	Bimonthly (i.e., every two months)
SST return periods	Monthly
Thresholds	
Registration	JOD0 to JOD75,000 depending on supplies made
Recovery of GST by nonresident businesses	No

B. Scope of the tax

Under Jordan's General Sales Tax (GST) law No. 6 of 1994 (as amended) (the GST law), a standard goods and services tax (GST) rate of 16% is applicable to the following:
- Supply of goods and/or services inside Jordan
- Importation of goods and/or services from outside of Jordan or from the Free Zones, Special Zones and Development Zones

This is the general rule unless the activity or type of goods being imported into Jordan is specifically exempt by the GST law or subject to a different GST rate.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for ST in every jurisdiction where it has customers that are not taxable persons. In Jordan, no services are subject to the "use and enjoyment" provisions. Generally, if services are used in Jordan or if the beneficiary of the services is in Jordan, the transaction would be taxable.

Transfer of a going concern. Transfer of going concern rules do not apply in Jordan. As such, ST applies to all sales of a business or part of a business capable of separate operation, including assets.

Transactions between related parties. For transactions between related parties in Jordan, the value of the transaction must be based on the true value in similar transactions between unrelated parties.

C. Who is liable

For ST purposes, a taxable person is any individual or entity that imports and/or supplies taxable goods or services. There is no minimum annual threshold for a person who imports taxable goods or services for trading purposes, and the taxable person would be required to register with the Income and Sales Tax Department (ISTD) within 30 days of the first taxable import (regardless of the import value).

Suppliers of goods and services are required to register only if their taxable turnover (outside of importation activities) exceeds the following minimum annual thresholds:
- JOD75,000 for traders and manufacturers subject to GST
- JOD30,000 for service suppliers
- JOD10,000 for manufacturers of goods subject to special sales tax (SST)

If a taxable person carries out more than one of the business activities mentioned above, the minimum limit is the applicable registration threshold.

A new business making taxable supplies is required to register for ST once it commences activities if it is estimated that its taxable turnover during the 12 months following their commencement will exceed the applicable minimum threshold.

For existing businesses, registration with the ISTD would be required at the earlier of the (i) end of the month, if taxable turnover during the preceding 12 consecutive months has reached the minimum threshold, or (ii) end of the month, if it is estimated that the person's taxable turnover during the 11 consecutive months ending with the subsequent month may reach the minimum threshold.

Exemption from registration. A taxable person whose entire turnover is from zero-rated sales may request an exemption from registration. A taxable person whose entire turnover is from exempt sales is automatically exempt from registration.

Voluntary registration and small businesses. Persons have the option of registering voluntarily with the ISTD for ST purposes. Upon registration, the persons would be required to comply with submitting their ST filings.

Group registration. Group ST registration is not allowed in Jordan.

Fixed establishment. In Jordan, there is no legal definition for a fixed establishment for ST purposes.

Non-established businesses. There is no mechanism by which a non-established business is able to register with the ISTD. Where a non-established business makes supplies within Jordan, the non-established business may need to register a legal presence. This is, however, a legal matter, and from a GST perspective, a non-established business would not be able to register for tax purposes.

Tax representatives. A taxable person can appoint a tax representative through a power of attorney vis-à-vis the ISTD. This is the general rule on who can be a tax representative. The power of attorney requirements should be confirmed with legal counsel and are not a GST matter.

Reverse charge. Services provided by independent foreign contractors or foreign entities (i.e., non-established businesses) to resident entities [whether related or unrelated parties, i.e., a business-to-business (B2B) supply] are classified as imported services in Jordan and are subject to GST via a reverse charge. The resident entity receiving the services must apply the GST and remit it to the ISTD.

Domestic reverse charge. There are no domestic reverse charges in Jordan.

Digital economy. No special measures relating to ST on digital supplies of services or goods are in place in Jordan. As such, the general ST rules apply. Nonresidents that provide electronically supplied services do not need to register for ST in Jordan unless they have a physical presence in Jordan. This includes a fixed place of business and employees in the country. There are no special ST rules for e-commerce supplies, e.g., imported goods.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Jordan.

Registration procedures. To register a taxable person, an authorized person with a valid power of attorney should present a paper registration application in person to the ISTD, along with the following documents:

- A certified copy of the certificate of registration with the Jordanian Companies Control Department
- A certified copy of the commercial certificate issued from the authorized party
- A certified copy of the commercial name and trademark registration, if applicable
- A certified copy of the effective vocational license
- Personal identification documents for the authorized signatories

In addition to the above documents, importers are required to present a certified copy of the importation card. A taxable individual would also be required to present a personal identification number.

Note that the process to appoint an authorized person with a valid power of attorney is a legal matter and must be confirmed with a qualified Jordanian legal counsel.

Deregistration. A registered person who stops supplying goods and services must deregister. If a registered person's turnover drops below the registration threshold or becomes wholly related to zero-rated sales, the registered person may voluntarily request deregistration.

Changes to ST registration details. Taxable persons must notify the ISTD in person of any changes to their ST details within 30 days from the change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of ST, including the zero rate.

The ST rates are:
- Standard rate: 16%
- Reduced rate: 1%, 2%, 4%, 5%, 10%
- Zero-rate: 0%

The standard rate of ST applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

Twenty types of goods and one type of service are subject to ST. ST is imposed at various percentage rates or in fixed amounts. The ST rates and amounts are provided in Regulation No. 80 of 2000 and Regulation No. 97 of 2016.

Certain goods and services detailed in Schedule 1 of the GST law are subject to both GST and SST.

Examples of goods and services taxable at 0%

- Printing service for any party provided that all supplies (inks, paper and all supplies, etc.) are from the printing press itself
- Raw materials for the production of medicine

Examples of goods and services taxable at 1%

- Hygiene and disinfectants
- Gloves

Examples of goods and services taxable at 2%

- Food salt
- Pencils

Examples of goods and services taxable at 4%

- Oils and ghee
- Supplies used by the handicapped
- Veterinary medicines

Examples of goods and services taxable at 5%

- Corn

Examples of goods and services taxable at 10%

- Live animals
- Cheese

Examples of goods and services subject to SST

- Beer (including nonalcoholic beer)
- Tobacco and tobacco products
- Vehicles (cars)

The term "exempt supplies" refers to supplies of goods and services that are not liable to ST and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Wheat
- Bread
- Electrical energy
- Firefighting vehicles

- Education/training
- Medical services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Jordan.

E. Time of supply

ST becomes due at the time of supply, which is called the "tax point."

The tax becomes due on the supply of goods at the earliest of the following events:
- Transfer of ownership of goods. However, the Director General of the ISTD may consider the date of the tax invoice as the tax point if it is issued periodically or at the end of a certain period following the date of delivery
- Issuance of a tax invoice.
- Receipt of the full or partial value of the goods, receipt of credit payment or any other receipt of value according to the agreed terms for payments

Tax becomes due on the supply of services at the earlier of the following events:
- Supply of service
- Issuance of a tax invoice
- Receipt of full or partial payment for the service

Tax is payable in the cases mentioned above by reference to the value covered by the invoice or the amount paid, whichever is higher.

However, importers of goods (customs) and services (reverse charge) must pay the 16% ST due at the earliest of the following dates:
- Within one month after the date of payment for the imported service or after the date of making a partial payment, limited to the amount paid
- When the means that include the goods (for example, compact disks and tapes) are released from Customs
- Within six months after the date on which the service or any part of the service is received, limited to the amount related to the part received

Deposits and prepayments. There are no special time of supply rules in Jordan for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Jordan for continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Jordan for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Jordan for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in Jordan for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. Importers of goods must pay the tax due on the goods at the clearance stage to the Customs Department in accordance with the procedures applicable for the payment of customs duties. Clearance of these goods is not finalized until the tax due is paid in full.

A registered importer may obtain permission from the ISTD to defer the payment of the tax payable on the importation of goods. This postponement is granted if the importer has no record of fraud or customs smuggling and has submitted all returns in the last 12 months.

F. Recovery of ST by taxable persons

Input tax (ST on purchases, including the zero rate) related to goods and/or services is recoverable. Taxable persons are required to submit the bimonthly ST return reflecting the net of the ST amounts that have been paid on inputs (purchases) and the ST received on outputs (sales) for the reporting period. If the ST received on outputs exceeds the ST paid on inputs, the outstanding balance is paid to the ISTD. If the ST received on inputs exceeds the ST paid on outputs, the balance is carried forward to the next period.

The time limit for a taxable person to reclaim input tax in Jordan is three years. Balances carried forward can be recovered after two months of ongoing credit carryforward.

Input SST (i.e., SST on purchases) related to goods that are used to produce final goods that are also subject to SST is recoverable.

A valid tax invoice or customs documents must exist to recover input tax.

Special rules apply to the recovery of input tax on goods purchased or imported before registration.

Nondeductible input tax. Input tax related to (i) goods and services not used for business purposes, (ii) exempt goods and/or services and (iii) other business expenditures set out in the GST law is non-recoverable. The following lists provide some examples of items of expenditure for which input tax is not deductible.

Input SST is generally nondeductible (excluding SST on goods that are used to produce final goods that are also subject to SST).

Examples of items for which input tax is nondeductible

- Goods and services used for nonbusiness purposes
- Goods and services attributable to exempt or nontaxable supplies
- Sporting and recreational activities, other than those used for supplying goods or services
- Restaurants and hotel services, other than those used for supplying goods or services
- Purchases accounted for as returned purchases
- The special tax paid on the items listed in Schedule (1) of the ST legislation (unless otherwise provided for)
- Goods and services that have been used for construction purposes, other than those used for renting of construction and destruction equipment
- Saloon cars, other than cars purchased by car-trading businesses or for car rental purposes

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business use of telephone and mobiles
- Accounting and tax consulting fees
- Cars purchased by car-trading businesses or for car rental purposes

Partial exemption. If a taxable person makes both exempt and taxable goods and services, it may recover input tax partially through its returns.

If the same taxable inputs are attributable to both taxable and nontaxable supplies (whether exempted or for nonbusiness use), the portion of the deductible general input tax is determined based on the production formula. If this is not possible, it is calculated based on the proportion of taxable supplies to total supplies.

Approval from the tax authorities is not required to use the partial exemption standard method in Jordan. Special methods are not allowed in Jordan.

Capital goods. There are no special recovery of ST rules in Jordan for capital goods. Therefore, the recovery of GST for taxable persons rules apply (as outlined above).

Refunds. Tax is repaid within a period not exceeding 30 days after the date on which the claim for refund has been filed if any of the following circumstances exist:
- Tax is paid on goods or services exported or used in the manufacture of other goods that have been exported.
- Tax is collected by mistake.
- Recoverable input tax that was paid at least two months ago and that was carried forward as a credit has not yet been deducted from the tax charged on supplies made during that period.
- Tax was paid on goods that left the country in the possession of nonresident persons, and the tax amount to be refunded cannot be not less than JOD50 but not more than JOD500.
- ST was previously paid on goods supplied to the bodies relieved from payment of tax under Article 21 of the GST law [the King of Jordan, embassies, diplomats and consuls (subject to reciprocity) and international and regional organizations working in Jordan].

Pre-registration costs. Following tax registration, a taxable person can recover ST paid or charged before registration on the goods provided that a tax invoice in proper form is presented and subject to the recovery of ST for taxable persons rules (as outlined above).

Bad debts. Relief for ST on bad debts can be claimed in the following cases:
- If the purchaser dies without leaving assets sufficient to pay the tax
- If the purchaser declares that its funds are not sufficient to pay the debts in full or in part, or if it fails to pay or communicate about the debt for two years
- If the seller has exhausted all legal means to collect the debt, including the tax, with no success
- If the seller has proved that the buyer has declared bankruptcy

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Jordan.

G. Recovery of ST by non-established businesses

Input tax incurred by non-established businesses that are not registered for ST in Jordan is not recoverable.

H. Invoicing

ST invoices. Invoices must be issued for sales exceeding one Jordanian dinar (JOD). The invoice must be issued on the date the sale/supply is made. As mandated by the Tax Invoicing Regulations, there should be three copies of the issued invoice. One copy should be issued to the Jordanian customer as per the requirements above. The other invoice copies should be maintained internally by the registered person for bookkeeping purposes.

Credit notes. Credit notes are issued when an issued invoice must be amended or canceled; examples include when customers return purchased goods fully or partially, when a customer changes their initial order or an incorrect amount has been reflected on the invoice.

Electronic invoicing. Electronic invoicing is allowed in Jordan, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Jordan. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Jordan. The requirements related to electronic invoicing are the same as those for paper invoicing.

As per Regulations No. 34 of 2019, as amended, a national electronic invoicing platform was introduced, and it will be mandatory that the issuance of invoices (electronic or not) by taxable

persons for all supplies (B2G, B2B and B2C) be linked to the ISTD's platform. *However, at the time of preparing this chapter, implementation is still underway and not in full effect.*

Simplified ST invoices. There are no simplified ST invoice rules in Jordan.

Self-billing. Self-billing is not allowed in Jordan.

Proof of exports. The original invoice and customs declaration of exported goods stamped by the Customs Center; and the original invoice, related contract and proof of transfer related to exported services are required as proof of exported goods and services, respectively.

Foreign currency invoices. Foreign currency invoices are accepted. However, the value must be converted into the domestic currency, which is the Jordanian dinar (JOD), according to the exchange rate at the time of supply.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Jordan. As such, full ST invoices are required.

Records. In Jordan, examples of what records that must be held for ST purposes include tax returns, invoices, notes and other related reporting obligations.

In Jordan, ST books and records can be kept outside of the country. There are no specifications on where the records must be kept.

Record retention period. Company records must be kept for a period of 10 years. ST records must be kept for a period of four years from the date of submission of the ST return.

Electronic archiving. Electronic archiving is allowed in Jordan. Records can be stored either electronically or physically. However, they must be easily accessible and made available if requested by the tax authorities during ST audits.

I. Returns and payments

Periodic returns. ST must be declared to the ISTD through a bimonthly electronic ST return due within 30 days following the end of every two-month period. SST must be declared to the ISTD through a monthly electronic SST return due within 30 days following the end of every month.

Periodic payments. ST must be paid within 1 month following the end of every two-month period. SST must be paid within 1 month following the end of every month. Payments must be made electronically using the ISTD's online portal.

Electronic filing. Electronic filing is mandatory in Jordan for all taxable persons. Taxable persons are required to register and submit ST returns electronically on the ISTD's official website (www.istd.gov.jo).

Payments on account. Payments on account are not required in Jordan. However, if a taxable person does not settle its amounts due, there would be an amount payable. If advance payments are made, these would reduce the amount payable.

Special schemes. No special schemes are available in Jordan. However, the ISTD can agree to grant exceptions on a case-by-case basis.

Annual returns. Annual returns are not required in Jordan.

Supplementary filings. No supplementary filings are required in Jordan.

Correcting errors in previous returns. Any errors in previous ST returns can be corrected by submitting an amended ST return in person at the ISTD. An amended ST return can be submitted any time before the issuance of a tax audit notification for the same period. Once a tax audit notification is issued by the ISTD for a specific reporting period, an amended ST return can no

longer be submitted for the same period. An ISTD tax auditor can issue a tax audit notification at any time within four years from the date of the submission of the return.

Digital tax administration. There are no transactional reporting requirements in Jordan.

J. Penalties

Penalties for late registration. The following penalties are assessed for late registration:

- A penalty of two to three times the output tax, plus a penalty equal to JOD200 is imposed if the date of registration is more than 60 days from the date on which the business should have been registered.
- A penalty of JOD100 is imposed if the date of registration is less than 60 days from the date on which the business should have been registered.

Penalties for late payment and filings. Late filing penalties range between JOD100 to JOD500. If an additional ST liability is imposed, late payment penalties will be imposed at 0.4% of the unpaid ST amount for each late week or part thereof (up to the tax amount due) calculated from the date the outstanding ST should have been paid to the actual date of payment. In addition, Article 31 of the GST law stipulates that a maximum of three times the tax penalty can be applied on taxable persons that commit an act of tax evasion.

Penalties for errors. If there are additional ST amounts due from any errors, late payment penalties will be imposed at 0.4% of the unpaid ST amount for each late week or part thereof (up to the tax amount due) calculated from the date the outstanding ST should have been paid to the actual date of payment.

The late notification or failure to notify the tax authorities of changes to a taxable person's ST registration details may result in a penalty ranging from JOD100 to JOD500. For further details, see the subsection *Changes to ST registration details* above.

Penalties for fraud. A person who commits a criminal tax fraud offense is liable for a civil compensation penalty payable to the ISTD of not less than twice and not more than three times the tax due, and a criminal penalty of not less than JOD200 and not more than JOD1,000. For a second offense, the criminal penalty imposed is doubled. If the offense occurs again within one year thereafter, the court may impose the highest criminal fine or a term of imprisonment for a period not less than three months and not exceeding six months, or both.

Personal liability for company officers. Company officers who hold shares and have been granted the powers of management can be held personally liable.

Statute of limitations. The statute of limitations in Jordan is four years. During this period the ISTD can go back and review ST returns, identify errors and impose penalties for any late filings or unpaid ST amounts. There is no time limit for taxable persons to voluntarily correct errors in previous ST returns. If a taxable person submits an amended ST return, the statute of limitations period resets.

Kazakhstan

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Nalog na dobavlennuyu stoimost (NDS) (Russian) Kosylgan kun salygy (KKS) (Kazakh)
Date introduced	24 December 1991
Trading bloc membership	Eurasian Economic Union (EAEU) between Kazakhstan, Armenia, Belarus, Kyrgyzstan and Russian Federation
Administered by	Ministry of Finance (http://www.minfin.gov.kz) State Revenue Committee of the Ministry of Finance (http://kgd.gov.kz)
VAT rates	
Standard	12%
Other	Zero-rated (0%) and exempt
VAT number format	Number from certificate of registration for VAT (series with five digits and number of VAT registration certificate with seven digits)
VAT return periods	
General	Quarterly
Imports of goods from Belarus, Kyrgyzstan, Armenia and Russian Federation	Monthly
Thresholds	
Registration	Annual turnover of 20,000 times the minimum calculated index (MCI) (approx. USD160,000)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supplies of goods, work and services in/from Kazakhstan
- Imports of goods

For VAT purposes, taxable turnover is the total of practically all types of supplies (for example, sales, exchanges or gifts) of goods, work and services. Goods include practically all forms of property or property rights. Taxable supplies of services are any supplies of work or services that are made for consideration or made free of charge or anything that is performed for consideration and is not a supply of goods.

Goods, works and services are subject to VAT if, under the place of supply rules, they are deemed to be supplied in Kazakhstan.

The place of supply of goods is deemed to be the following:
- Goods sent by the supplier, the recipient or a third party: the place where the transportation of the goods begins
- For all other cases: the place where the goods are handed over to the purchaser

The place of supply of work and services is based on the nature of the executed transactions. Work and services connected with immovable property (e.g., buildings and installations) are deemed to be supplied in Kazakhstan if such property is located in Kazakhstan. The place of supply of certain services that are provided outside Kazakhstan is deemed to be in Kazakhstan if the purchaser of such services is in Kazakhstan. Such services include, but are not limited to, the following:
- The transfer of rights to use items of intellectual property, e.g., maintenance and software updates
- Provision of access to online resources
- Consulting
- Audit
- Engineering
- Legal
- Accounting
- Design
- Advertising and marketing services
- Staff provision
- The leasing of movable property (other than means of transport)
- Agency services connected with the purchase of goods, work and services
- Consent to limit or terminate entrepreneurial activities for consideration
- Communication services
- Radio and television services
- Rent of freight wagons and containers

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Kazakhstan, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Kazakhstan. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Kazakhstan, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, there are transfer pricing controls (that also apply for VAT) that apply to transactions with both related and unrelated parties. If the tax authorities identify a deviation from the market/arm's-length price on transactions between related parties, the tax authorities may assess additional taxes and administrative

fines of 80% of understated tax liabilities. Also, per the transfer pricing law, taxable persons should maintain appropriate documentation supporting the prices used in transactions between related parties, which should be available upon the tax authorities' request.

C. Who is liable

Taxable persons are legal entities, individual entrepreneurs, individuals who participate in private practice and nonresident legal entities, having registered a presence in Kazakhstan (e.g., a branch), that are registered for VAT purposes as well as importers of goods into Kazakhstan. In addition, see the *Digital economy* subsection below for details on special rules for nonresident providers of e-commerce sales of goods and electronically supplied services.

Exemption from registration. The VAT law in Kazakhstan does not contain any provisions for exemption from VAT registration.

Voluntary registration and small businesses. Voluntary VAT registration is possible in Kazakhstan. However, individuals, who are not individual entrepreneurs; government agencies; nonresidents acting without a branch or representative office (except for those mentioned in the *Digital economy* subsection below), structural subdivisions of resident legal entities (e.g., through a branch) and gambling businesses do not have the right to voluntarily register for VAT purposes.

Group registration. Group VAT registration is not allowed in Kazakhstan.

Fixed establishment. In Kazakhstan, there is no legal definition of a fixed establishment for VAT purposes. However, there are permanent establishment (PE) rules set out in the income tax law that also apply for VAT. A PE of a nonresident is deemed to be a place of provision of services, i.e., performances of works in Kazakhstan via employees or other personnel, hired by such nonresident for provision of services, during the period exceeding 183 days in any consecutive 12-calendar months from the first date of business activities within same or connected projects. Nonresident legal entities operating in Kazakhstan through a PE are required to register with the tax authorities. There are some special provisions for certain categories of taxable persons applying special tax regimes, e.g., farming companies, agricultural producers, or subsoil users. Whereas a PE of a nonresident foreign company is subject to general taxation regime.

Non-established businesses. Foreign legal entities, which do not have a registered branch/representative office in Kazakhstan, cannot be registered for VAT in Kazakhstan. The rules are the same for supplies of goods and services, and business-to-business (B2B) and business-to-consumer (B2C) supplies. In addition, see the *Digital economy* subsection below for details on special rules for nonresident providers of e-commerce sales of goods and electronically supplied services.

If a foreign business has a branch/representative office in Kazakhstan, then it can register for VAT voluntarily (no thresholds). However, where a foreign business has a branch/representative office, then it must register for VAT where its turnover exceeds during the calendar year 20,000 times the monthly calculation index (MCI) (approx. USD160,000). The registration procedure is as per the details below. Once registered for VAT, the foreign business can recover input tax on local supplies (subject to normal rules).

Tax representatives. Tax representatives are not required in Kazakhstan. However, a taxable person has the right to participate in relations regulated by the Kazakhstan tax legislation through a legal or authorized representative, except for the cases of submission of the following:

- Tax reporting of VAT by a taxable person deregistered for VAT by decision of the tax authority
- A tax application for registration for VAT purposes

Reverse charge. If a nonresident that is not registered for VAT purposes in Kazakhstan renders services for which the place of supply is Kazakhstan to a Kazakhstan purchaser and if the purchaser is a taxable person, the purchaser must self-assess and pay VAT through a reverse-charge

mechanism. A Kazakhstan purchaser of the services can offset the amount of the reverse-charge VAT paid, subject to the general offset procedure.

Domestic reverse charge. There are no domestic reverse charges in Kazakhstan.

Digital economy. Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT in Kazakhstan. Instead, the customer is required to self-account for the VAT due via the reverse-charge mechanism (see the *Reverse charge* subsection above).

Nonresident providers of e-commerce B2C sales of goods and electronically supplied services are required to register and account for VAT in Kazakhstan. This is with effect from 1 January 2022. Nonresident providers are required to conditionally VAT register in Kazakhstan and pay VAT liabilities to the state budget of Kazakhstan.

The basic definitions of such supplies are as follows:
- Services in electronic form: services provided to individuals through telecommunications networks and the internet
- Electronic trade in goods: entrepreneurial activity involving the sale of goods to individuals via an internet platform
- Internet platform: an information system on the internet organizing electronic trade in goods

There is no threshold for conditional VAT registration of such nonresidents in Kazakhstan. For conditional VAT registration, a nonresident provider must send a confirmation letter by post to the Kazakhstan tax authorities with the following details:
- The full name of the entity
- Tax registration number (or its equivalent), if the nonresident has such a number in its country of incorporation or country of residence
- Number of state registration (or its equivalent) in the nonresident's country of incorporation or country of residence
- Bank details to be used for the payment of VAT on electronic trade in goods or provision of electronic services to individuals
- Postal details (official email address, address in the nonresident's country of incorporation or country of residence)

Also, for conditional VAT registration, a nonresident provider must mail a paper confirmation letter to the Kazakhstan tax authorities with, among other things, a list of details, including merchant ID data used for the receipt of payments and/or money transfers. A merchant ID is a unique set of symbols identifying a foreign company as the recipient of payment and/or a money transfer using payment systems.

A nonresident provider must assess VAT liability when carrying out e-commerce sales of goods and electronically supplied services to individuals if one of the following conditions is met:
- The buyer (an individual) lives in Kazakhstan.
- The bank in which a bank account is opened or used by an individual buyer to pay for services, or the electronic money operator through which the buyer (an individual) pays for services, is located in Kazakhstan.
- The network address of the buyer (an individual) that is used for the purchase of services is registered in Kazakhstan.
- The buyer uses a telephone number with the international country code assigned to Kazakhstan to purchase or pay for electronic services.

The value of e-commerce sales of goods and electronically supplied services to individuals in foreign currency must be converted into KZT (the Kazakhstani tenge, Kazakhstan's domestic currency) at the market exchange rate set on the last working day preceding the date of receipt of payment for the goods or services.

A nonresident provider is generally not required to file VAT returns. However, a nonresident provider must pay the assessed VAT no later than the 25th day of the second month following the quarter in which goods and services were sold.

Nonresident providers are not required to issue Kazakhstan's statutory VAT invoices for e-commerce sale of goods and electronically supplied services to individuals.

VAT will not be assessed on e-commerce sales of goods and electronically supplied services to individuals if:
- The value of goods or services is included in the customs value under the legislation of the Eurasian Economic Union (EAEU) (Kazakhstan, Armenia, Belarus, Kyrgyzstan and Russian Federation) or the customs legislation of Kazakhstan, according to which VAT on imported goods is paid to the state budget of Kazakhstan and is not refundable.
- The value of such goods or services is included in the amount of taxable imports, according to which VAT on imported goods from EAEU countries is paid to the state budget of Kazakhstan and is not refundable.

Additionally, VAT will not be assessed or paid for e-commerce sales of goods and electronically supplied services to individuals for the portion exceeding the value and/or weight norm determined under the customs legislation of the EAEU and/or Kazakhstan, according to which customs duties and taxes are paid in Kazakhstan in the form of a cumulative customs payment and are not refundable.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Kazakhstan.

Registration procedures. VAT registration, a process separate from tax registration, is either compulsory or voluntary.

Resident legal entities, branches or representative offices of nonresident legal entities and private entrepreneurs must register for VAT if their turnover during the calendar year exceeds 20,000 times the MCI. The threshold is approx. USD160,000 for 2024. The MCI is established by the state budget law for each year. For 2024, the MCI is KZT3,692 (approx. USD8).

Legal entities that are not subject to compulsory VAT registration have the right to submit an application for VAT registration to the tax authority at their location in person or electronically.

Whether the applicant is required to register or is registering voluntarily, several rules are the same:
- The tax authority shall, within one working day from the submission of an application for VAT registration, register the taxable person by issuing a certificate of VAT registration.
- The applicant becomes a taxable person from the date of submission of the application.

In addition, see the *Digital economy* subsection above for details on special rules for nonresident providers of e-commerce sales of goods and electronically supplied services.

Deregistration. A taxable person may submit an application for VAT deregistration to the local tax authorities if the following conditions are simultaneously met:
- The taxable turnover for the calendar year preceding the year in which the tax application is submitted did not exceed approx. USD160,000.
- The taxable turnover for the period from the beginning of the current calendar year in which the tax application is submitted did not exceed approx. USD160,000.

The following documents should be submitted for VAT deregistration:
- An application for VAT deregistration
- A liquidation VAT declaration

Tax authorities should deregister a taxable person within five working days from the date of submission of a tax application. The date of VAT deregistration shall be the date of submission of the tax application to the tax authority.

The tax authorities will deregister the taxable person without notification if, for example:
- The VAT declaration or gambling business tax return is not submitted within six months after the due date established by the Tax Code.
- The taxable person is declared to be in abeyance.
- The registration of the legal entity is recognized to be invalid based on a court decision that has taken effect.

Changes to VAT registration details. A taxable person must notify changes to its registration details to the tax authorities based on a tax application for changing the registration data of a taxable person. Such an application must be submitted to the tax authority at the location of the taxable person (tax agent) no later than 10 working days from the date of the change.

The tax authorities make changes to the registration data of a taxable person within three working days from the date of receipt of the information from the national registers of identification numbers, authorized state bodies, banks or organizations engaged in certain types of banking operations, or a tax application for registration.

D. Rates

The term "taxable supplies" refers to supplies of goods, work and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

For imports of goods by individuals under the simplified procedure, VAT may be paid as part of the aggregate customs payment, the amount of which is determined in accordance with the customs law of Kazakhstan.

Examples of goods and services taxable at 0%

- Export sales of goods, except for those that are exempt from VAT
- International transportation services
- Sale of oil and lubricants by airports and ground handling services providers when fueling aircraft of a foreign air carrier performing international flights
- Sale of refined gold to the National Bank or for export
- Sale of goods to the territory of Special Economic Zones

The term "exempt supplies" refers to supplies of goods, work and services not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Turnover associated with land for residential purposes and residential buildings
- Specified financial services
- Services rendered by noncommercial organizations
- Services in the areas of culture, science and education
- Goods and services related to medical and veterinary activities
- Import of certain assets (a list is issued by the government)
- Goods imported by individuals not for entrepreneurial purposes (subject to certain limitations)

- Turnovers related to international transportation services
- Import of goods from the territory of a Eurasian Economic Union member country within the same legal entity (e.g., intra-entity transaction)
- Imports of raw cane sugar to stimulate the production of sugar *(with effect from 1 January 2023)*
- Imports of chemicals (raw materials) for the production of pesticides under certain conditions specified by the Code *(with effect from 1 January 2023 to 1 January 2026)*
- Imports of works of art imported by non-state museums and approved by the list of authorized body in the field of culture in agreement with the central authorized body for state planning
- Goods, works and services on a gratuitous basis within the framework of charitable assistance by a nonprofit organization established in the form of a fund in accordance with the civil legislation of the Republic of Kazakhstan
- Sale of refined gold and/or silver by entities producing precious metals to entities producing jewelry and other products *(with effect from 1 January 2023 to 1 January 2028)*

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Kazakhstan.

E. Time of supply

The time of supply is the date that a sale of goods, work or services is completed, which is the date on which the goods are shipped (transferred), work is performed, or services are rendered. The date of the performance of work or the rendering of services is the date of signing of an act of acceptance for work performed or services rendered.

For goods that are not shipped, the date of completion of a sale is the date on which ownership of the goods is transferred to the purchaser.

Deposits and prepayments. There are no special time of supply rules in Kazakhstan for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. The time of supply for certain continuous supplies is the last day of the calendar month in which the goods are delivered, work is performed, or services are rendered.

Goods sent on approval for sale or return. There are no special time of supply rules in Kazakhstan for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The reverse-charge mechanism is triggered by the purchase of certain services from a nonresident entity based on one of the following documents:
- Act of works (services) acceptance
- In the absence of the above, a document (except for the VAT invoice), confirming the performance of the work, with the document prepared in compliance with the Kazakhstan legislation on accounting and financial reporting

The date of signing of one of the above documents should be considered as the time of supply, when VAT is due to be accounted for on the supply by way of the reverse-charge mechanism.

Leased assets. There are no special time of supply rules in Kazakhstan for supplies of operational leases. As such, the general time of supply rules apply (as outlined above).

However, the time of supply rules for supplies of financial leases depends on the type of the arrangement, as per the following:
- The date of receipt of the periodic lease payment established by the leasing agreement, without taking into account the amount of remuneration
- The date of transferring the property to financial leasing

Imported goods. The time of supply is the date of importation of goods on to Kazakhstan.

F. Recovery of VAT by taxable persons

The VAT liability of a taxable person equals the output tax (VAT charged by a taxable person) less input tax (VAT paid by a taxable person to its suppliers) in a reporting period.

VAT paid on services, work and goods purchased by a taxable person (input tax), including reverse-charge VAT paid and VAT paid at customs, is generally available for offset (credit) in determining a taxable person's VAT liability to the budget. However, offsetting is not available for VAT incurred for the purpose of making supplies that are either exempt or deemed to be supplied outside Kazakhstan.

The excess of input tax over output tax may generally be carried forward for offset against future VAT liabilities.

The time limit for a taxable person to reclaim input tax in Kazakhstan is three to five years, depending on the category of the taxable person. For further details, see *Section J. Penalties,* subsection *Statute of limitations* below.

Nondeductible input tax. Input tax is not allowed for offset if purchased goods, works or services are used for nontaxable supplies. In such cases, the respective input tax is not deductible for VAT but could be considered for deduction for corporate income tax purposes.

Examples of items for which input tax is nondeductible

- Receipt of goods, work and services not related to taxable turnover
- Receipt of passenger cars that are purchased as fixed assets
- The VAT invoice does not meet the set requirements of the Tax Code
- Goods and services purchased in petty cash for an amount exceeding 1,000 MCI (inclusive of VAT) irrespective of the frequency of the payment
- Purchase of goods, work and services from suppliers recognized by courts as invalid
- Purchase of goods, work and services that are recognized by courts as executed by private business entities without an actual intent to carry out entrepreneurial activities

Examples of items for which input tax is deductible (if related to a taxable business use)

- Capital assets
- Intangible and biological assets
- Investments in immovable property

Partial exemption. Input tax directly related to a taxable person's taxable supplies is recoverable in full, whereas input tax directly related to exempt supplies is not recoverable at all and must be expensed for corporate income tax purposes.

Where a taxable person makes both taxable and exempt supplies, the input tax incurred in relation to both supplies (i.e., overheads, like office rent expenses) must be allocated accordingly to the extent the input tax incurred relates to the taxable and exempt supplies made.

The statutory method of apportionment is a pro rata calculation, based on the value of taxable supplies made in the total turnover of the business. The allocation can be calculated by using either the mentioned proportional method or the separate (direct) method. The method that the taxable person uses should be chosen by the VAT payer and stated in the tax accounting policy of the taxable person. Approval from the tax authorities is not required to use the partial exemption statutory method in Kazakhstan. Special methods are not allowed in Kazakhstan.

Capital goods. There are no special input tax recovery rules for capital goods. As such, normal input tax rules apply (as outlined above).

Refunds. Generally, in practice, obtaining refunds requires significant effort. However, the rules prescribe a procedure for refunds under certain conditions.

Under the Tax Code of the Republic of Kazakhstan, currently in effect, the following amounts are refundable to a taxable person from the budget:
- Input tax exceeding the amount of tax assessed not related to zero-rated turnover, up to the amount of reverse-charge VAT paid
- VAT paid to the suppliers of goods and services that were used for the purposes of zero-rated turnovers (subject to certain conditions below)
- VAT paid to suppliers of goods, work and services that were acquired using a grant
- VAT paid by diplomatic and equivalent representations accredited in Kazakhstan and by persons who are members of the diplomatic, administrative and technical staff of these representations, including members of their families who reside with them, to suppliers of goods, work and services acquired in Kazakhstan
- The amount of any cash overpayment of VAT to the budget

Under current tax legislation, the excess of input tax related to zero-rated turnover is refundable if the following conditions are met simultaneously:
- The taxable person sells zero-rated goods, work and services on a continuous basis.
- Zero-rated sales account for at least 70% of the total taxable sales of the taxable person for the tax period in which the zero-rated sales occurred and for which a refund of excess VAT is claimed in a VAT return.

Excess VAT must be refunded to a taxable person on the basis of a refund claim made in the VAT return for a tax period.

Excess VAT confirmed by a tax audit must be refunded:
- Within 55 calendar days – for the taxable persons who have zero-rated sales account for at least 70% of the total taxable sales for the tax period in which the zero-rated sales occurred and for which a refund of excess VAT is claimed in a VAT return
- Within 75 calendar days – in all other cases

A simplified VAT refund could apply if (i) a taxable person has been on tax authorities' monitoring of large taxable persons for at least 12 consecutive months (70% of excess VAT is refunded without tax audit) and (ii) a producer of its own goods of manufacturing industry, which are approved by a competent authority (50% of excess VAT is refunded without tax audit) or (iii) taxable persons who converted at least 50% of the foreign exchange earnings received from the export of goods for taxable period, (iv) zero-rated sales turnovers subject to specific conditions (50% of excess VAT is refunded without tax audit), and (v) international transportation subject to specific conditions (50% of excess VAT is refunded without tax audit).

Pre-registration costs. Input tax incurred on pre-registration costs in Kazakhstan is not recoverable.

Bad debts. If part or all the amount of the claim for realized goods, works and services is considered a doubtful claim, the taxable person has the right to reduce the amount of taxable turnover on such a claim after three years from the beginning of the tax period, which is as follows:
- A period of fulfillment of the requirement for the realized goods, work, services, if such term is defined.
- The day of transfer of the goods, performance of work, rendering of services, term of execution of the requirement, which is not defined.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Kazakhstan.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Kazakhstan is not recoverable.

H. Invoicing

VAT invoices. In general, a VAT invoice is a compulsory document for taxable persons. No input tax deduction is allowed without an appropriate VAT invoice.

The cost of goods, work and services and the amount of VAT must be stated in the VAT invoice in the national currency of Kazakhstan, except for goods, work and services sold under foreign-trade contracts and in other circumstances provided for by law.

Nonresident providers of e-commerce sales of goods and electronically supplied services to individuals (B2C supplies) are not required to issue Kazakhstan's statutory VAT invoices. See the *Digital economy* subsection above for further details.

Credit notes. A credit note is an additional VAT invoice issued by a supplier of goods, work and services in some circumstances, such as in the following cases:
- Adjustment of taxable turnover as described below
- Noncompliance with the conditions for transferring property to financial leasing for the purpose of applying tax benefits

The adjustment of the amount of taxable turnover shall take place in the tax period in which such adjustment took place.

The amount of taxable turnover can be adjusted if the cost of goods, work or services changes in certain circumstances, including the following:
- The goods are returned in whole or in part
- The conditions of a transaction change
- The price or amount of compensation for goods, work or services sold is changed
- The price discounts, sales discounts
- The return of packaging included in sales turnover
- Other cases, as a result of which there is a change in the amount of turnover

Adjustments to the amount of taxable turnover can be made if both of the following conditions are satisfied:
- Accounting primary documentation is available
- A corrected VAT invoice is issued or a cash register receipt (available in specified cases)

Electronic invoicing. Electronic invoicing is mandatory in Kazakhstan for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Kazakhstan. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Kazakhstan. The requirements related to electronic invoicing are the same as those for paper invoicing.

Issuance of an electronic VAT invoice is only possible by using the official online system of the tax authorities, which is specifically designated for receiving and processing of electronic VAT invoices. Electronic VAT invoices have an established format and should be signed by means of electronic signature. Generally, electronic invoices should be issued within 15 calendar days from the date of a taxable turnover.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Kazakhstan. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Kazakhstan.

Proof of exports. To confirm the applicability of zero-rated VAT for turnover, the supplier must collect supporting documents that are stipulated in the tax law of Kazakhstan.

Foreign currency invoices. Values in VAT invoices should be indicated in the domestic currency, which is the Kazakhstani tenge (KZT). In certain cases, the invoice can additionally indicate the values in foreign currency.

Supplies to nontaxable persons. There are no special rules for VAT invoices issued to private consumers, and as such, full VAT invoices must be issued for all supplies.

Records. Records that must be held for VAT purposes in Kazakhstan include VAT returns, VAT invoices supplies and received, contracts and acts of acceptances.

In Kazakhstan, VAT books and records can be kept outside of the country. However, note that it is not completely clear in the VAT law whether VAT books and records should be kept in Kazakhstan or not. If VAT books and records are held outside of the country, they must be made readily available upon request by the tax authorities and easily accessible.

Record retention period. Records must be held currently for three years for general taxable persons and five years for (i) taxable persons that are subject to tax monitoring; (ii) taxable persons who carry out activities in accordance with subsoil use contracts; (iii) Kazakhstani residents who have controlled foreign companies.

For records dated 2019 and prior years, the record retention period is five years for all taxable persons.

Electronic archiving. Electronic archiving is allowed in Kazakhstan. All VAT returns and VAT invoices must be kept and archived electronically within the online system for electronic VAT return filing and have their own status (i.e., draft, filed, received). Other original support documents should be stored in paper (e.g., contracts, invoices, acts of acceptance) during the statute of limitations period.

I. Returns and payments

Periodic returns. Taxable persons must file a VAT return with the tax authorities for each tax period by the 15th day of the second month following the reporting tax period (i.e., a quarter).

A VAT return for the import of goods into Kazakhstan from Eurasian Economic Union (EAEU) member countries must be filed with the tax authorities by the 20th day of the month following the tax period (month). Nonresident providers of e-commerce sales of goods and electronically supplied services to individuals (B2C supplies) are generally not required to file VAT returns. See the *Digital economy* subsection above for further details.

Periodic payments. The VAT due for the VAT return must be paid to the budget by the 25th day of the second month following the reporting tax period.

The VAT due for the import of goods into Kazakhstan from other EAEU member countries must be paid to the budget by the 20th day of the month following the tax period (i.e., one month).

VAT on imported goods must be paid within deadlines specified by the customs law of Kazakhstan for the payment of customs payments.

VAT is paid online by bank transfer to the bank account of the Ministry of Finance.

Nonresident providers of e-commerce sales of goods and electronically supplied services to individuals (B2C supplies) must pay the assessed VAT no later than the 25th day of the second month following the quarter in which goods and services were sold. For further details, see the subsection *Digital economy* above.

Electronic filing. Electronic filing is allowed in Kazakhstan, but not mandatory. However, while not mandatory, electronically filing is widely used in Kazakhstan. There is a special online system designated for electronic filing of VAT returns (http://cabinet.salyk.kz site or SONO software). All taxable persons can file tax returns and some tax applications via this online system provided they have obtained a special electronic key (i.e., an electronic signature).

Payments on account. Payments on account are not required in Kazakhstan.

Special schemes. *Import VAT.* Taxable persons may pay a remaining amount of import VAT on certain goods by the offset method or take the amount of import VAT already paid.

Annual returns. Annual returns are not required in Kazakhstan.

Supplementary filings. *Import and Export filing.* The Tax Code includes certain procedures and monthly compliance requirements for exports and imports of goods to and from Kazakhstan from and to other countries in the EAEU (Armenia, Belarus, Kyrgyzstan and Russian Federation). An application (Form 328.00) and VAT return (Form 320.00) for import of goods into Kazakhstan from other EAEU Member States must be filed with the tax authorities within the established deadlines.

Correcting errors in previous returns. Taxable persons can adjust the amount of taxable turnover and errors/omissions in previously filed returns by filing an additional tax return for prior periods within the statute of limitation period (see the *Statute of limitations* subsection below) stating the amounts of adjustments. Such corrections can be submitted online or on paper.

Digital tax administration. *Virtual warehouse module.* The full module of "virtual warehouse" is obligatory for the reporting of goods included in the list of exceptions (e.g., motor vehicles, certain household equipment, sugar). The "virtual warehouse" was created for the purposes of systematization of inventory accounting, automatic calculation of inventory ending balance and monitoring of the transfer of goods from entry into Kazakhstan to the final consumer. Inventory handling procedures should be maintained through the "virtual warehouse" for certain other categories of goods (e.g., alcohol, tobacco products, oil products). The list of goods for which electronic invoices should be issued through the "virtual warehouse" increased with effect from 1 April 2022 and later increased with effect from 1 November 2022.

Accompanying notes. Electronic accompanying note (electronic waybill) should be issued upon the movement, supply and/or shipment of certain goods in/from Kazakhstan. The accompanying note should be submitted by taxable persons in the "virtual warehouse" module of the electronic invoicing informational system and signed with an electronic digital signature. Issuance of accompanying notes is obligatory for certain goods. The list of goods for which it is obligatory to issue accompanying notes is established by authorized body.

J. Penalties

Penalties for late registration. The penalty for late registration is 50 MCI (approx. USD400). In addition, a fine of 15% is charged on the amount of turnover earned during the period of non-registration (for which the taxable person was required to register from).

Penalties for late payment and filings. The penalty for failure to file a tax return: for a first time leads to a warning, while if committed repeatedly within a year leads to penalties (i) for small enterprises or noncommercial organizations in the amount of 30 MCI (approx. USD240), (ii) for medium enterprises in the amount of 45 MCI (approx. USD360) and (iii) 70 MCI (approx. USD560) for large enterprises.

The penalty for understatement of tax payments: (i) for small enterprises or noncommercial organizations in the amount of 20%, (ii) for medium enterprises in the amount of 50% and (iii) 80% for large enterprises of the underpaid tax.

The annual interest rate charged on late payments is equal to 1.25 times the official base rate established by the National Bank of the Republic of Kazakhstan.

Penalties for errors. The penalty for the issue of fictitious invoice is up to 100% for small enterprises, 200% for medium enterprises and 300% for large enterprises of the VAT amount indicated in the invoice.

The penalty for nonpayment of tax for export and import of goods, work and services in the Eurasian Economic Union: up to 50 MCI (approx. USD400).

The penalty for non-issuance of electronic VAT invoice: for a first time leads to a warning, while if committed repeatedly within a year to a penalty up to 40 MCI to 150 MCI (approx. USD320 to USD1,200).

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration. However, it is likely that the taxable person will be sent a warning for the first offense and then a small fine may be charged for further offenses. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Additional assessments made by the state revenue authorities as a result of a tax audit may serve as grounds for initiation of criminal proceedings and imposition of criminal liability on the management of the taxable person.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Kazakhstan.

Criminal liability applies for certain tax offenses in Kazakhstan. If underpaid tax exceeds 50,000 MCI (approx. USD400,000), a criminal investigation may be initiated. Violations may result in prosecution of company officers who are thought to be responsible.

Statute of limitations. The statute of limitations in Kazakhstan is three years, and it is five years for certain categories of taxable persons. The statute of limitation is currently three years for general taxable persons and five years for (i) taxable persons that are subject to tax monitoring, (ii) taxable persons who carry out activities in accordance with subsoil use contracts and (iii) Kazakhstani residents who have controlled foreign companies. The statute of limitation for 2019 and prior years is five years for all taxable persons.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 1990
Trading bloc membership	East Africa Community (EAC) African Continental Free Trade Area (AfCFTA)
Administered by	Kenya Revenue Authority (www.revenue.go.ke)
VAT rates	
Standard	16%
Other	Zero-rated (0%) and exempt
VAT number format	P000111111A
VAT return periods	Monthly
Thresholds	
Registration	KES5 million/None (digital marketplace supplies by nonresident providers)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

In Kenya, VAT applies to the following transactions:

- The supply of goods and services in Kenya by a taxable person
- Taxable imported services received by any person in Kenya to the extent they relate to exempt supplies

- The importation of goods from outside Kenya, regardless of the status of the importer (unless the importer is listed as zero-rated in Part B of the Second Schedule to the VAT Act)
- Electronic, internet and digital marketplace supplies for business-to-consumer (B2C) and business-to-business (B2B) supplies from 1 July 2022

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Kenya, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Kenya. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets. A TOGC by a registered person to another registered person is taxable at the standard rate of 16% with effect from 25 April 2020.

Transactions between related parties. In Kenya, for a transaction between related parties, the value for VAT purposes is calculated on an arm's-length basis, i.e., at open market value.

C. Who is liable

VAT is paid by consumers of taxable goods and services. It is collected by registered taxable persons (traders) that act as the agents of the government. VAT on imported goods is collected by the Commissioner of Customs and Border Control Department, while the Commissioner of Domestic Taxes collects local VAT and VAT on imported services (reverse VAT).

VAT registration is dependent on the attainment of a turnover threshold of KES5 million with respect to all taxable supplies. After reaching this threshold, they must register for VAT. Within 30 days after becoming a taxable person, a person should apply to the Commissioner of Domestic Taxes to be registered in the prescribed manner. Businesses whose turnover is less than the registration threshold can voluntarily apply to the Commissioner for registration.

Exemption from registration. The VAT law in Kenya does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT Act provides for voluntary VAT registration for business providing taxable supplies but have not exceeded the turnover threshold for VAT registration. The registration is granted under the following conditions:

- The person is making or shall make taxable supplies.
- The person has a fixed place of business.
- The person has kept proper books of accounts, if he has commenced business, or there are reasonable grounds to believe that the person will keep proper books of accounts, if he has not commenced business.

Group registration. The Kenyan VAT Act allows group registration. However, no guidelines have been provided in the VAT Act or Regulations.

Section 34 (9) of the VAT Act states that "the Cabinet Secretary may, in regulations, provide for the registration of a group of companies as one registered person for the purposes of the Act." Part 2 of the VAT regulations only interprets member in regard to group registration. However, it does not contain any provisions for the same. Therefore, in practice, group VAT registration does not take place in Kenya.

At the time of preparing this chapter, the guidelines on group VAT registration are still not issued. As such, it is not clear if group members are jointly and severally liable for VAT debts and penalties or if there is a minimum duration for a VAT group.

Fixed establishment. In Kenya there is no legal definition of a fixed establishment for VAT purposes. However, a permanent establishment (PE) is defined as follows under the income tax laws (and applied for VAT):

- A fixed place of business through which business is wholly or partly carried on. This includes a place of management; a branch, office, factory, or workshop; a mine, oil or gas well, quarry or any other place of extraction or exploitation of natural resources; a warehouse in relation to a person whose business is providing storage facilities to others; a farm, plantation or other place where agricultural, forestry plantation or related activities are carried out; and a sale outlet.
- A building site, construction, assembly or installation project or any supervisory activity connected to the site or project, but only if it continues for a period of more than 183 days.
- The provision of services, including consultancy services, by a person through employees or other personnel engaged for that purpose, but only where the services or connected business in Kenya continue for a period of, or periods exceeding in the aggregate, 91 days in any 12-month period commencing or ending in the year of income concerned.
- An installation or structure used in the exploration for natural resources where the exploration activities continue for periods not less than 91 days.
- A dependent agent of a person who acts on their behalf in respect of any activities which that person undertakes in Kenya including habitually concluding contracts or playing the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the person.

However, the definition of a permanent establishment excludes the following activities where the activities are of a preparatory or auxiliary character:

- The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise.
- The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, or display.
- The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise.
- The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information for the enterprise.
- The maintenance of a fixed place of business solely for the purpose of carrying on for the enterprise any other activity
- The maintenance of a fixed place of business solely for any combination of activities mentioned above

For VAT law, where a nonresident person has PE in Kenya, VAT is applicable on the supply of goods or services as provided under the VAT law. Nonresident persons are advised to evaluate their transactions in Kenya to determine whether they create a PE.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Kenya. A foreign business that meets the registration requirements in Kenya and does not have a fixed place of business in Kenya is required to appoint a tax representative. A permanent establishment of a foreign business must register for VAT if it makes taxable supplies of goods or services.

Tax representatives. A person who is required to apply for VAT registration but who does not have a fixed place of business in Kenya should appoint a tax representative.

The registration of the tax representative shall be in the name of the nonresident person being represented.

The tax representative of a nonresident person shall:
- Be a person normally residing in Kenya
- Have the responsibility for doing all things required of the nonresident
- With the nonresident person, be jointly and severally liable for the payment of all taxes, fines, penalties, and interest imposed

Reverse charge. Reverse-charge VAT is applicable on importation of taxable services to the extent it relates to the provision of exempt supplies. Effective 7 November 2019, the liability to account for VAT on imported services applies to any importer, irrespective of their VAT registration status. The reverse-charge VAT should be accounted by any person to the extent they are not entitled to input tax credit payable on the imported taxable services. Effective 1 July 2022, supplies imported over the internet or an electronic network or through the digital marketplace are exempt from the reverse-charge mechanism.

Domestic reverse charge. There are no domestic reverse charges in Kenya.

Digital economy. The VAT Act defines "electronic services" as any of the following services, when provided or delivered on or through a telecommunications network:
- Websites, web hosting or remote maintenance of programs and equipment
- Software and the updating of software
- Images, text and information
- Access to databases
- Self-education packages, excluding education services exempted in the VAT law
- Music, films and games, including games of chance
- Political, cultural, artistic, sporting, scientific and other broadcasts and events, including broadcast television

A supply of electronic services is made in Kenya if the place of business of the supplier from which the services are supplied is in Kenya. If the place of business of the supplier is not in Kenya, the supply of the services shall be deemed to be made in Kenya if the recipient of the supply is either a registered or not a registered person and the electronic services are delivered to a person in Kenya at the time of supply. As such, nonresidents supplying electronic, internet or digital marketplace supplies must register and account for VAT in Kenya under a simplified VAT (and/or digital services tax) registration framework. These suppliers are exempted from the VAT registration threshold of KES5 million; as such, there is no threshold from the first supply the supplier must register and account for VAT. This is for both B2C and B2B supplies of e-commerce.

There are no other specific e-commerce rules for imported goods in Kenya.

Online marketplaces and platforms. The National Treasury and Planning gazetted the VAT (Digital Marketplace Supply) Regulations 2020 on 10 September 2020 now deleted and replaced by VAT (electronic, internet and digital marketplace supply) Regulations, 2023. The Regulations provide for a simplified registration framework that includes the filing in of an online registration form prescribed by the Commissioner. Upon registration under this framework, the Commissioner shall issue the applicant with a PIN for the purpose of filing returns and the payment of tax. The Regulation has set out an all-encompassing scope of taxable supplies, that includes any services that are not exempt from tax under the VAT Act of charging VAT on the taxable supplies in Kenya through a digital marketplace, over the internet or an electronic network by B2C transactions.

The regulations came into effect on 1 January 2021. With effect from 1 July 2022, B2B supplies were also brought in the ambit of VAT on digital services following the amendment of the Kenya VAT law to exempt supplies made over the digital marketplace from the reverse-charge mechanism.

VAT is applicable to taxable electronic, internet or digital marketplace supplies made in Kenya. An "electronic, internet or digital marketplace supply" means the supply made over the internet, an electronic network or any digital marketplace. These supplies include:
- Downloadable digital content, including downloadable mobile applications, eBooks and films
- Subscription-based media, including news magazines and journals
- Over-the-top services, including streaming television shows, films, music, podcasts and any form of digital content
- Software programs, including software, drivers, website filters and firewalls
- Electronic data management, including website hosting, online data warehousing, file sharing and cloud storage services
- Music and games
- Search engines and automated helpdesk services, including customizable search engine services
- Ticketing services for events, theatres, restaurants and similar services
- Online education programs, including distance teaching programs through prerecorded media, eLearning, education webcasts, webinars, online courses and training, but excluding education services exempted under the First Schedule to the Act
- Digital content for listening, viewing or playing on any audio, visual or digital media
- Services that link the supplier to the recipient, including transport hailing platforms
- Electronic services specified under section 8(3)
- Sales, licensing or any other form of monetizing data generated from users' activities
- Facilitation of online payment for, exchange or transfer of digital assets excluding services exempted under the Act
- Any other service provided through an electronic, internet and digital marketplace that is not exempt under the Act

Registration procedures. The registration process involves a person making an online application for a personal identification number (PIN). During this process, an entity is required to state its tax obligations including VAT.

Registration for all taxes is currently done online via the Kenya Revenue Authority (KRA) iTax portal (https://itax.kra.go.ke/KRA-Portal/) by filing an online form. The following documents/information are required for registration purposes:
- An iTax PIN certificate for one of the company directors
- A scanned copy of the national ID or passport for a Kenyan citizen or scanned copy of the alien ID and work permit for a noncitizen

On average, tax registration can take one to five days depending on the availability of information required for registration.

Deregistration. A registered person may apply to the commissioner for deregistration under the following circumstances:
- If the registered person ceases to make taxable supplies
- If the registered person's annual value of taxable supplies no longer exceeds the registration threshold

The Commissioner shall, by notice in writing, cancel the registration of a person in the following circumstances:
- The person has applied for cancellation and the Commissioner is satisfied that the person has ceased to make taxable supplies.

- The person has not applied for cancellation, but the Commissioner is satisfied that the person has ceased to make taxable supplies and is not otherwise required to be registered.

The Commissioner may cancel the registration of a person who is no longer required to be registered under the following circumstances:
- If the Commissioner is satisfied that the person has failed to keep proper tax records
- If the Commissioner is satisfied that the person has failed to furnish regular and reliable returns
- If the Commissioner is satisfied that the person has failed to comply with obligations under other revenue laws
- If there are reasonable grounds to believe that the person will not keep proper records or furnish regular and reliable returns

Changes to VAT registration details. Any changes to VAT registration details should be done online through the ITAX portal. A VAT registered person should notify the Commissioner of Domestic Taxes, in writing, of any changes in the name, address, place of business or nature of business of the person within 21 days of the change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 16%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

The special rate of 8% has been removed by the Finance Act 2023 with effect from 1 July 2023.

Effective 1 July 2023, as per Finance At 2023, the exportation of taxable services is now zero rated, which is an amendment to Finance Act 2022 which only qualified exported services relating to business process outsourcing (BPO) to be zero-rated.

Examples of goods and services taxable at 0%

- Exportation of goods
- Goods and services supplied to Export Processing Zones
- Transportation of passengers by air carriers on international flight
- Goods and services supplied to Special Economic Zones
- Supplies to the Commonwealth
- Supplies to other governments
- Supplies to diplomats
- Liquified petroleum gas (LPG)
- Electric buses of tariff heading 87.02
- Solar and lithium-ion batteries
- Export of qualified export services relating to business process outsourcing (BPO) *(effective 1 July 2023)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Unprocessed agricultural products
- Direction-finding compasses
- Passenger baggage

- Financial services
- Insurance
- Medical services
- Agricultural and horticultural services and animal husbandry
- Transportation of passengers by any means of conveyance, excluding international air transport or where the means of conveyance is hired or chartered
- Entry fees into national parks and national reserves
- Taxable goods or services imported or locally purchased by a company that is incorporated for purposes of undertaking the manufacture of human vaccines or other manufacturing activities, including refining and whose capital investment is at least KES10 billion, subject to approval by CS National Treasury.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Kenya.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In Kenya, the tax point is the earliest of the following events:

- The goods or services are supplied.
- A certificate is issued by an architect, surveyor or a consultant.
- An invoice is issued.
- Payment is received for all or part of the supply.

Deposits and prepayments. There are no special time of supply rules in Kenya for deposits and prepayments. As such, therefore the general time of supply rules apply (as outlined above).

Continuous supplies of services. For continuous supplies, the time of each successive supply is the earlier of the date on which payment for the successive supply is due or received.

Goods sent on approval for sale or return. There are no special time of supply rules in Kenya for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. Reverse-charge VAT is due on the importation of taxable services to the extent that the services relate to the provision of exempt supplies. Where imported taxable services relate to provision of taxable supplies, the net effect of accounting of reverse-charge VAT payable and claim of input tax (self-supply) is zero. There are no special time of supply rules in Kenya for the supply of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. VAT is due on lease rentals at the earlier of when the invoice is raised or when the payment is made.

Imported goods. The time of the supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Kenya is six months. Taxable persons must claim input tax within six months after incurring the expense. Input tax includes VAT charged on goods and services purchased in Kenya and VAT paid on imports of goods.

Effective 1 July 2023, for a taxable person to be eligible to claim input tax on an eligible supply, they are required to have supporting documentation and the supplier must have declared the sales invoice in their VAT return.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain business expenses.

Examples of items for which input tax is nondeductible

- Leasing, hiring or acquisition of passenger cars or minibuses and the repair and maintenance thereof, including spare parts, unless the passenger cars and minibuses are acquired by the registered person exclusively for the purpose of making a taxable supply in the ordinary course of a continuous and regular business of selling and dealing in or hiring of passenger cars and minibuses
- Entertainment, restaurant and accommodation services unless:
  - The services are provided in the ordinary course of the business carried on by the person to provide the services, and the services are not supplied to an associate or employee
  - The services are provided while the recipient is away from home for the purposes of the business of the recipient or the recipient's employer

Examples of items for which input tax is deductible if related to a taxable business use

- Professional fees
- Utility costs

Partial exemption. VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies cannot recover VAT in full. This situation is referred to as "partial exemption."

Under the VAT Act, if a taxable person supplies both taxable and exempt goods and services, only input tax attributable to taxable supplies may be recovered. The following are the attribution rules:

- Input tax directly attributable to taxable goods purchased and sold in the same condition is deductible in full.
- Input tax directly attributable to exempt supplies may not be deducted.
- Attributable to both taxable and exempt supplies is partially deductible. The recoverable amount is calculated using a simple pro rata method based on the value of taxable and exempt supplies made.

If the exempt supplies are less than 10% of the total supplies, the input tax may be claimed in full. Where the exempt supplies constitute more than 90%, the registered person shall not be allowed any input tax attributable to taxable supplies.

Approval from the tax authorities is not required to use the partial exemption standard method in Kenya. Special methods are not allowed in Kenya.

Capital goods. "Capital goods" is not defined under the provisions of the VAT Act in Kenya, and there are no specific rules that outline input tax recovery on capital goods. General rules are applied for deduction of input tax. Specifically, deduction of input tax on passenger vehicles is restricted. In all other cases, deduction of input tax on capital goods depends on whether the business is dealing with exempt or taxable supplies. Where capital goods are used for both taxable and exempt supplies, the input tax should be claimed to the extent it relates to provision of taxable supplies.

Refunds. A taxable person may claim a refund of input tax in excess of output tax if the Commissioner is satisfied that the excess arises from making zero-rated supplies. The Commis-

sioner may refund tax where the tax has been paid in error. A claim for tax paid in error must be filed within a period of one year (12 months) after the date on which the tax was paid. The taxable person can utilize the tax paid in error to offset against future tax liabilities.

Pre-registration costs. On the date a person is registered, and for the next three months, the taxable person may recover pre-registration input tax paid on taxable supplies intended for use in making taxable supplies, provided that those purchases of taxable supplies were completed no more than 24 months before the date of registration.

Bad debts. Where a registered person does not receive payment from a customer, it may, after a period of three years from the date of supply or where the person to whom the supply was made has been placed under statutory management through the appointment of an administrator, receiver or liquidator, apply to the Commissioner for a refund of the tax involved.. Effective 1 July 2023, the refund should be lodged before an expiry of 10 years from the date of supply. If legal insolvency does not apply, evidence of the effort to recover the tax is required to support such a claim.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Kenya.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Kenya is not recoverable.

H. Invoicing

VAT invoices. A supplier of taxable goods and services must issue a tax invoice to the purchaser at the time of supply.

Credit notes. A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes must show the same information as a tax invoice and indicate the tax invoice date and number it relates to.

Electronic invoicing. Electronic invoicing is mandatory in Kenya, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Kenya.

An invoice must be generated electronically, provided it meets the prescribed conditions of a valid tax invoice. Effective 1 December 2022, tax invoices must be issued through a prescribed electronic tax register (ETR) or upgraded electronic signature device (ESD). The electronic register is an electronic tax invoicing or receipting system that is maintained and used in accordance with the VAT (electronic tax invoice) regulations. See the subsection *Digital tax administration* below for more detail.

The use of a electronic tax invoicing system is a mandatory requirement for all taxable persons who are liable to apply for VAT registration, i.e.,

- A company or individual who has made taxable supplies or expects to make taxable supplies, the value of which is KES5 million or more in any period of 12 months
- A company or individual who is about to commence making taxable supplies, the value of which is reasonably expected to exceed KES5 million in any period of 12 months. Nonresident VAT-registered taxable persons making supplies in Kenya are exempted from issuing electronic tax invoices, with the only requirement for them being issuing invoices or receipts showing the value of the supply made and tax charged. The KRA has issued a new directive through a public notice dated November 2023 requiring all taxable persons, including those not registered for VAT, to onboard on the electronic tax invoice management system (e-TIMS). While

previously TIMS/e-TIMS was restricted to only taxable persons registered for VAT, the Finance Act 2023 introduced the following two critical provisions to widen the electronic invoicing scope:

- Section 23A of the Tax Procedures Act empowers the KRA to establish an electronic system for the issuance of tax invoices and maintenance of stock records. The requirement became effective on 1 September 2023. Emoluments, imports, investment allowances, interest, airline passenger ticketing and similar payments were exempted from the requirement to comply with e-TIMS. The Commissioner also has the power to exempt any person from the requirement by notice in the Gazette.
- Section 16(1)(c) of the Income Tax Act disallows the deduction of any expenses (for income tax purposes) that are not generated through TIMS/e-TIMS, effective 1 January 2024.

It is in this effect that the Commissioner exercised the powers provided under Section 23A of the Tax Procedures Act to remind all taxable persons carrying out business, including those not registered for VAT, to register and ensure electronic generation and transmission of invoice through e-TIMS with effect from 1 September 2023.

Therefore, all taxable persons carrying out business and whose operations are not exempted under Section 23A of the Tax Procedures Act are encouraged to onboard e-TIMS. The penalty associated with the default is twice the amount of tax due. Furthermore, invoices not generated through e-TIMS will not be eligible for deduction of expense in arriving at taxable income for corporation tax purposes.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Kenya. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Kenya. It is only allowed for registered persons liable to tax for imported services and is entitled to a credit for part of the amount of input tax payable. They must prepare a tax invoice containing the following information:

- The name, address and PIN of the recipient
- The name and address of the supplier
- The individualized serial number of the tax invoice and the date on which the tax invoice is prepared
- A description of the services supplied and the date of the supply
- The extent to which the supply has been applied other than to make taxable supplies
- The consideration for the supply and the amount of tax charged

Proof of exports. Goods and taxable services exported from Kenya are zero-rated. The documentation treated as the proof of an exportation of goods or services includes the following:

- A copy of the invoice showing the recipient of the supply to be a person outside Kenya
- Proof of payment for the supply
- For goods, a copy of:
  - The bill of lading, road manifest or airway bill, as the case may be
  - The export or transfer entry certified by a proper officer of Customs at the port of exit (for single customs territory clearance cargo manifest (C2))
  - For excisable goods, a certificate of export (COE) issued from the customs systems (SIMBA or ICMS), in addition to endorsed export entry/single customs territory cargo manifest (C2)
- For services, such other documents as the Commissioner may require as proof that the services had been used or consumed outside Kenya

Foreign currency invoices. Foreign currency invoices are dealt with the same way as invoices in the domestic currency, which is the Kenyan shilling (KES). The tax authority does not require a standard exchange rate to be used to convert the value of foreign invoices into the domestic currency KES. In practice, they accept the rate used by the taxable person, if the rate used is within the prevailing market exchange rates.

Supplies to nontaxable persons. There are no special rules for invoices issued for supplies made by taxable persons to private consumers.

Records. In Kenya, examples of records that must be held for VAT purposes include:
- Copies of all tax invoices and simplified tax invoices issued, in serial number order
- Copies of all credit and debt notes issued, in chronological order
- Purchase invoices, copies of customs entries, receipts for the payment of customs duty or tax and credit and debit notes received
- Details of the amounts of tax charged on each supply made or received and in relation to all services to which Section 10 applies (i.e., on imported services), sufficient written evidence to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply and the extent to which the supply has been used by the recipient for a particular purpose
- Tax account showing the totals of the output tax and the input tax in each period and a net total of the tax payable, or the excess tax carried forward, as the case may be, at the end of each period
- Copies of stock records kept periodically as the Commissioner may determine
- Details of each supply of goods and services from the business premises, unless such details are available at the time of supply on invoices issued at, or before, that time
- Such other accounts or records as may be specified, in writing, by the Commissioner

In Kenya, VAT books and records can be held outside the country. Where the books are held outside Kenya, they must be provided upon request by the Commissioner.

Record retention period. Taxable persons must keep a full and true written record, whether in electronic form or otherwise, in English or Kiswahili of every transaction it makes, and the record must be kept in Kenya for a period of five years from the date of the last entry made therein.

Electronic archiving. Electronic archiving is allowed in Kenya. Registered persons must keep records, including copies of tax invoices, in an electronic manner or otherwise (i.e., in paper form).

I. Returns and payment

Periodic returns. The VAT tax period is one month. Returns must be filed by the 20th day after the end of the tax period. A "nil" return must be filed in instances where the taxable person has not made any supplies. If the normal filing date falls on a public holiday or on a weekend, the VAT return and payment must be submitted on the last working day before that day. A person may apply to the Commissioner before the due date for submission of return for an extension of time to submit a return.

Periodic payments. Payment of VAT is due and received by the KRA in full by the same date as the VAT return submission deadline, i.e., by the 20th day after the end of the tax period. Upon filing the monthly VAT return, a person is required to generate a payment registration number (PRN), which is used to pay VAT at the Revenue Authority's (KRA) appointed banks or through cellular phones payment platforms (M-pesa).

Electronic filing. Electronic filing is mandatory in Kenya for all taxable persons. All returns must be filed electronically via the KRA i-Tax portal.

Payments on account. Payments on account are not required in Kenya.

Special schemes. *Withholding VAT.* A person must be appointed by the Commissioner as a withholding VAT agent. Taxable supplies to an appointed withholding VAT agent are subject to withholding VAT at 2% of the taxable value. Withholding VAT agents include government ministries,

parastatals, financial institutions and most of the major taxable persons, as they may be appointed by the Commissioner. A taxable person whose VAT has been withheld must account for the VAT balance.

Annual returns. Annual returns are not required in Kenya.

Supplementary filings. No supplementary filings are required in Kenya.

Correcting errors in previous returns. A taxable person can amend its VAT return online within six months. For returns exceeding six months, the returns can only be amended by KRA on application by the taxable person.

Digital tax administration. *Electronic register.* From September 2020, the electronic register is an electronic tax invoicing or receipting system that is maintained and used in accordance with the VAT (Electronic Tax Invoice) Regulations. Registered suppliers will be required to ensure that the register is in continuous operation. The register shall transmit tax invoice data to KRA's system and an end-of-day summary of the entities' transactions. This integration will provide KRA with real-time data on transactions on a day-to-day basis, thereby enabling the authority to easily enforce compliance. Registered suppliers shall comply with these regulations by 1 December 2022. In February 2023, the KRA implemented an electronic tax invoice management system (eTIMS) an alternative to electronic tax registers, which is a cloud/software-based solution that is recommended for the following:

- VAT-registered taxable persons who are yet to be onboarded and are facing challenges integrating with TIMS ETR devices
- Taxable persons dealing in bulk invoicing and facing capacity/performance issues with invoice transmission

J. Penalties

Penalties for late registration. A penalty of KES200,000 or imprisonment for a period not exceeding two years (or both) is imposed in the event of late registration by traders who meet the turnover threshold.

Penalties for late payment and filings. Late submission of a return is subject to a penalty of KES10,000 or 5% of tax due, whichever is higher. Late payment attracts interest at a rate of 1% per month, simple interest.

Penalties for errors. There are no specific penalties in Kenya for errors. The Act provides for specific and general penalties for noncompliance offenses. The general penalty is a fine not exceeding one million shillings or imprisonment for a term not exceeding three years or both.

The failure to keep, retain or maintain documents without reasonable cause for a reporting period is subject to a penalty of KES100,000 or 10% of the amount of tax payable under the Act to which the document relates for the reporting period to which the failure relates whichever is higher.

The failure to display registration certificate is subject to a penalty of up to KES200,000 or a maximum sentence of two years' imprisonment, or both.

The penalty associated with the default of e-TIMS is twice the amount of tax due.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Making a fraudulent claim for a refund of tax is subject to a penalty of two times the amount of claim.

Unauthorized access to or improper use of tax computerized system is subject to a penalty of a maximum of KES400,000 or a maximum sentence of two years' imprisonment, or both.

Interference with tax computerized system is subject to a penalty of a maximum of KES800,000 or a maximum sentence of three years' imprisonment, or both.

Where there is no prescribed penalty, a person convicted of an offense under the VAT Act 2013 shall be liable to a fine not exceeding KES1 million, or to imprisonment for a term not exceeding three years, or to both.

Personal liability for company officers. Where a person acting as an employee or an agent commits an offense under a tax law, that person's employer or principal shall be treated as having also committed the offense.

If the person that commits an offense under a tax law is a company, the offence shall be treated as having been committed by an individual who, at the time the offense was committed, was:

- The chief executive officer, managing director, a director, company secretary, treasurer or other similar officer of the company
  Or
- A person acting or purporting to act as the chief executive officer, managing director, a director, company secretary, treasurer or other similar officer of the company.

Statute of limitations. The statute of limitations in Kenya is five years. This is the case unless the taxable person is under investigation. The KRA may review VAT returns and issue an assessment in the event of any errors before the expiry of five years from the date of filing the self-assessment return. If the Commissioner therefore chooses to exercise this power, it must do so within the stated timeline to ensure that the request is efficient and reasonable and that the same does not place an onerous obligation on the taxable person owing to requests for records of transactions that occurred over five years ago.

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"Korea" in this publication refers to South Korea.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Boo-ga-ga-chi-se (also known as Boo-ga-se)
Date introduced	1 July 1977
Trading bloc membership	Asia-Pacific Economic Cooperation (APEC)
Administered by	National Tax Service (NTS) (http://www.nts.go.kr)
VAT rates	
Standard	10%
Other	Zero-rated (0%) and exempt
VAT number format	000-00-00000 (showing tax office location, legal entity type and serial number)
VAT return periods	Quarterly
Thresholds	
Registration	None
Simplified taxation	Individual businesses with prescribed categories and with turnover less than KRW80 million in previous calendar year
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services by a taxable person
- Reverse-charge services received by an exempt businessperson in Korea
- The importation of goods, regardless of the status of the importer

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Korea, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Korea, a TOGC is known as a "VATL," a "comprehensive business transfer." Where all rights and obligations related to the business are comprehensively transferred to each place of business, VAT is not levied, as it is not regarded as a supply of goods. In such cases, it shall be deemed to have been comprehensively transferred even if the business-related rights and obligations do not include the following:

- Notes receivable (usually not directly related to business operations)
- Notes payable (usually not directly related to business operations)
- Real estate not directly related to the relevant business

Transactions between related parties. The tax base for VAT is the transaction price. However, if an unreasonably low price is received or the payment is not received in a transaction with a related party, the market price is regarded as the supply price. The term "market price" refers to the transaction price used continuously in similar situations with a non-related party, or the transaction price generally used between third parties.

C. Who is liable

Any person that independently undertakes the supply of taxable goods or services in the course of business, whether or not for profit, is liable for VAT.

Exemption from registration. The VAT law in Korea does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Korea does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Group registration. Group VAT registration is not allowed in Korea.

Fixed establishment. Fixed establishment according to the VAT law in Korea refers to the fixed establishment according to the corporate tax law, which is defined as a place where a foreign corporation conducts all or part of its business in Korea. The corporate tax law and tax treaties are applied to determine the fixed establishments.

Non-established businesses. "Non-established business" refers to a business that has no fixed establishment in Korea. A non-established business is not required to register for VAT in Korea unless it provides certain electronic services to Korean customers.

Tax representatives. In certain circumstances, a taxable person must designate a tax administrator to deal with filing tax returns, making tax payments, requesting refunds and handling other necessary matters. Information about the tax administrator must be reported to the competent tax office.

Reverse charge. Reverse charge generally applies where a business receives a supply of taxable services and intangible properties from a non-established business and uses the services and intangible properties for its tax-exempt business. The recipient of such taxable services and intangible properties must collect the VAT at the time of the payment and pay the amount to the government.

If a business receives a supply of taxable services and intangible properties from a non-established business, and such supplies are used for both its taxable and tax-exempt activities, VAT on the reverse charge is calculated by reference to the ratio of turnover related to exempt supplies for the year compared to total turnover.

A non-established business (i.e., a nonresident or foreign corporation) for VAT purposes is one of the following:
- A non-established business that does not have a place of business in Korea
- A non-established business with a domestic place of business, provided that the supply of services is not rendered through the domestic place of business

Domestic reverse charge. Where the following companies supply taxable goods or services and receive payments through credit cards, the credit card company will be subject to domestic reverse-charge obligations:
- General entertainment and drinking establishments
- Dancing and drinking halls

Digital economy. Korea applies VAT on electronic services purchased by Korean customers from abroad. Nonresident providers of electronic services must register with the Korean tax authorities through the simplified business registration system.

Electronic services include those services related to gaming, audio or video files, electronic documents, software, or other works, which are manufactured or processed in the form of coding, letters, voices, sounds, images, etc., after optical or electronic processing, services offering an online advertising place, cloud computing services, brokerage services of renting or consuming goods or places in Korea, and of selling or buying goods or services in Korea.

The VAT on electronic services will not apply if the electronic services are rendered to a domestic entity that is registered for VAT purposes in Korea (i.e., in business-to-business (B2B) transactions).

There are no other specific e-commerce rules for imported goods in Korea.

Online marketplaces and platforms. Where a nonresident provider of electronic services uses an online marketplace or platform, that marketplace or platform company is considered to provide the electronic services in Korea, i.e., not the nonresident provider. The platform/marketplace is therefore responsible to account for the VAT on the supplies made.

The nonresident provider of electronic services via the online marketplace or platform in Korea doesn't need to register or account for VAT. However, it would largely depend on the facts of the case and should be examined on case-by-case basis.

However, if the online marketplaces and platforms are nonresident providers, they would need to register for VAT (as outlined under the *Digital economy* subsection above) and account for VAT locally. Nonresident providers who register a simplified business must keep transaction details for the supply of electronic services for five years from the final report due date of the tax period that the transaction belongs to and submit the transaction details within 60 days upon request from the tax authorities.

Registration procedures. Any person that begins a business must register the place of business with the district tax office within 20 days after the date of business commencement. A person can apply for registration via the Hometax website (https://www.hometax.go.kr) or by visiting the tax office. Documents that must be submitted when applying for VAT registration in Korea include:
- Business registration application form
- Copy of business license (if government approval is required for the business)
- Copy of lease contract
- List of shareholders
- Alien registration certificate or a copy of a passport (when the representative of the company is not a resident)
- Certificate stating the completion of foreign investment notification
- Copy of foreign currency purchase certificate
- Notice of designation of a tax administrator (if there is no employee that handles tax matters in Korea)

The business may be registered before the date of business commencement. The tax office that has jurisdiction over the business location issues a business registration certificate. Where a taxable person operates more than one business place, the taxable person is allowed to register two or more business places as a single business unit for VAT purposes.

Deregistration. A registered business that ceases to operate is required to deregister by returning its business registration certificate to the tax office.

Changes to VAT registration details. When there is a change in VAT registration details, such as in the name of the company, representative, type of business, address of the place of business or status of a sub-business place when the taxable person has registered two or more business places as a single business, the taxable person should submit the application form for revision of business registration details via Hometax (https://www.hometax.go.kr) or by visiting the tax office. Certain changes, such as changes in co-representatives or status of a sub-business place, are only allowed to be submitted by visiting the tax office.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%
- Exported goods
- Services rendered outside Korea
- International transportation services by ships and aircraft
- Other goods or services supplied for foreign currency

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services
- Social welfare services (e.g., medical and health services and education services)
- Goods or services related to culture (e.g., books, newspapers, magazines, official gazettes and communications, artistic works and admission to libraries)

- Personal services similar to labor (e.g., by actors, singers and academic research services)
- Postage stamps
- Basic life necessities and services (e.g., unprocessed foodstuffs such as agricultural products, livestock products, marine products, forest products, piped water, briquette and anthracite coal)
- Services supplied by the government
- Finance and insurance services
- Supplies of land

Option to tax for exempt supplies. A business that supplies certain exempt goods and services under the Korean law may choose to tax these supplies by filing a report to the tax authorities to waive the VAT exemption.

E. Time of supply

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

Goods are deemed to be supplied at the following times (also, see the next paragraph):
- A supply of goods that requires the goods to be moved: when the goods are delivered
- A supply of goods that does not require the goods to be moved: when the goods are made available
- For other cases: when the supply of goods is confirmed

The following are examples for the times of supply for specified types of supplies:
- Cash or credit sales: subject to the principal rules of supply of goods, the time of supply is the above bullet points, i.e., when goods are delivered or made available
- Sales made for long-term (the final installment payment should be at least a year after the next day of the delivery date) installment payments: when each portion of the proceeds are received
- Supply of goods under the payment term of percentage of work completed or under terms of partial payments: when each portion of the proceeds are received
- Processing deemed to be a supply of goods: when the processed goods are delivered
- Self-supplies or the supply of goods for personal use or for a gift: when the goods are consumed or used
- Business closure: the date of closure
- Goods supplied through vending machines: when the taxpayer takes money from the machine
- Exports: the date of shipment
- Goods that are considered imported goods and that are supplied by a business in a bonded area to outside the bonded area: the date of the import declaration

Examples for the time of supply for services are as follows:
- General rule: when the services are completely rendered
- Services provided under terms of payment based on the percentage of work completed, partial payment, deferred payment or any other payment terms: when each portion of the payments is to be received
- A deemed rent deposit for a lease or advance or deferred payment of rent for more than two VAT return periods for the leasing of land, buildings or other structures built on the land: when the preliminary tax return or the tax period has been completed
- Other cases: when the services have been completely rendered and the value of the supply is determined

If a business receives partial or full payment of the consideration for a supply of goods or services and issues a tax invoice or receipt for the payment before the general time of supply occurs (as described above), the time of supply is deemed to be the date that the tax invoice or receipt is issued.

Deposits and prepayments. In Korea, there are no provisions in the Korean VAT law relating to deposits. There is only a system for prepayments.

If the supplier has received a prepayment (a partial or full payment), which takes place before the general time of supply rules for goods and services (i.e., when the goods are delivered/services are completed or when the goods become available/facilities or rights are used), then the time of supply is when the prepayment (a partial or full payment) is received.

Tax invoices must be issued when the time of supply for the prepayment takes place. This is to prevent the customer from issuing VAT invoices in advance without making the prepayment and receiving an unfair deduction of input tax. The supplier must account for VAT in the same VAT return filing period when the prepayment is made and based on the tax invoice issued.

Where a prepayment is refunded to the customer or the supply does not take place, there is generally no requirement to account for VAT. If the supplier has already declared the VAT on its VAT return, then the supplier needs to issue an amended tax invoice.

Continuous supplies of services. If a person is supplying goods or services on a continuous basis, such as electricity, the time of supply shall be at the time when each portion of the proceeds are to be received on the contract. If the tax invoice or receipt is issued in advance with prepayments, the time of supply shall be at the time of issuing a tax invoice or receipt.

Goods sent on approval for sale or return. For goods sent on approval for sale or return and other conditional sales and time limit sales, the time of supply shall be when such conditions are fully satisfied, or sales become certain after expiration (this is where the supplier has given the customer a certain number of days to use the goods before the sale and this period has now passed).

If the goods are sold on a returnable basis, in general, the supplier will provide the customer with a specific time period to return the goods. The time of supply is when the customer expresses its intention to purchase the goods. Otherwise, the time of supply shall be when the customer fails to return the item after the set period has expired.

Reverse-charge services. For supplies of reverse-charge services, VAT shall be accounted for by the customer, through the reverse-charge mechanism, at the time of payment on the relevant services supplied by a non-established business.

Leased assets. Under Korean VAT law, as there is no specific provision in respect to time of supply for leased assets, general time of supply rules will be applied. However, supplies of lease services by enrolled financial leasing companies, according to the Specialized Credit Finance Business Act, are in general exempt from VAT, while there are some exceptions to this rule regarding VAT-exempt supplies of lease services.

Imported goods. The time of importation for goods shall be the time when an import declaration under the Customs Act is accepted.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. The basic rule for VAT recovery in Korea requires a supply of goods or services to be made by a taxable person in the course of business. Any VAT claimed must be supported by a valid VAT tax invoice, customs document or similar documents, such as contracts, remittance certificates, etc.

The time limit for a taxable person to reclaim input tax in Korea is five years. Input tax may be recovered during the corresponding taxable period. If the tax invoice was received and the input tax was not claimed, a taxable person may correct the errors in the return within five years from the due date of the VAT return period.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes. Input tax incurred on expenses directly related to the business is generally recoverable.

Examples of items for which input tax is nondeductible

- Input tax on expenses not directly related to the business
- Input tax on the purchase and maintenance of small automobiles used for nonprofit purposes
- Input tax on the purchase of goods or services that are used in VAT-exempt business
- Input tax on entertainment expenses or similar expenses outlined in the Presidential Decree governing VAT recovery
- Input tax amount incurred before the date of registration

Examples of items for which input tax is deductible (if related to a taxable business use)

- The VAT amount on goods or services that are used by taxable persons for their own business
- The VAT amount on the importation of goods that are used by taxable persons for their own business or imported by them for such use

Partial exemption. If goods or services purchased by a taxable person are used both for taxable and exempt business, the creditable input tax is calculated based on the ratio of sales (the sale of taxable business supplies, divided by total sales) multiplied by the input tax incurred that relates to both taxable and exempt supplies. In this case, the input tax is partially recovered. In general, the input tax multiplied by the above ratio is recovered.

Approval from the tax authorities is not required to use the partial exemption standard method in Korea. Special methods are not allowed in Korea. Taxable persons must submit a statement of nondeductible input tax to the tax authorities. Taxable persons must submit a statement of nondeductible input tax when they file preliminary (if necessary) and final VAT returns. The input tax amount, the total sales amount and the sales amount of nontaxable business supplies are required to be filed. This is a part of a statement of nondeductible input tax that also includes information on other nondeductible input tax (such as input taxes incurred from entertainment expenses).

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

Refunds. When a taxable person files its VAT return and the input tax exceeds the output tax, the taxable person will receive a VAT refund within 30 days from the final filing due date. The final filing due date is 25 days from each period end. This is generally done automatically through the submission of the periodic VAT return.

The taxable person can apply for an early refund if the company meets any of the following three conditions:

- The taxable person makes zero-rated supplies
- The taxable person newly constructs, acquires, expands or extends any of the business facilities
- The taxable person is in the implementation process of a financial restructuring plan prescribed by Presidential Decree

In this case, the taxable person will receive a VAT refund within 15 days after the deadline for filing an early refund return. The deadline for filing an early refund return is 25 days from each

early refund period end. The early refund period is fixed on a monthly or bimonthly basis in the preliminary return period or in the last three months of the taxable period.

Pre-registration costs. Input tax incurred on pre-registration costs in Korea is not recoverable.

Bad debts. If a bad debt arises for reasons stipulated in the corporate tax law, the already paid VAT can be recovered. A taxable person must apply for this by the VAT period reporting deadline. This can be done 10 years after the originally supplied VAT period. In this case, relevant documents must be prepared and submitted to the tax authority (e.g., rulings related to bankruptcy).

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Korea.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Korea is recoverable. Korea refunds VAT incurred by businesses that are neither established nor registered for VAT in Korea. A non-established business may reclaim VAT to the same extent as a VAT-registered business, but only if the resident country of the non-established business provides VAT refunds to non-established Korean businesses in that country on a reciprocal basis.

A non-established business that is engaged in business in its home country but does not have a permanent establishment in Korea may reclaim the VAT incurred on the purchase of the following goods and services pursuant to the Tax Incentives Limitation Law:
- Meals and hotel charges
- Advertisements
- Electricity and telecommunications
- Real estate rentals and leases
- Certain goods and services necessary for the maintenance of an office in Korea

A non-established business that seeks to reclaim VAT paid in Korea must submit an application, together with the required documents, to the district National Tax Service (NTS) by 30 June of the year following the calendar year covered by the claim. The district NTS must refund eligible VAT by 31 December of the year in which the application is submitted. The following documents must accompany the claim:
- A certificate that proves the non-established business is a registered business in its home country
- A detailed transaction list
- All original tax invoices
- A power of attorney, if necessary

H. Invoicing

VAT invoices. When a taxable person supplies goods or services, it must issue a tax invoice to the other party to the transaction.

Taxable persons that carry on any of the following activities are exempt from the obligation to prepare and issue tax invoices:
- Self-supplies of goods, personal use of goods, donations for a business purpose, supplies in the course of the closure of a business and self-supplies of services
- Exportation of goods, supplies of services abroad and other specific supplies of goods or services that earn foreign currency and that are subject to the zero rate

The Customs Office is required to prepare and issue import tax invoices for imported goods. The documents must be given to individuals and companies that make imports and must be issued in accordance with the provisions of the Customs law.

Credit notes. If a tax invoice contains an error or if the taxable person needs to make a correction to the submitted tax invoice after it has been issued, the taxable person must prepare and reissue the tax invoice.

In general, when the VAT base is changed due to a voluntary revised report, revised import tax invoices may be issued. However, if a revised report is submitted after notification of a customs audit knowing that there will be a customs reassessment or correction, a revised tax invoice may only be issued when the cause of the revision is confirmed as an error or minor negligence of the importer, or if the importer proves that there is no reason attributable to the importer.

Electronic invoicing. Electronic invoicing is mandatory in Korea for certain taxable persons.

Scope of electronic invoicing. For B2B, business-to-consumer (B2C), and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Korea. Every kind of supply is covered by the rules, including B2G, B2B and B2C, as long as the supply value of individual taxable persons is equal or more than KRW100 million from the previous year.

All registered corporate taxable persons and individual taxable persons prescribed by presidential decree of the VAT law must issue tax invoices under the electronic tax invoice (ETI) system and submit a statement of delivery to the NTS by the date specified by presidential decree of the VAT law, which is currently the day immediately following the issuance date. Such taxable persons that are prescribed by presidential decree of the VAT law to issue electronic invoices are all registered corporate taxable persons and individual taxable persons in whose case the total value of the supply of goods and services for each place of business in the immediately preceding year is at least KRW100 million. This is to ease the burden of individual taxable persons who run small businesses.

ETI is a tax invoice that is electronically transmitted to the NTS network through an accredited certification system. It can confirm information such as a supplier's identification and the details of tax invoices if changed.

Simplified VAT invoices. If it is deemed necessary, a taxable person may prepare and issue a tax invoice by aggregating the total receivable transactions to the end of the month. The invoice must be issued by the 10th day of the following month.

Self-billing. Self-billing is allowed in Korea. If the supplier of goods or services has not issued a tax invoice, instead the customer may issue a self-billed tax invoice. This is only allowed upon the customer receiving confirmation from a tax officer that the supply of goods or services has actually taken place.

Proof of exports. A detailed statement is required for a supply to be qualified as an export. This document must be prepared by the taxable person.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, all values that are required on the invoice must be converted into the domestic currency, which is the Korean won (KRW), using the exchange rate at the time of supply. The exchange rate is contained in the Foreign Exchange Transaction Regulation, and it is generally the exchange rate announced by Seoul Money Brokerage Service Ltd. (http://www.smbs.biz)

Supplies to nontaxable persons. Under the Korean VAT law, there is no stipulation for supplies to private consumers. However, there is a provision that allows a taxable business to issue a receipt instead of a VAT invoice or exempting an obligation of a VAT invoice if it is considered too difficult to issue a VAT invoice or if it is deemed unnecessary. If a taxable person conforming to

one of the following positions outlined below supplies goods or services (except for VAT exempted supplies) at the time of supply, the taxable person must issue a receipt to the customer instead of issuing a tax invoice:
• Simplified taxable person
• A taxable person supplying goods or services to nonbusiness entity

Records. In Korea, a taxable person must keep the books in which transactions are recorded. In Korea, examples of what records must be held for VAT purposes include details of tax invoices or receipts issued or received, name of supplier or recipient, supplied items or receipt items, supply value or supply value receipt, output tax and input tax, supply date or receipt date, etc. Records may be kept in hard copy or in electronic format.

In Korea, VAT books and records must be held within the country. Specifically, this means the business site in Korea. While Korean tax law does not explicitly state the position on whether records can be held overseas, tax authorities interpret it to imply records should be held at a business site in Korea, on the basis that backup files of electronic files must be kept in Korea. However, this regulation and interpretation was created several years ago. In practice, the location of the data at the place of business (Korea) is not verified. However, the taxable person should be prepared for submission upon the request of the authorities.

Record retention period. A taxable person must keep the books in which the transactions are recorded for a period of five years after the date of the final return for the tax period in which the transactions occurred.

Taxable persons must record all details of transactions related to their amount of tax payable or amount of tax refundable in their account books and maintain them at their own places of business for five years from the deadline for filing a final return for the taxable period of the relevant transactions. However, businesses that issue tax invoices using the ETI system are not required to maintain relevant records.

Electronic archiving. Electronic archiving is allowed in Korea. The VAT law states that account books, tax invoices and receipts can be stored electronically, but there is no mention of other documents.

I. Returns and payment

Periodic returns. The VAT period is six months on a calendar-year basis (first VAT period: January through June; second VAT period: July through December). VAT returns must be filed on a quarterly basis, including preliminary returns.

A taxable person is required to file preliminary returns for the first and third quarters of the year, which end in March and September, respectively. These preliminary returns must indicate the tax base and the tax amount payable or refundable. The preliminary return must be filed within 25 days following the last day of each preliminary return period.

Taxable persons must file a final return for the quarters ended June and December for the second and fourth quarters of the year. The final return must be filed within 25 days following the end of the tax period.

Periodic payments. A taxable person must pay the tax amount payable for the preliminary return period when the return is filed. A taxable person must also pay the tax amount payable for the final return period at the time of filing the return. Both payments are due within 25 days following the last day of each preliminary and final return period.

VAT returns must be completed in Korean won (KRW), and VAT liabilities must be paid in Korean won. A taxable person can make payments by making a transfer or using a credit card (an

extra credit card fee will be charged). In practice, a taxable person pays taxes by using the virtual account designated by the NTS, which can be found on the tax bill or by going to the bank themselves.

A taxable person must pay the VAT due at each business place at the time of filing the return. However, if a taxable person has more than two business places, it may pay the entire VAT due at its principal place of business with the prior approval from the tax office that has jurisdiction over the principal business place.

Electronic filing. Electronic filing is allowed in Korea, but not mandatory. Where a return is electronically submitted through the information network of the NTS, such return shall be treated as filed with the tax office at the time of submission to the information network of the NTS. VAT return filing can also still be submitted in paper form. In this case, the printed NTS form and related documents (contracts, etc.) are submitted to the tax office and the taxable person receives a receipt confirming the submission.

Payments on account. Payments on account are not required in Korea.

Special schemes. *Small businesses.* There are special rules that apply only to individual businesses with revenue less than KRW80 million (the threshold changed from KRW48 million to KRW80 million, from 1 January 2021). However, corporate entities do not have these special provisions. Individual businesses with revenue less than KRW80 million are subject to special rules, including that they are not obliged to issue tax invoices when their sales amount is less than KRW48 million. Previously, individual businesses with revenue between KRW48 million to KRW80 million did not have obligations to issue tax invoices, but this is due to change from 1 July 2021). Such businesses pay VAT every six months instead of quarterly.

Annual returns. Annual returns are not required in Korea.

Supplementary filings. In addition to the usual NTS form, a taxable person is required to keep documentation (e.g., contracts) to verify each transaction. In addition, when a taxable person reports any transaction subject to VAT at the zero rate, supporting documents such as a foreign currency deposit, a statement of export results and a local letter of credit must be submitted with it.

Correcting errors in previous returns. Taxable persons can correct errors in previous returns by submitting the revised return either through the Hometax website (https://www.hometax.go.kr/) or in paper to the tax office.

Digital tax administration. Electronic invoicing is mandatory for all registered corporate taxable persons and individual taxable persons prescribed by Presidential Decree of VAT law (see the subsection Electronic invoicing above). While under the VAT law there is no concept of real-time reporting in Korea, in practice, electronic invoicing is deemed as a real-time reporting requirement. This is because electronic invoices are required to be transmitted to the NTS by the next day of the issuance date (an invoice is usually issued on the transaction date).

J. Penalties

Penalties for late registration. If a person fails to register a business within 20 days after business commencement, a penalty tax equal to 1% of the value of supplies made is imposed. If a taxable person provides goods or services without registration or with late registration, the penalty applies to the value of the supplies made during the period beginning on the business commencement date ending on the day before the date on which the registration is made. The penalty amount will adjust the amount of tax payable or deductible. The penalty is capped at KRW100 million (KRW50 million for small and medium-sized enterprises [SMEs]). The cap covers every six-month period.

Penalties for late payment and filings. Failure to file a tax return may result in a penalty of 10% to 40% of the underpaid tax amount (overpaid tax refund).

For underpayment and nonpayment of taxes or overestimated refund, a penalty of the underpaid tax amount (or overpaid tax refund) at a rate of 0.022% (0.025% until 15 February 2022) a day may be imposed.

Failure to comply with the requirement to make a proxy payment (reverse charge) may result in a penalty of 3% of the underpaid tax amount plus 0.022% (0.025% until 15 February 2022) of the underpaid tax amount on the number of days the payment is late. However, the penalty is capped at 10%.

Penalties for errors. Failure to issue a correct tax invoice (including ETI) or to submit a correct list of tax invoices issued may result in a penalty of 0.5%, 1%, 2% or 3% of the value of supply. If a tax invoice is issued without the supply of goods or services, a penalty of 3% of the supply value is imposed on both the seller and the buyer. If there is a supply of goods or services and no tax invoice is issued, a penalty of 2% of the value of the supply is imposed. If a corporation (and individual business owners with turnover of over KRW200 million) issues a paper tax invoice instead of an electronic tax invoice, a penalty of 1% of the supply price is imposed. If a list of electronic tax invoices is not submitted by the day following the date of issue, a penalty of 0.3% or 0.5% will be charged.

Failure to complete the simplified business registration within 20 days from the business commencement date results in a penalty of 1% of the total supply value for foreign electronic service providers with no local establishment. There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. If the reason for reporting fewer tax bases is related to fraud, the penalty increases significantly. If not related to fraud, 10% or 20% of the tax amount will apply, but if it is related to fraud, it will increase to 40% of the tax amount. If it relates to international transactions, a penalty of 60% of the tax amount applies.

Personal liability for company officers. Company directors will not be held personally liable for errors and omissions in VAT declarations and reporting according to relevant tax laws. However, if company directors are also shareholders of the company and the company fails to pay taxes, they are responsible for paying taxes if certain conditions are met.

Statute of limitations. The statute of limitations in Korea is 5 to 10 years. In general, the tax authorities may amend and impose tax on the filed returns of the taxable person within 5 to 10 years from the date that national tax can be imposed. However, the statute of limitation is extended for certain international transactions, as outlined below:

- The general statute of limitation is five years, but in certain international transactions, this can extend to seven years
- The statute of limitations for non-filing is seven years, but in certain international transactions, this can extend to 10 years
- The statute of limitations for tax evasion from tax fraud is 10 years, but in certain international transactions, this can extend to 15 years

The term "international transactions" refers to a) transactions, in which one party is a foreign company (i.e., a non-established business) or b) foreign assets or services provided abroad, even if both parties are residents.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Tatimi mbi Vleren e Shtuar (TVSH)
Date introduced	31 May 2001
Trading bloc membership	Customs-free access to the EU market based on the EU Autonomous Trade Preference (ATP) Regime Central European Free Trade Agreement
Administered by	Tax Administration of Kosovo (TAK)
VAT rates	
Standard	18%
Reduced	8%
Other	Zero-rated (0%) and exempt
VAT number format	1234567890
VAT return periods	Monthly
Thresholds	
Registration	EUR30,000 (domestic supplies)/None (exporters and importers)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services performed by a taxable person in Kosovo
- Importation of goods in Kosovo, regardless of the status of the importer
- Services supplied to taxable persons in Kosovo by service providers whose place of business is outside Kosovo
- Certain supplies of services rendered by service providers whose place of business is outside Kosovo to nontaxable persons in Kosovo, such as digital services and services related to an immovable property located in Kosovo

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Kosovo, the VAT law provides for the application of the use and enjoyment rules as a deviation from the main rules for determining the place of supply of services. These rules apply to services such as advertising, telecommunication and broadcasting, regardless of whether they are provided to taxable or nontaxable persons (i.e., business-to-business (B2B) and business-to-consumer (B2C)).

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Kosovo, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- A group of assets forming part of a business activity is transferred
- The transfer is performed between two taxable persons (i.e., B2B)
- The transferee ensures the continuity of the business activity

Transactions between related parties. In Kosovo, for a transaction between related parties, the value for VAT purposes is calculated at market value. The market value is defined as the consideration that an independent buyer shall be willing to pay for the supply of goods or services under open market conditions. In case no comparable values are available, the market value can be determined as follows:

- For supplies of goods, an amount not less than the purchase price or the acquisition costs at the moment of the supply
- For supply of services, an amount not less than the full costs incurred for performing the services

C. Who is liable

Any person (entity or individual) who independently carries out any economic activity in a regular or non-regular manner, whatever the purpose or results of that economic activity, is liable to VAT.

Taxable activities also include "the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis."

A taxable person established in Kosovo is obliged to register for VAT purposes and charge VAT when its annual turnover within a calendar year exceeds the threshold of EUR30,000. Any supply made by the taxable person after the threshold is exceeded must be subject to VAT. In this case, the taxable person is required to apply for VAT registration within 15 days after exceeding the threshold. Consequently, the part of the supply that exceeded the threshold will be taken into account for purposes of VAT in the first tax period after registration.

Every person who meets all the conditions of the definition of a taxable person in Kosovo but does not exceed the VAT registration threshold may voluntarily register for VAT. Persons involved in import or export activities and fixed establishments of nonresident persons must register for VAT regardless of the amount of turnover from the commencement of an economic activity in Kosovo.

Exemption from registration. The VAT law in Kosovo does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Persons may voluntarily apply for VAT registration regardless of their turnover and must remain registered for a minimum of one year after the registration year.

Group registration. Group VAT registration is not allowed in Kosovo.

Fixed establishment. In Kosovo, there is no legal definition of a fixed establishment for VAT purposes. However, the same rules that apply for direct taxes should be followed. As such, a fixed establishment would be considered a place of management, branch, office, factory, workshop, assembly site, construction site, mine, quarry, probe, oil or gas well, or other place of exploitation of natural resources, or another place through which a person carries out all or part of the economic activity on the territory of the country.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Kosovo. No VAT registration threshold applies to taxable supplies made in Kosovo by a non-established business.

A non-established business must register for VAT in Kosovo by appointing a VAT representative if it engages in any of the following taxable supplies:
- Supply of goods located in Kosovo at the time of supply
- Supply of certain services to nontaxable persons in Kosovo, such as digital services and services related to an immovable property located in Kosovo
- Import and export activities in Kosovo

Tax representatives. A non-established business must appoint a resident VAT representative to register for VAT purposes in Kosovo regardless of the amount of turnover unless the reverse-charge mechanism applies. The VAT representative may act on behalf of the taxable person for all purposes related to VAT and is jointly and severally liable for compliance with all VAT obligations of the non-established business.

If the recipient of the services supplied in Kosovo is a nontaxable person or a taxable non-registered person, the supplier of the service should also appoint a VAT representative to pay VAT in Kosovo.

Where the non-established business does not appoint a VAT representative in Kosovo, the nontaxable person or the taxable non-registered person that is the recipient of the supplies will be liable for the VAT liabilities and penalties.

Reverse charge. The reverse-charge mechanism applies to supplies of services made by non-established business to taxable persons in Kosovo. A non-established business is not required to register for VAT if all its supplies in Kosovo fall under the reverse-charge mechanism.

Domestic reverse charge. A domestic reverse charge applies in Kosovo for supplies of construction works (including repair, cleaning, maintenance, alteration, and demolition services in relation to the immovable property). Effectively, any supplies that are in line with the Law on Construction in Kosovo and are equipped with the relevant construction permits by the competent bodies are covered by this provision.

Digital economy. Kosovo follows the destination principle regarding cross-border digital services supplied to nontaxable persons in Kosovo. The place of supply of cross-border digital services to nontaxable persons is the place where the nontaxable person is established or where it has its permanent address or usually resides.

Nonresident providers of electronically supplied services for B2C supplies are required to register and account for VAT in Kosovo. This is done by appointing a VAT representative in Kosovo to account for and pay the VAT liability. No VAT registration threshold applies.

The Minister of Finance may permit the use of a special scheme by any non-established taxable person in Kosovo supplying electronic services to a nontaxable person who is established in Kosovo or who has its permanent address or usually resides in Kosovo (i.e., B2C supplies). The

information that the non-established taxable person must provide to the Tax Administration of Kosovo (TAK) when they start a taxable activity must contain the following details: name; postal address; electronic addresses, including websites; national tax number, if any; and a statement that the person is not identified for VAT purposes in Kosovo. The non-established taxable person must notify TAK of any changes in the information provided.

At the time of preparing this chapter, the Ministry of Finance has proposed introducing a facilitated VAT registration for nonresident providers of broadcasting, telecommunications and electronically supplied services. However, this has not been finalized or implemented.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT in Kosovo. Instead, the customer is required to self-account via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

Distance sales from foreign suppliers made to nontaxable persons in Kosovo are subject to import VAT, to be declared and paid by the customer. A VAT exemption at importation of goods applies for shipments with a value up to EUR22.

Online marketplaces and platforms. The same rules above apply for online marketplaces and platforms, i.e., the place of supply for services supplied by electronic means is the place where the nontaxable person is established or where it has its permanent address or usually resides. Services supplied electronically are considered those services that do not correspond either to the supply of movable tangible goods or to the supply of "traditional" services or telecommunications services.

Registration procedures. The application for registration cannot be done online. A person applying for VAT registration must personally or through an authorized person submit the VAT registration form with the respective regional office of the TAK. The VAT registration application form is also available online.

The application must be accompanied by the following:
- A copy of the business registration documents
- Certificate of the Fiscal Number and official identification photo (passport, identity card, etc.)

The TAK determines whether to issue the VAT Registration Certificate or not within five working days from receipt of the application form, after ensuring that the information provided in the registration form is accurate and that the taxable person has complied with all tax obligations.

The business registration in Kosovo is handled by the Agency of Business. It operates an electronic data system as a simple and faster registration process for new businesses. This is realized by the connection with 29 municipal registration centers known as "One-Stop Shop." After the registration process, the taxable person receives its registration and fiscal number administered by the tax authorities.

Deregistration. Every taxable person registered for VAT purposes may request to be deregistered if, over the last calendar year, the turnover fell below the VAT registration threshold. Taxable persons ceasing their economic activity are liable to request to be deregistered within 15 days from the termination of their activity. Deregistration enters into force two months after the date of the deregistration request.

Changes to VAT registration details. If there are any changes to a taxable person's VAT registration details, relevant documents and forms need to be filed with TAK.

Any changes in the registration details of the taxable person need to be submitted within 15 working days before the change takes place. Some changes in the registration information may require the tax authorities to issue a new fiscal code.

Any changes in the registration information must be made through the "Fiscal Number Application Form" with an indication that this form has been submitted to change registration information. For example, in case of a change of the name or address of business, an online form should be completed and submitted along with a copy of the identity card of the shareholder(s) and the original business certificate. In case of a change in the form of company, the required documents include an online form, copy of the identity card of the shareholder(s), the original business certificate, certificate from the tax administration for change of business type and the agreement between the shareholders. The applications need to be made in person or through an authorized person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18%
- Reduced rate: 8%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services and imports, unless a specific measure allows a reduced rate or an exemption.

The use of goods or services purchased or produced in the course of business activity for private purposes, or other nonbusiness purposes, or their disposal free of charge (other than goods for business use as samples or as gifts of small value), must be treated as taxable supplies to the extent that the VAT on those supplies was deductible.

Some supplies are treated as "exempt-with-credit," which means that no VAT is chargeable, but the supplier may recover the input tax.

Examples of goods and services taxable at 0%
(i.e., exempt with credit)

- Export of goods
- International transport
- Supplies under diplomatic and consular arrangements
- The supply of goods or services to international and inter-governmental bodies
- Supply of gold to the Central Bank of Kosovo
- Related supply of services by intermediaries taking part in the above transactions

Examples of supplies of goods and services taxable at 8%

- Water, except bottled water
- Electricity, central heating, waste collection and other waste treatment
- Grains such as barley, corn, maize varieties, oats, rye, rice and wheat
- Products made from grain for human consumption
- Oils made from grains or oilseeds for use in cooking for human consumption
- Dairy and dairy products for human consumption
- Salt appropriate for human consumption
- Eggs for consumption
- Lending of books from libraries, including brochures, leaflets and similar printed materials; children's picture books; drawing and coloring books; music printed texts and manuscripts; and maps, hydrographic charts and similar materials
- Textbooks and serial publications
- Information technology equipment

- Supply of medicines, pharmaceutical products, instruments, and medical and surgical devices
- Medical equipment, ambulances, aids and other medical devices to facilitate activity or treat a disability for exclusive use by the disabled, including the repair of such goods and supply with children's vehicle seats

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Hospital services and medical care
- Education
- Health insurance, life insurance, reinsurance and related services performed by insurance brokers and agents
- Financial services
- Welfare services
- Betting, lotteries and other forms of gambling
- Supply of land or land on which a building or house stands
- The supply of houses, apartments or other accommodations used for residential purpose, including garages and basements
- Leasing of immovable property

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Kosovo.

E. Time of supply

The time when VAT becomes due (or a chargeable event occurs) is called the "time of supply." VAT is due when one of the following events occurs:

- Supply of goods or services
- Issuance of an invoice in respect of a supply of goods or services before the goods or services are supplied
- Receipt of advance payment before the goods or services are delivered

Special rules apply to continuous supplies of goods or services, which are considered as being completed at intervals of one month. Long-term contracts including long-term construction contracts and long-term installation contracts must be regarded as completed at regular intervals but at least at the end of each calendar year.

Deposits and prepayments. When the payment is to be made or is made on account before the goods and services are supplied, VAT must become chargeable when payment is received.

In case of any amount paid or retained in form of a guaranteed deposit in relation to the performance of a supply of goods or service, VAT must become chargeable at the time the deposit is received. In case the amount of the deposit is returned to the customer, then the necessary adjustment should be made for VAT purposes.

Exemption from the above is granted to the guarantees deposited in a bank deposit account or to a third party, without the right of use. In such case, VAT must become chargeable at the time the deposit guarantee is executed.

Continuous supplies of services. Supplies of goods and services performed on a continuous basis, within a period of time, including construction operations, must be deemed to have been made in the same month in which the invoice is issued.

Goods sent on approval for sale or return. There are no special time of supply rules in Kosovo for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The VAT is due on the reverse-charge services in the month when the foreign invoice is received by the customer in Kosovo. VAT is not due until the invoice is issued.

Leased assets. In cases of leased assets, the VAT becomes due at the time when the periodic monthly payments are invoiced to the lessee. In cases of a financial lease, the VAT becomes due at the time of each periodic payment and at the time of final payment for the sale of the asset if the option to buy the leased assets is exercised.

Imported goods. In the case of imported machinery and equipment, either new or secondhand that is used for business purposes and that fall under the Kosovo "Harmonized Nomenclature of Goods System," the VAT is due at the time of import. However, payment of the VAT due may be postponed for a period of a maximum of 12 months from date of the import, provided that the VAT is declared as postponed import VAT in the VAT return and several conditions are met from the taxable person.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is the VAT charged on taxable goods and services supplied to the person for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is the VAT charged on supplies that he makes.

Input tax includes VAT charged on goods and services supplied in Kosovo, VAT paid on imports of goods and VAT applied to reverse-charge services.

The time limit for a taxable person to reclaim input tax in Kosovo is six years. The taxable person's right to claim a VAT refund or offset the VAT credit with output tax expires six years from the date such tax was paid.

Nondeductible input tax. Generally, input tax may not be recovered on purchases of goods or services that are not used for business purposes.

The following list provides examples of items of expenditure for which input tax is not deductible.

Examples of items for which input tax is nondeductible

- Expenditure on yachts and boats intended for sport and recreation, private aircraft, cars and motorcycles used not for business purposes and fuels, lubricants, spare parts and services closely linked thereto
- Expenditure as regards cars used for both private and business purposes, with the right to deduct input tax limited to 50%
- Expenditure for representation, which must include costs for entertainment and amusement during business or social contacts, food costs including drinks and accommodation costs
- Expenditure for immovable property forming part of a taxable person's business assets that is used for both business and private purposes of the taxable person, used for its personnel, or used generally for nonbusiness purposes, with the right to deduct the VAT only to the extent that this property is used for business purposes of the taxable person

Examples of items for which input tax is deductible (if related to a taxable business use)

- Employee expenses
- Business use of phones
- Hotel accommodation

Partial exemption. If a supply of a good or service is used partly for purposes of taxable supplies and partly for exempt supplies, the taxable person may not deduct input tax in full. This situation

is known as "partial exemption." The calculation of the amount of input tax that may be recovered is made on a pro rata basis by using the following formula:

$$\text{Amount of relevant input tax} \times \frac{\text{Turnover enabling VAT credit}}{\text{Total annual turnover}}$$

Supplies of capital goods and the incidental supply of financial services are excluded from turnover for this purpose.

The pro rata of VAT must be determined on an annual basis as a percentage and must be rounded up to the next whole number.

The pro rata VAT calculation is tentatively based on the preceding calendar year's results. It must be adjusted by 31 January of the following year in case of differences between the provisional pro rata and the actual pro rata. The pro rata is not based on the financial year of the company.

Special methods are allowed in Kosovo. Taxable persons are invited to use a pro rata for each individual activity of their business separately, provided they maintain separate accounts for each individual activity and notify the tax authorities of such special method.

Approval from the tax authorities is not required to use the partial exemption standard method in Kosovo. The adjustment of input tax deduction must be done through the VAT return, at the latest by January of the following year.

Capital goods. Capital goods are items of capital expenditure used for the production of other goods and services with a useful service life of one year or more and acquired for a cost price equal to or more than EUR1,000. The services that have the same attributes as the capital goods and of which the cost exceeds EUR20,000 should be considered as capital goods. Input tax is generally deducted in the VAT period in which the goods are acquired. If the business comprises both taxable and exempt supplies and the capital goods do not serve only taxable supplies, the amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. The amount of input tax recovered is adjusted over time if the taxable person's pro rata changes during the adjustment period.

The capital goods adjustment applies to the following assets for the number of years indicated:
- Immovable capital assets: 10 years
- Movable capital assets: 5 years

The adjustment is applied each year following the year in which the goods were used for the first time, to a fraction of the total input tax (1/5 for movable capital goods and 1/10 for immovable capital goods).

The adjustment is not made if the value of the adjustment is less than 3% of the input tax amount.

Refunds. A taxable person may claim a VAT refund if the following conditions are met simultaneously:
- The taxable person carried forward the relevant amount as a VAT credit balance for three consecutive months.
- The amount of VAT credit balance exceeds EUR3,000 for three consecutive months.
- The taxable person submitted all VAT declarations and declarations of other taxes for all previous tax periods.
- The taxable person possesses sufficient documentation to prove the entitlement to the VAT reimbursement claim.

For exports, a refund may be claimed after each tax period provided that the following conditions are met:
- The amount of VAT credit exceeds EUR3,000 at the end of the tax period.
- The taxable person has complied with all applicable customs and VAT provisions.
- All VAT returns and other tax returns for all past periods have been duly submitted.
- The taxable person possesses sufficient documentation to prove the VAT reimbursement claim.

Where new legislation outlines that the taxable person carrying the VAT credit from the first VAT period of the previous year has the right to request for VAT refund regardless of the VAT credit amount if all the VAT returns and returns of other taxes for all the previous tax periods have been submitted. The taxable person must file a "request for refund" form with the relevant tax office. The tax office must verify the fulfillment of the refund conditions and approve the refund within 60 days. Interest is applicable after exceeding the 60-day period if no reason for delay exists.

The Minister of Economy and Finance must issue a relevant regulation to determine alternative procedures for refunding VAT to persons not required to submit VAT returns, to persons who cease their economic activity, and to taxable persons and customers who are not established in Kosovo.

Pre-registration costs. Input tax incurred on pre-registration costs in Kosovo is not recoverable.

Bad debts. Taxable persons who have not received partial or total payment for a taxable supply may claim VAT charged in respect of that supply after initiating court procedures for the recognition of the bad debt for amounts above EUR500.

The VAT deduction must be allowed in each tax period after the debt becomes a bad debt and may start no sooner than six months after closing the tax period for which VAT has been applied in respect of the supply. The procedures for the writing-off of the bad debt should be initiated within 24 months from the payment due date, otherwise the non-collected payment will not be considered as bad debt.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Kosovo.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Kosovo is not recoverable.

H. Invoicing

VAT invoices. A Kosovan taxable person must issue invoices for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax deduction or a refund. To qualify as valid, an invoice should comply with the requirements set out in the Kosovan VAT law. There are no requirements regarding the language of the invoice; however, for inspection purposes, the VAT authorities may ask for a translation of the invoice into an official language of Kosovo (Albanian and Serbian).

Credit notes. A VAT credit note may be used to reduce the VAT charged on a supply of goods or services; a debit note may be used to increase the amount of VAT. Tax credit and debit notes must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is allowed in Kosovo, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Kosovo. There is no threshold beyond which

taxable persons are required to adopt electronic invoicing in Kosovo. The requirements related to electronic invoicing are the same as those for paper invoicing.

The Kosovan VAT law permits electronic issue of invoices subject to acceptance by the recipient. The authenticity of the origin and the integrity of their content must be guaranteed by means of advanced electronic signature or by means of electronic data interchange EDI as defined by European arrangements and recommendations.

Note: electronic invoicing is not often used in practice in Kosovo due to the lack of secure platforms for data interchange.

Simplified VAT invoices. Taxable persons can issue summary invoices if they carry out several separate supplies of goods or services during a tax period that corresponds to a calendar month.

Simplified VAT invoices can only be issued where the supply is equal to or less than EUR500 and is made to nontaxable persons. The Tax Procedures Instruction stipulates that a taxable person must issue an invoice to a nontaxable person before the 15th day of the month following the month in which any of the following chargeable event occurs:
- The supply of goods or services to another taxable person takes place.
- The payment is performed before the goods or services are supplied.
- A continuous supply of goods (such as electricity) or service (such as a fixed telephone line) takes place, in which case the continuous supply is considered to take place in monthly intervals.

The businesses that are neither registered for VAT, nor required to be registered for VAT, issue an invoice without VAT and have no right to benefit from VAT or charge VAT.

Self-billing. Self-billing is allowed in Kosovo. The customer can bill themselves on behalf of the supplier for supplies of goods or services received by a taxable person if a previous agreement is in place between both parties and provided that the goods/service provider accepts the invoice issued on its behalf.

Proof of exports. All persons are required to obtain an export certificate prior to undertaking any export activities. Each export certificate will have a unique serial number.

Exports of goods must be verified and documented with customs export documentation, as provided in the relevant legislation. Moreover, invoices related to an export sale should contain the legislative reference on export of goods in it.

Foreign currency invoices. Invoices may be issued in any currency, provided that the taxable amount and the amount of VAT due is expressed in the domestic currency, which is the euro (EUR). Where the taxable amount of a transaction, other than the importation of goods, is expressed in a foreign currency, the conversion of this amount into the domestic currency (euros) must be the latest selling rate as defined by the Central Bank of Kosovo recorded at the time VAT becomes chargeable. Where the value and factors used to determine the taxable amount on importation are expressed in a foreign currency, the conversion of this amount into euros must be made by applying the exchange rate determined in accordance with the Customs regulations governing the calculation of the value for customs purposes.

Supplies to nontaxable persons. When a taxable person makes a supply of goods or services to private consumers, the taxable person issues a coupon from an electronic device instead of a fiscal invoice. However, in case the private consumer performs economic activities, it can request to the taxable person to issue a fiscal invoice.

Records. In Kosovo, examples of what records must be held for VAT purposes include all the information contained in invoices, coupons, debit or credit notes, or in other documents serving

the same purposes. Such information must be recorded in the books and records to be kept by the taxable person. All documents must be kept in chronological order and must be cross-referenced to each other if they refer to the same taxable event.

In Kosovo, VAT books and records can be kept outside of the country. While there are no provisions in the Kosovo VAT law about where records must be held, in practice, records may be held in or outside of Kosovo. A taxable person must inform TAK of where its records are held. TAK must have access to where the records are held. All records must also be made available to TAK at the place where the taxable person has its business or has its fixed establishment, or, in the absence of such a place, the place where it has its permanent address or usually resides in Kosovo, without undue delay whenever TAK so requests.

Record retention period. A taxable person must keep its books required by the law for a period of at least six years, which starts on 1 January of the year after the year when the taxable event took place. The retaining of documentation related to immovable property for 20 years is an exception to this general rule. The same rules are valid in respect of electronic storage of such documents, books, records and registers.

Electronic archiving. Electronic archiving is allowed in Kosovo. The taxable person should retain copies of the information technology programs that are used for the administration of the accounting and tax records, books and all other related documents and provide paper copies of these programs that allow them to be read. Producing and storing invoices and all other tax documents, books and records referred to in the VAT law in a suitable electronic format or similar system such as microfilms, microfiches and scanned formats, can only be authorized by the General Director of TAK after receiving a written request from the taxable person. This request must be accompanied by a detailed description of the system and must contain the necessary evidence that all security in respect of producing and storage requirements for invoices, books and record-keeping are met.

I. Returns and payments

Periodic returns. The tax period is a calendar month. The taxable persons must submit the VAT returns due not later than the 20th of the calendar month following the end of each tax period. For imports, VAT is payable upon importation.

For a taxable person that is newly registered, the first tax period begins on the date of the registration, as stated in the certificate of registration. The last taxable period for a taxable person undergoing a deregistration procedure must end on the date of the deregistration having begun on the first day of that month.

For a taxable person against whom a liquidation or bankruptcy procedures has been initiated, the tax period must begin on the day of the opening of the liquidation or bankruptcy procedures and must end on the date of the decision on the conclusions of such procedures.

Periodic payments. The taxable persons must submit the VAT due by the same time as the VAT return submission deadline, i.e., by the 20th of the calendar month following the end of each tax period. All VAT payments must be made through the electronic declaration system (see the *Electronic filing* subsection below).

Electronic filing. Electronic filling is mandatory in Kosovo for all taxable persons. TAK has developed the electronic declaration system (EDI), which enables taxable persons to open an online account that will enable them to declare and pay their tax liabilities, including VAT. This system also enables any correction of tax returns. The electronic declaration system is accessed through the TAK homepage. Then, under the electronic services section the taxable person can access EDI system.

Payments on account. Payments on account are not required in Kosovo.

Special schemes. *Travel agencies.* This scheme applies to transactions where the travel agency deals with customers in its own name and uses the supplies of other taxable persons in the provision of travel services. The taxable amount and the price exclusive of VAT in respect of the single service provided by the travel agent must be the travel agent's margin, being the difference between the total amount, exclusive of VAT, to be paid by the traveler and the actual cost to the travel agent of supplies of goods or services provided by other taxable persons, where those transactions are for the direct benefit of the traveler.

The special scheme does not apply to travel agencies that act only as intermediary, in which case the supplies and services of other taxable persons can be treated as disbursements.

Secondhand goods, works of art, collector's items and antiques: profit margin scheme and special arrangements for sales by public auction. The profit margin of the taxable dealer must be equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price of these goods. The taxable amount in respect of the supply of secondhand goods, works of art, collector's items and antiques must be the profit margin made by the taxable dealer, less the amount of VAT relating to the profit margin.

The Minister of Finance may apply special provisions different from the above in respect of the determination of the taxable amount of supplies of secondhand goods, works of art, collector's items or antiques effected by an organizer of sales by public auction, acting in its own name, pursuant to a contract under which a commission is payable on the sale of those goods by public auction, on behalf of persons as will be determined with a sublegal act by the Minister of Finance. Special obligations must be imposed on the organizer of the sale by public auction in respect to the issue of an invoice or a document in lieu of the purchaser, as well as in respect to the content of such documents.

Flat rate scheme for farmers. This taxation scheme aims to offset the VAT charged on purchases of goods and services made by the flat rate farmers by adding an additional amount to the price of supply these farmers charge to their customers (taxable persons). This is calculated as a percentage of the price and must be called the flat rate percentage, which will differ depending on the agriculture category. The flat rate percentages must be defined based on statistical, relevant and macroeconomic data that enable the calculation of the VAT refund for purchases made by flat rate farmers.

Investment gold. Special obligations exist for taxable persons trading in investment gold. The supply and importation of investment gold is an exempt supply with the right to opt for taxation. A taxable person making a subsequent supply of investment gold may deduct the input tax incurred in respect of investment gold supplied to it by a person who opted for taxation. Taxable persons must keep records of investment gold transactions and keep documentation for 10 years after the end of the year to which such documents refer, regardless of what is defined in the relevant law on tax administration and procedures.

Annual returns. Annual returns are not required in Kosovo.

Supplementary filings. *VAT ledger.* In addition to the monthly VAT return, taxable persons are also required to file a VAT ledger on a monthly basis, by the same deadline (see the *Periodic returns* subsection above). The VAT ledger is composed of purchase and sale ledgers. It is a mandatory requirement for all taxable persons to hold and maintain their purchase and sale ledgers. They must indicate on the first page the identification number and name of the person.

Further detail on the purchases and sales ledgers are outlined below.

The purchase ledger registers the date of the issuance of the invoice, serial number of the invoice, data of the import declaration, name of vendor, number of tax identification and VAT number, if applicable. Purchases are registered in the total value, which includes VAT (if any). Purchases with VAT are registered separately on imports and purchases within the county. For each purchase with VAT, the person must register the taxable value and the VAT corresponding to the purchase.

The sales ledger registers the sales separately for those exempted, sales with the right to be credited, exports and taxable sales according to the applicable rate. The taxable amount and the VAT must be registered for every taxable sale.

Correcting errors in previous returns. The taxable person can submit a new amended tax return in cases when it notices that the original submitted tax return is not correct. The taxable person can amend the returns of the last six years with the condition that this return has not been a subject of assessment from the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Kosovo.

J. Penalties

Penalties for late registration. Every person who has not applied for registration in due time must be registered by TAK with retroactive effect as of the date the threshold was exceeded and must be liable for the VAT retroactively, plus an administrative penalty, if failure to register is due to negligence. The penalty equals 15% or 25% of the VAT due, depending on whether the taxable supplies made prior to registration were less or more than EUR10,000. In addition, default interest is applicable.

Penalties for late payment and filings. Late filing of VAT return is subject to a penalty of 5% of the tax due for each month of delay, capped at 25% of the unpaid tax liability. In addition, default interest is applicable.

There are no penalties imposed for late filing or non-filing for the VAT ledgers.

Late payment of a tax obligation triggers a penalty amounting to 1% of tax due for each month or part of the month in delay up to maximum of 12 months. In addition, interest is applicable.

Penalties for errors. Failure to issue a VAT invoice or issuance of an inaccurate invoice that results in a decrease of the VAT due, or an increase of the VAT credit must be subject to a penalty of 15% of the VAT amount where this was due to the negligence of the taxable person. The penalty will increase to 25% in case of failure to issue an invoice for a taxable supply greater than EUR1,000 or issuing an incorrect invoice that is more than EUR500 above or below the amount that should have been included in the invoice of the taxable person. In addition, default interest is applicable.

Erroneous completion of a tax filing or a tax refund claim is subject to a penalty of 15% of the undeclared tax liability or the excess tax refund claimed where such understatement or overstatements is 10% or less of the VAT due, or 25% where the understatement or overstatements is more than 10% of the VAT due. In addition, interest is applicable.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details can result in a EUR500 administrative penalty. In addition, in case the changes turn the taxable person's status from a non-registered business for VAT to a business that needs to be registered for VAT purposes, the following administrative penalties apply:

- 15% of the VAT due on those supplies, if failure to register is due to negligence of the person making taxable sales of less than EUR10,000
- 25% of the VAT due on those supplies, if failure to register is due to negligence of the person making taxable sales of more than EUR10,000

For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Taxable persons who commit criminal offenses are penalized under the Criminal Code. These offenses relate to certain situations, including, but not limited to, the following:

- Taxable persons willfully evade partially or entirely the payment of taxes or gain unwarranted tax refunds or tax credits
- Taxable persons provide false information relevant for the collection of taxes
- Taxable persons act as a member of a group formed for the purpose of repeatedly committing tax evasion

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Kosovo.

Statute of limitations. The statute of limitations in Kosovo is six years. This is from the filing of a tax return or its amendment. The statute of limitation does not apply if the taxable person has failed to submit a tax return or has committed tax evasion. The statute of limitation also does not apply if a taxable person's tax liabilities are understated, or its tax credits are overstated as a result or fraud committed by another person.

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Kuwait is a Member State of the Gulf Cooperation Council (GCC). The GCC consists of Bahrain, the Kingdom of Saudi Arabia, Kuwait, Oman, Qatar and the United Arab Emirates. The GCC has agreed that VAT will be implemented by each Member State.

At the time of preparing this chapter, the Kingdom of Saudi Arabia, United Arab Emirates, Bahrain and Oman are the GCC Member States to have implemented VAT. The Kuwait Cabinet has approved a bill that approves the GCC Unified VAT Framework Agreement and the GCC Unified Selective Tax Agreement. The bills are submitted for the approval of the National Assembly, but there has been no implementation date announced formally by the State of Kuwait. There is currently no clarity on when Kuwait will introduce VAT.

The GCC Common VAT Agreement contains the main principles of the GCC VAT system and sets out the options that individual Member States may choose in terms of the VAT treatment applicable to certain supplies and business sectors. The options are primarily administrative, and where aspects are not dealt with by the GCC Common VAT Agreement, then each Member State may determine individually.

At the time of preparing this chapter, the GCC Common VAT Agreement has no direct effect in the GCC Member States, except if the respective Member States' domestic VAT law specifically refers to the provisions in the Common Agreement.

The summary set out below is based on the GCC Common VAT Agreement.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	*No formal implementation date has been announced*
Trading bloc membership	Gulf Cooperation Council (GCC)
Administered by	*To be confirmed*
VAT rates	
Standard	5% *(expected)*
Other	Zero-rated (0%) and exempt
VAT number format	*To be confirmed based on the local VAT legislation*
VAT return periods	Monthly/quarterly – *to be confirmed based on the local VAT legislation*

Thresholds	
Registration	KWD30,400
Recovery of VAT by non-established businesses	Yes (there are provisions under the GCC VAT Framework Agreement that allow VAT refund for nonresidents, subject to the satisfaction of the stipulated conditions)

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	ອາກອນມູນຄ່າເພີ່ມ
Date introduced	6 August 2018
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	Ministry of Finance (http://www.mof.gov.la)
VAT rates	
Standard	7%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID Number – 999999999 (12 digits)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supplies of taxable goods and services in the People's Democratic Republic of Lao (Laos) in the course of a business by a taxable person
- Imports of taxable goods into Laos, regardless of the status of the importer
- Supplies of taxable goods and services in Laos from non-established suppliers
- Export of taxable goods and/or services by a taxable person

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Laos, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Laos. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Laos, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, instead, the market value of similar transactions will be used for comparation, and the withholding tax mechanism will be applied with respect to transactions with overseas related parties.

C. Who is liable

There is no VAT registration threshold in Laos. A taxable person must register for VAT for any taxable activity carried out. This means that all businesses (which covers individuals, legal entities and organizations) engaged in supplies of goods or services subject to VAT (including importing goods and/or services) are required to register for VAT in Laos. This also means those who purchase taxable goods and services from non-established or established businesses in Laos are liable to register and account for VAT. In principle, this only applies if the recipients of goods and services are a legal entity. This also means they can claim any input tax incurred (such importation VAT).

Exemption from registration. The VAT law in Laos does not contain any provision for exemption from registration.

Voluntary registration and small businesses. While there is no VAT registration threshold in Laos, it is possible for a taxable person who is not required to register for VAT under the VAT law in Laos (e.g., because it makes supplies within the scope of VAT, but its turnover is lower than the voluntary registration threshold, which is LAK400 million) to register for VAT on a voluntary basis (e.g., because all its supplies are made to other businesses and it wants to recover input tax on its purchases).

Small businesses may register for VAT voluntarily if their annual revenue exceeds LAK400 million. A business may also voluntarily register for VAT in advance of making taxable supplies if its supplies are expected to exceed LAK400 million.

Group registration. Group VAT registration is not allowed in Laos.

Fixed establishment. In Laos, there is no legal definition of a fixed establishment for VAT purposes. However, the enterprise system definition of a fixed establishment in Laos can be used for VAT purposes. This is defined as a business organization of an individual or legal entity that has a name, capital and management team office in Laos.

Non-established businesses. Non-established businesses do not have a requirement to register for VAT in Laos. This only applies to business-to-business (B2B) supplies, and not business-to-consumer (B2C) supplies.

The withholding VAT mechanism (at 7%) will apply on supplies made by non-established businesses to local business customers (B2B) in Laos. The local business customer will withhold and pay the VAT to the Laos tax authorities on behalf of non-established business.

For supplies made by non-established businesses to local private customers in Laos (B2C), the non-established business must register for VAT in Laos, via a local agent, representative office or subsidiary, and account for VAT on its supplies.

Tax representatives. Tax representatives are not required in Laos. However, the definition of a "tax representative" in Laos excludes local agents that are required to be registered and account for VAT in Laos on behalf of a non-established business making B2C supplies.

Reverse charge. VAT is charged via the reverse-charge mechanism, on services provided by non-established businesses, specifically "foreign contractors" who apply the foreign contractor (FCT) declaration under the deemed method. Upon making payment, the local taxable person must withhold the FCT amount (including VAT and corporate income tax). The FCT shall be declared and paid to the tax authorities within 15 working days from payment date. The Laos reverse-charge mechanism is the same as the withholding VAT mechanism (see the *Non-established businesses* subsection above). Withholding FCT is the total of the withholding VAT and withholding CIT.

Domestic reverse charge. For B2B supplies, a taxable person is required to withhold tax and pay on behalf of supplier in case the VAT in-voice is not available.

Digital economy. Local taxable persons that supply digital services in Laos are liable to charge VAT on the services provided. It is considered as a general provision of services where the VAT liability will be triggered upon the receipt of services at the standard rate.

Nonresident providers of electronically supplied services for business-to-business (B2B) and business-to-consumer (B2C) supplies, need to register and account for VAT on supplies made in Laos, otherwise the VAT will be withheld by the payment services provider. For B2B supplies, if the nonresident provider does not register and account for VAT, the customer is required to withhold, declare and pay VAT on behalf of the service provider at the standard rate. The VAT due is withheld by the payment services provider.

For B2C supplies, if the nonresident provider does not register and account for the VAT due, the individual customer must pay directly to the nonresident provider and withhold VAT 7% on the payment to the nonresident provider. The VAT due is withheld by the payment services provider.

At the time of preparing this chapter, no specific guidance/regulations have been issued on the registration rules for nonresident providers of electronically supplied services. As such, this means that in practice, the withholding VAT mechanism is applied for nonresident providers operating in Laos.

There are no other specific e-commerce rules for imported goods. This means that VAT is paid for imported goods upon customs clearance.

Online marketplaces and platforms. For e-commerce businesses, the sale of goods via an online platform or marketplace by a taxable person is considered as a general sale of goods, where the VAT liability will be triggered upon the receipt of services/goods. The owner of the goods is the supplier (i.e., the taxable person, who can be a private individual or legal entity). If the supplier is an established legal entity, then it is required to register and account for the VAT due on the supply. If the supplier is a nonresident, then there is no requirement to register and account for the VAT due. Instead, the customer or owner of the online platform or marketplace is required to account for the VAT due by withholding the VAT due on the payment and pay the VAT to the tax authorities. The VAT due is withheld by the payment services provider.

Registration procedures. For a newly established business that has completed the incorporation procedures and received an enterprise registration certificate and enterprise number, the tax identification number will be shown on this certificate and tax system server. No separate VAT registration procedures are required.

The relevant registration officer/authorities must notify the local tax authority where the newly established business is located.

The application for newly established businesses must be submitted by paper and include the following documents:
- Enterprise registration request form
- List of investors/shareholders and identification documents of such investors/shareholders
- Decision (i.e., the minutes of the meeting or announcement of shareholder on the new enterprise establishment) on enterprise establishment
- Rental contract of office where the enterprise located
- Investment license for foreign investor as stipulated under Investment Promotion Law.

The outcome of the registration application will be sent to the applicant within 10 working days from the submission date.

Deregistration. A taxable person can revoke its VAT registration number in Laos (i.e., deregister) only when it ceases its taxable activities in Laos. After it has paid all its outstanding tax liabilities, it can apply to revoke its VAT registration number.

The taxable person must inform the relevant government bodies and the tax authorities on its decision to revoke its VAT registration number. It will need to complete a tax inspection from the tax authority before it can deregister from VAT. After the tax inspection has been completed, and the taxable person has paid any outstanding VAT due (if any), the tax authority and other relevant government bodies will issue the notice on the deregistration.

Changes to VAT registration details. If there is a material change in a taxable person's VAT registration details, it must notify the tax administration within 15 days of the event. Material changes may include:
- Change to the number of branches
- Change to the amount of capital registered to the taxable person
- Change to business address
- Change to business name
- Change to business activities carried out by the taxable person

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 7%
- Zero rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

The standard rate of VAT was decreased from 10% to 7% with effect from 1 January 2022.

Examples of goods and services taxable at 0%
- Exported goods and services, including goods and services sold to overseas organizations or individual outside Laos
- Construction and installation carried out overseas or supply of goods/services within special economic zone
- International transportation

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Agriculture products, animals and animal products
- Fertilizer, agricultural processing industrial, bio-fertilizer, chemical fertilizer, pesticide for plants and animals
- Equipment and machinery use for agriculture activities
- Study textbooks, teaching methods, modern equipment that is used for learning and teaching
- Newspapers, political magazines, television programs, radio programs that work for publishing government's political policies with no business purpose
- Education activities, such as children centers, kindergartens, primary and secondary schools, vocational schools, vocational training centers, colleges and universities, sport and gymnasium centers
- Deposit interest, loan interest, income from money transfer, gain on foreign exchange or other financial activities from the operation of commercial bank or finance institution as approved by the bank of Laos

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Laos.

E. Time of supply

In Laos, the general time of supply rule for goods (i.e., the basic tax point) is when the ownership or use rights of the goods are transferred, regardless time of payment is made.

For services, the general time of supply rule (i.e., the basic tax point) is when the service is completely performed or when the VAT invoice is issued, regardless of when the time of payment is made. This is because there are two ways to determine the general time of supply rule. This depends on the nature of service being provided and the agreement between both parties involved in the transaction. For example, this can be the completion of the service or based on service progress (30%, 50%, etc.).

For the services provided by non-established business, the general time of supply rules is when the payment to non-established business is made.

Deposits and prepayments. For deposits and prepayments, the tax point is when the deposit/prepayment is made with the requirement for an invoice to be issued.

Continuous supplies of services. There are no specific time of supply rules in Laos for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Laos for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. Reverse-charge services relate to foreign contractors who apply the foreign contractor tax (FCT) declaration under the deemed method. Upon making the payment, the Laos company shall withhold FCT then declare and payment on behalf of the foreign contractor. Withholding FCT is the total of the withholding VAT and withholding CIT.

Leased assets. The tax point for the supply of leased assets is upon the receipt of the rental fee or the issuance of an VAT invoice (whichever is earlier).

Imported goods. The tax point for imported goods is the date of importation, and at this point the VAT must be declared and paid.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on taxable goods and services supplied to it for business purposes, to the extent that costs corresponding to the input tax are for sales that are subject to VAT.

A taxable person generally recovers input tax by deducting from output tax, which is VAT charged on supplies made. If the input tax exceeds output tax due, this excess tax can be claimed as a refund.

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

There is no time limit for reclaiming input tax from a previous period according to the VAT law. However, in practice, the tax authority may not accept a backdated input tax claim if the reclaiming input tax is over one year, as it may prove difficult for reconciliation purposes and tracking the supplies and relevant documentations, etc.

Nondeductible input tax. In general, input tax may not be recovered on purchases of goods and services that are not use for business purposes (for example, goods acquired for private use). In addition, the input tax may not be recovered if the purchases are not supported by sufficient documents (e.g., VAT invoice, contract, payment documents).

Examples of items for which input tax is nondeductible

- Purchases used for nonbusiness purposes
- Entertainment or similar expenses
- Business gifts
- Laptops, tablets, telephones, which are not recorded as a fixed assets of the taxable person
- Purchase, lease or hire of benefits in kind (such as employee accommodation or personal cars)

Examples of items for which input tax is deductible (if related to taxable business use)

- Advertising/marketing services
- Purchase of raw materials, goods, fixed assets
- Payment for rental fees, electricity
- Attending conferences and seminars
- Purchase, lease or hire of cars, vans or trucks
- Maintenance and fuel for vans and trucks
- Business travel expenses

Partial exemption. Where a business makes supplies of taxable and nontaxable goods and services, the input tax should be recalculated/proportionated to reflect the percentage of supplies that are taxable, to calculate the amount of input tax that can be recovered. Taxable persons must maintain separate accounts for taxable and nontaxable input tax.

If no separate accounts are maintained by the taxable person, the deductible input tax calculation must be calculated based on the ratio of the proportion of taxable revenue compared with total revenue.

Approval from the tax authorities is not required to use the partial exemption standard method in Laos. Special methods are not allowed in Laos.

Capital goods. In Laos, capital goods are defined as tangible fixed assets, such as buildings, vehicles, machines, equipment, etc. Under Laos VAT law, when capital goods are purchased, the input tax incurred can be deducted in full (subject to partial exemption). However, if the capital good purchased was a building, only up to 70% of the input tax incurred can be deducted, the remaining 30% is recorded as the value of the building.

There are no specific rules for capital goods in respect of time and duration of use.

Refunds. Businesses that pay VAT due using the "tax credit method" are eligible to claim a refund of input tax, where the input tax is not deducted all within three months from the month the VAT occurred. The "tax credit method" is the net amount between output and input tax. The input tax must be claimed on a monthly basis. Where the input tax has not all been deducted within three months, the taxable person can request a general VAT refund for the excess amount.

If the amount of input tax credits in a period exceeds the output tax in the same period, the excess amount is refundable. In general, refund claims must be made at the end of the year. However, certain taxable persons may claim refunds on a monthly basis. The Laos tax authorities conduct audits to ensure the validity of VAT refund claims. The tax audit must be concluded within one year after the date of the request for a refund.

Pre-registration costs. Input tax incurred on pre-registration costs in Laos is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Laos. To claim the bad debt, the output tax must have already been written off as an expense and as a provision for bad debts. It is also required for the bad debt to be certified by the relevant authorities (e.g., court, police, village).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Laos.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Laos is not recoverable.

H. Invoicing

VAT invoices. A standard VAT invoice for all taxable supplies (goods, services, including exports) made must be provided by taxable persons.

The invoice can be presented in the following three forms:
- Purchase from tax authority: wholly printed and provided by tax authority
- Self-printing invoice: produced by a printing house by order to tax authority or of taxable person
- Electronic invoice: must be created, issued and processed on computer; program of taxable person under Laos law and must get approval from tax authority in advance

Credit notes. Credit notes are not available in Laos. Any adjustment or cancellation to a supply must be reflected by way of an adjustment of the original invoice. If it concerns a return of goods, the customer is required to issue an invoice to the supplier (for B2B supplies only); or the supplier must issue a memo on cancel of the original invoice and adjust its VAT return in the following period. In case an issued invoice is incorrect before it is sent to the customer, the supplier must cross out the copies, keep the incorrect invoice and reissue the correct invoice.

Electronic invoicing. Electronic invoicing is mandatory in Laos for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory in Laos. There is no threshold on the value of services/goods that need to issue electronic invoice.

All taxable persons are required to issue electronic invoices when making supplies of any services/goods in Laos. However, the taxable person shall need to register with the tax authority in advance.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Laos. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Laos.

Proof of exports. Exports of goods and services are subject to VAT at the zero rate. However, to zero-rate the supply of exports, such supplies must be supported with evidence that the goods were exported outside of Laos. Valid evidence of export includes full VAT invoice, customs declaration, contract, bill of lading and others payment documents.

Foreign currency invoices. For supplies invoiced in a foreign currency, the amounts must also be reported in the domestic currency, which is the Lao kip (LAK). The official exchange rate, issued by the Laos Central Bank on the date on which the VAT invoice is issued, must be used to convert the currency.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable person in Laos. As such, full VAT invoices are required.

Records. In Laos, examples of what records must be held for VAT purposes include tax records (e.g., tax returns, tax calculations, tax payment documents); invoices and others supporting documents. In Laos, VAT books and records must be held within the country.

Record retention period. All accounting data, accounting books and financial statements must be kept for 10 years in good condition and be available upon request for inspection by the tax authority.

Electronic archiving. Electronic archiving is allowed in Laos. Records can be kept and archived electronically. However, in the event of a tax audit or other dispute process, the tax authority may request the original hard copy of the records/documents, and only VAT invoices are acceptable as a printout of electronic form.

I. Returns and payment

Periodic returns. All taxable persons are required to file VAT returns on a monthly basis in Laos. The deadline for monthly VAT returns is the 20th of following month.

There is currently no requirement in Laos for the VAT to be reconciled and finalized with the tax authorities on an annual basis.

Periodic payments. The VAT payable, if any, must be settled before the submission deadline of the monthly VAT return, i.e., by the 20th of following month. Payments must be made electronically online, via the website of the tax authorities (i.e., internet banking or bank transfer).

Electronic filing. Electronic filling is mandatory in Laos for all taxable persons. The taxable person must submit the VAT return and payment via the website of the tax authorities (*http://taxservice.mof.gov.la/websquare/websquare.do*).

Payments on account. Payments on account are not required in Laos.

Special schemes. No special schemes are available in Laos.

Annual returns. Annual returns are not required in Laos.

Supplementary filings. No supplementary fillings are required in Laos. However, in case the tax declaration dossier (e.g., the VAT return, and in addition tax calculations and tax payment documents, etc., which are only required to be submitted upon request) submitted to the tax authority is erroneous or inadequate, supplementary documents may be provided within 10 years from the

deadline for submission of the erroneous or inadequate tax declaration dossier, but before the tax authority announces a decision on tax documents examination.

Correcting errors in previous returns. Taxable persons can correct information recorded in the VAT return by amending the VAT return in following month. Taxable persons can submit a supplementary VAT return (e.g., the previous tax return, a letter outlining the reason(s) for the error and adjustment(s), previous calculation) to correct the previous return to tax authority. Depending on the size and scale of the error, a penalty ranging from LAK500,000 to LAK1 million may be charged.

Digital tax administration. There are no transactional reporting requirements in Laos.

J. Penalties

Penalties for late registration. If a taxable person registers late for VAT, penalties may be imposed on the supplies of taxable goods and services made before the date of registration. The penalty for late registration is LAK1 million.

Penalties for late payment and filings. Interest is charged for the late payment of VAT at 0.1% per day the payment is late.

For late filling, the penalty LAK500,000 per late filing will apply.

Penalties for errors. A penalty, charged at the rate of 50% of the VAT base amount, is imposed for any additional VAT payable that was misreported and underpaid.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details to may result in a penalty of LAK3 million. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The definition of fraud under Laos VAT law includes not providing support to the tax authority or providing incorrect documents, providing information not clearly and/or incorrect. In such cases, a penalty of LAK1 million will apply.

Personal liability for company officers. In general, company officers are not personally liable for the company's tax violations, unless criminal intent is detected. It is reviewed on a case-by-case basis, and it will depend on the seriousness of the violation, assessment by the relevant authorities (e.g., the tax authority, police) and applicable laws.

Statute of limitations. The statute of limitations in Laos is three years. Tax authorities can go back to review tax returns and collect VAT within three years from the date the taxable supplies are made. There is no specific time limit for taxable persons to voluntarily correct errors in previous VAT returns. However, in practice, taxable persons are advised to correct any errors before the tax inspection is carried out.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Pievienotās vertības nodoklis (PVN)
Date introduced	1 May 1995
Trading bloc membership	European Union (EU)
Administered by	State Revenue Service (SRS) (http://www.vid.gov.lv)
VAT rates	
Standard	21%
Reduced	5%, 12%
Other	Zero-rated (0%) and exempt
VAT number format	LV12345678901
VAT return periods	Monthly and quarterly
Thresholds	
Registration	
Established	EUR50,000
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods, including the supply of goods within the European Union (EU) and exports of goods

- The supply of services in Latvia
- The intra-Community acquisition of goods from another EU Member State by a taxable person *(see the chapter on the EU)*
- The importation of goods into Latvia, regardless of the status of the importer
- The acquisition of new vehicles within the EU by a non-registered or nontaxable person
- The supply of new vehicles from Latvia to any other EU Member State
- Self-supply (consumption) of goods and services
- Reverse-charge services received by a taxable person established in Latvia
- Distance sales of goods in Latvia made to nontaxable persons

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

In Latvia, the Quick Fixes rules are applicable as of 1 January 2020; an overview of the changes are below:
- Call-off stock: Latvia implemented the respective EU law without any local changes.
- Chain transactions: Latvia followed the approach of the respective Quick Fix already in the past; no practical change has been made in this respect.
- Proof of cross-border transactions: No specific legal provision has been implemented, as the Implementing Regulation is also directly applicable in Latvia.
- Valid customer VAT ID: VAT exemption related to intra-Community supply of goods cannot be applied if the respective EU sales and acquisition listings are missing or not completed properly (whether the mistake is connected to the EU VAT ID of the customer or to other numerical or timing difference).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Latvia, the following services are subject to the "use and enjoyment" provisions:
- Transportation of goods services, if such services are provided to a registered taxable person or a registered taxable person of a third country; for clarification, transportation services, when transportation of goods occurs for a registered taxable person, then applies effective use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed
- Electronic communications, broadcasting and electronically supplied service
- Hiring of movable tangible property
- Hiring out of means of transport

Transfer of a going concern. Any transfer of a business entity (of a totality of property or part thereof taking the form of a transfer of assets and liabilities) into the ownership or use of another taxable person shall not be regarded as a supply of goods for consideration, provided that, in the event of the transfer of assets and liabilities, whether for consideration or not, or as a contribution to a capital company or partnership, the person to whom the business entity is transferred:
- Becomes the successor to the transferor within the meaning of the Commercial Law
- The economic activity is carried on for purposes other than the sale of the business or the dissolution of the entity

Transactions between related parties. For a transaction of supply of goods and services between related parties, the taxable value shall be the market value of the supply of goods and services if the transaction value is:

- Less than the market value and the recipient of goods or services has no right to deduct the input tax in full.
- Less than the market value and the supplier of goods or services has no right to deduct the input tax in full, and the supply of goods or services is exempted from VAT.
- More than the market value and the supplier of goods or services has no right to deduct the input tax in full.

C. Who is liable

A taxable person is any natural or legal person or group of such persons bound by agreement, or the representative acting for a group of persons, who performs economic activities and who is registered with the State Revenue Service (SRS) Register of taxable persons. VAT groups and fiscal representatives are also considered to be taxable persons.

The VAT registration threshold for local businesses is turnover subject to VAT greater than EUR50,000 in the preceding 12 months. The threshold of EUR50,000 applies from 1 January 2024; previously it was EUR40,000. If a business exceeds the VAT registration threshold, it must register for VAT by the 15th day of the month following the period in which the threshold is exceeded. However, voluntary VAT registration is possible before reaching the VAT registration threshold.

Mandatory VAT registration is also required prior to supplying services to taxable persons in another EU Member State if the services are deemed to be supplied in that other Member State and the recipients of the services must account for VAT under the reverse-charge mechanism.

For intra-Community acquisitions, nontaxable legal persons and private individuals who perform economic activities but have not triggered the obligation to register for VAT (i.e., non-registered taxable persons), must register for VAT if the value of their intra-Community acquisitions (excluding VAT) in a calendar year is equal to or exceeds EUR10,000.

A state or municipal authority or a municipality that is not registered for VAT with the SRS and that has entered into a contract with a supplier of construction services for the supply of construction services according to the procurement procedure prescribed by the Public Procurement Law, or is involved in a public-private partnership project as a public partner according to the Public-Private Partnership Law shall be registered as a taxable person with the SRS before these services are received.

Exemption from registration. In Latvia there are specific rules and conditions for exemption from registration, which are for Latvian taxable persons, taxable persons of other EU Member States and taxable persons of third countries/third territories.

Exemption from VAT registration for taxable persons established in Latvia. Taxable persons established in Latvia are not obliged to register for VAT if the total value of goods and services supplied by them in the preceding 12-month period does not exceed EUR50,000. This exemption does not apply if a taxable person established in Latvia supplies services to a taxable person from other EU Member States, as well as if a taxable person established in Latvia receives services from a person from outside Latvia (i.e., from other EU Member States or from any third country/third territory) that does not conduct economic activity in Latvia.

The registration threshold of EUR50,000 shall not include the value of fixed assets and intangible investments supplied by a taxable person established in Latvia, if such a supply is carried out once within a time period of 12 months.

Taxable persons established in Latvia are not obligated to register for VAT purposes if after one transaction the registration threshold of EUR50,000 is exceeded, but the taxable person does not intend to carry out other taxable transactions during the next 12 months. Taxable persons established in Latvia are also not obligated to register for VAT purposes if they occasionally supply new vehicles, which are dispatched or transported to the customer by the customer itself, the supplier, or by a third person on behalf of the supplier or the customer, to a destination outside Latvia but within the territory of the European Union.

Exemption from VAT registration for taxable persons of other EU Member States. A taxable person of other EU Member States is not obliged to register for VAT purposes if:

- It carries out a supply of goods or services for which VAT is paid by the recipient of goods or services (i.e., subject to the reverse-charge mechanism).
- It carries out supplies of Community goods already undergoing export customs procedures or non-Community goods in customs warehouses or free zones.
- It carries out such transactions where non-Community goods or Community goods for which exit customs procedures have been commenced are moved from one inland customs warehouse/free zone to another inland customs warehouse/free zone or customs warehouse/free zone of other EU Member States.
- It supplies stocks of production goods or stocks of wholesale goods to a registered taxable person and, in accordance with an agreement entered into between such persons, the property rights to the abovementioned goods shall be transferred to the registered taxable person, which is the recipient of goods only at the time of resale or use.
- It carries out intra-Community acquisition of goods in Latvia and supplies of goods that are part of a triangular supply chain.
- It carries out the supply of goods that are dispatched or transported by the taxable person or another person on its behalf from Latvia to a destination outside the territory of the European Union except goods that are intended for equipping or supplying pleasure boats, private aircraft, or any other means of transport for private use.
- It is represented by a fiscal representative in relation to the relevant resident transactions.
- It supplies goods or services in Latvia to headquarters of allied forces recognized by the Republic of Latvia.

Exemption from VAT registration for taxable persons of third countries/third territories. A taxable person of third country/third territory is not obliged to register for VAT purposes if:

- It carries out the supply of goods or services for which VAT is paid by the recipient of goods or services.
- It carries out supplies of Community goods already undergoing export customs procedures or non-Community goods in customs warehouses or free zones.
- It carries out such transactions where non-Community goods or Community goods for which exit customs procedures have been commenced are moved from one resident customs warehouse/free zone to other inland customs warehouse/free zone or customs warehouse/free zone of other EU Member States.
- It is represented by a fiscal representative (i.e., a registered taxable person) that on the basis of a written contract assumes VAT liabilities, pays tax into the State Budget and represents a taxable person of another Member State or of a third country/territory; the fiscal representative status is only with respect to VAT in relation to the relevant inland transactions.
- It carries out the supply of goods that are dispatched or transported by the taxable person or another person on its behalf from inland to a destination outside the territory of the European Union, except goods that are intended for equipping or supplying pleasure boats, private aircraft or any other means of transport for private use.
- It supplies goods or services inland to headquarters of allied forces recognized by the Republic of Latvia.

Voluntary registration and small businesses. A taxable person can register for VAT voluntarily even if it is not required to register for VAT under the VAT law in Latvia. No explicit restrictions for voluntary VAT registration are laid down in VAT law in Latvia. There are no special VAT registration rules for small businesses.

Group registration. A group registration for VAT purposes is possible in Latvia. Legal entities that are closely connected (through capital or management) may choose to register as a VAT group. A VAT group is treated as a single taxable person, where members of the VAT group are not regarded as independent taxable persons. Only persons established in Latvia may be part of a VAT group. As a result, any establishments (seat or fixed establishment) of such persons outside Latvia may not be part of a VAT group. The group members share a single VAT number and submit a single VAT return.

The following are the rules for the registration of VAT groups:
- The value of taxable transactions of at least one member of the VAT group in the preceding 12 months was EUR350,000).
- Each member of the VAT group must be separately registered for VAT.
- A member of a VAT group cannot be a member of another VAT group.
- VAT group members can be capital companies belonging to the same group of companies as well as Latvian branches of foreign legal entities, provided that, under the Law on Groups of Companies, the foreign legal entity belongs to the group of companies comprising other members of the VAT group.
- The members establishing the VAT group must enter into a valid contract.
- The members of the VAT group must be reachable at their legal addresses.
- The group members are jointly and severally liable for VAT group tax liabilities.

The minimum time period required for the duration of a VAT group is 12 months (unless the conditions for group registration cease to be satisfied).

Holding companies. Latvian VAT law does not contain specific rules regarding holding company inclusion in the VAT group. However, members of a VAT group must be established in Latvia. In practice, a pure holding company (i.e., a nontaxable person) can be part of a VAT group in Latvia. This, of course, can impact the input tax deduction of the VAT group as a whole and limiting the percentage the group can recover.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)f has been implemented in Latvia. This provides an option to exempt services that the cost-sharing group supplies to its members, providing certain conditions are met, which are laid out in Latvian VAT law.

Fixed establishment. The term "fixed establishment" should be understood as explained by Council Implementing Regulation 282/2011/EU and as implemented in the VAT law. A fixed establishment is any establishment characterized by a sufficient degree of permanence and a suitable structure in terms of technical and personnel resources that enable it to provide and receive services.

The local rules do not provide additional criteria or guidance on fixed establishments; thus, every review should be evaluated on case-by-case basis.

Non-established businesses. A "non-established business" is a business that does not have a permanent establishment in Latvia. A non-established business must register for VAT if it makes supplies of goods or services for which it is liable to pay VAT in Latvia. If a non-established business performs intra-Community acquisitions of goods in Latvia or supplies of services and if it fails to register for VAT, in certain cases, the liability to account for reverse-charge VAT

transfers to the recipient of the goods or services in Latvia (provided the recipient is a VAT-registered person). An entity registered for VAT in another EU Member State is not required to register for supplies made to taxable persons established in Latvia if the reverse charge applies (i.e., the recipient of the service must account for the VAT on behalf of the supplier). The reverse charge does not apply to supplies made to private persons.

To register for VAT, a non-established business must submit the following documents to the SRS:
- A completed application form provided for in the Cabinet Regulations
- A copy of the registration certificate
- Confirmation of the address of the business in Latvia, if such an address exists

The documents can be submitted via the following methods:
- Paper form by submitting them in person to the office of the SRS
- Online via the Electronic Declaration System (EDS) of the SRS (if the taxable person has an account there)
- Sending the necessary documents to the SRS by mail (subject to rules of secure electronic signatures); the person who submits the application must be either a person who has signature rights in the company or the applicant's authorized person. The person who submits the application must also present a passport or ID card as proof of identity.

Tax representatives. VAT fiscal representatives (called tax representatives in some other countries) are taxable persons who, based on a written contract, remit to the tax authorities the VAT due by a nonresident taxable person whom they represent, and fulfill on their behalf the administrative obligations relating to the following transactions:
- The importation of goods and the subsequent intra-Community supply of the imported goods
- The importation of goods and the subsequent domestic supply of the imported goods
- The receipt of goods in Latvia that are to be exported and that are stored under warehousing arrangements, and the subsequent exportation of those goods
- The intra-Community acquisition of goods that are to be exported and are stored under warehousing arrangements, and the subsequent exportation of those goods

VAT fiscal representatives must present a power of attorney, and they are responsible for payment of the VAT liabilities of the nonresident taxable person whom they represent. They must file monthly VAT returns in electronic format.

For taxable persons established outside the EU, they are no longer required to appoint a fiscal representative to register for VAT purposes, and they can register in their own names. However, they may still opt to appoint a fiscal representative.

Note that Latvian VAT rulings do not differentiate global and individual representatives and only one type of representative is available – fiscal representative.

Reverse charge. The "reverse-charge" provision applies generally to supplies of goods and services made by non-established businesses to taxable persons and other nontaxable legal persons established in Latvia, provided that VAT is due on these supplies. Under the reverse-charge provision, the taxable person or legal person that receives the supply must account for the VAT due. If the reverse charge applies, the non-established supplier may not account for VAT in Latvia. The reverse charge does not apply to supplies made to private persons.

Domestic reverse charge. *Timber products and related services.* Domestic supplies of timber products and related services are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons.

Scrap materials and related services. Domestic supplies of specified scrap materials and related services are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons and the customer is licensed to purchase scrap materials in Latvia or, lacking

such a license, has obtained a permit for performing A- or B-category polluting activities or for collecting, handling, sorting or storing waste. Scrap materials include certain ferrous and nonferrous scrap, car wrecks, electrical and electronic waste, and batteries.

Construction products, services and construction-related services. Domestic supplies of construction services (such as construction of new buildings or reconstruction of a part or the whole of existing buildings) and construction-related services are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons. Domestic supplies of construction products are subject to the reverse-charge mechanism if the supplier and customer are taxable persons. The domestic reverse-charge mechanism is applicable to construction products from 1 January 2018 but ended on 1 January 2020.

Mobile phones, tablets, laptops, integrated circuits, game consoles. Domestic supplies of mobile phones, computer hardware, integrated circuits and game consoles are subject to the reverse-charge mechanism if the supplier and customer are taxable persons.

Grain crops and industrial crops. Domestic supplies of grain and industrial crops are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons.

Precious metals, semi-finished products of precious metals. Domestic supplies of precious metals, precious metal alloys and precious clad metal are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons.

Plated metals, scrap and waste. Domestic supplies of semi-finished goods of precious metal, plated metal, scrap and waste are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons.

Metal products, semi-finished metal products and related services. Domestic supplies of metal products, semi-finished metal products and related services are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons.

Electronic and electric household appliances. Domestic supplies of electronic and electric household appliances are subject to the reverse-charge mechanism if the supplier and customer are registered taxable persons. The domestic reverse-charge mechanism is applicable to electronic and electric household appliances from 1 January 2018 but ended on 1 January 2020.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see the *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a One-Stop Shop (OSS) mechanism.

In Latvia, in the case of supplies facilitated by an electronic interface, there are two subsequent deemed supplies: the first from the underlying supplier to the electronic interface, and the second from the electronic interface to the customer. In this case, the transport of the supply is assigned to the deemed supply by the electronic interface, and it must apply the distance sales rules. The underlying supplier in this case is not required to charge VAT to the electronic interface, since its supply is either out of scope of EU VAT or a zero-VAT rate is applicable. The place of supply rules for distance sales are applicable to the supply made by the electronic interface to the customer (B2C).

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). In Latvia, non-EU businesses are not required to appoint a fiscal representative for accounting for the VAT due on these transactions.

For detail on the application process in Latvia, refer to the *Registration procedures* below.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return.

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Latvia, reporting for VAT due under the OSS registration must be done electronically via a website, eds.vid.gov.lv (also known as the Electronical Declaration System), which is accessible by filing the registration form.

The individual VAT registration number has the same format as that already allocated to the taxable person by the Member State of identification for domestic supplies. Within five working days, the SRS makes a decision on whether to register the entity, and it informs the entity of the decision no later than the day following the decision.

Registration will take effect from the first day of the calendar quarter following that in which the taxable person applies for the scheme. However, there may be situations in which the taxable person starts making supplies under the scheme before this date. If this is the case, the scheme will start from the date of that first supply, provided that the taxable person has informed the Member State of identification that it has commenced activities under the non-Union or Union scheme by the 10th day of the month following that first supply.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the chapter on the EU*.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In Latvia, reporting for VAT due under the IOSS registration must be done electronically via a website, eds.vid.gov.lv (also known as Electronical Declaration System), which is accessible by filing the registration form.

The VAT identification number allocated can only be used for VAT reporting under the IOSS scheme. An intermediary receives a separate VAT identification number for each taxable person it represents, and this VAT identification number cannot be used by the intermediary to report any other taxable supply it carries out. Within five working days, the SRS makes the decision on whether to register the entity, and it informs the entity of the decision no later than the day following the decision.

A taxable person or its intermediary may start using the IOSS scheme from the date on which the VAT identification number is allocated.

If a supplier or an electronic interface opts to use the IOSS scheme, it will declare all of the distance sales of goods it carries out to customers all over the EU using its IOSS VAT identification number. This number will need to be provided in the customs declaration so that its validity can be checked by the customs authorities against the IOSS VAT identification number database to release the goods for free circulation within the EU. If the IOSS identification number is confirmed as valid and the intrinsic value of the consignment does not exceed EUR150, the customs authorities will not request the payment of VAT on the imported low-value goods, as in this case an exemption is applicable. Instead, the VAT due on the distance sales of goods imported from third countries or third territories will be declared in the IOSS VAT return.

Postal Services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Latvia there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply); any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Latvia there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. Latvia has implemented Council Directive (EU) 2016/1065), applicable from 1 July 2019. In Latvia the "single-purpose voucher" (SPV) and "multi-purpose voucher" (MPV) are defined as follows:

- SPV is a voucher where the place of supply of the goods or services to which the voucher is related to and the VAT due on those goods or services, are known at the time of issue of the voucher.
- MPV is a voucher with respect to which none of the features that defines a SPV are known at the moment of issue of the voucher.

Any transfer of a SPV by a taxable person acting in its own name shall be treated as a supply of goods or services covered by the voucher. The actual delivery of goods or the provision of actual services in exchange for a SPV accepted by the supplier or provider as full or partial consideration shall not be considered as an independent transaction.

The transfer of a MPV shall not be regarded as a supply of the goods or services. The actual supply of goods or provision of services in exchange for an MPV accepted by the supplier or service provider as a full or partial consideration shall be deemed to be an independent taxable transaction.

Registration procedures. Taxable persons must register with the VAT authorities that are competent for the area where their place of business is located (i.e., the local branch of the tax authority). Nonresident taxable persons with a fixed establishment in Latvia must register with the competent VAT authorities according to the place where the fixed establishment is located.

To register a company in Latvia for VAT purposes, in general, the following documents must be submitted to the SRS of Latvia:

- VAT registration application
- List of users of EDS, which is used for tax compliance and communication with the tax authorities
- If the documents are signed by an authorized person, the application must be submitted with a written power of attorney (preferably notarized)

The SRS of Latvia for VAT registration purposes may also request follow-up questions, which is a standard practice. Typical follow-up questions include the general description of intended business activity and how the business activity will be ensured in terms of employees, vehicles, accounting and premises (storage, office). However, the information necessary for the VAT registration may depend on whether the company is registered locally or not.

The registration documents may be submitted electronically through Electronic Declaration System if an authorized person already has established access to the system. The documents could also be delivered either in person or delivered by mail or currier to the SRS of Latvia.

Taxable persons are given a VAT identification number (13 digits), beginning with a two-digit country code (LV). VAT identification numbers are important in controlling the correct remittance of VAT to the tax authorities within the European Union.

Applicants submit the registration application form, which contains information on company/person, its authorized persons and business activities along with supplementary documentation (e.g., register of companies extract, passport/ID card copy(s) of signatory person(s), applicable power of attorneys). The decision on registration is taken by tax authorities within five business days from receipt of required information and documents.

Generally, there is an option to submit any documents (including VAT registration and deregistration documents) to the tax authorities via email; however, such documents shall be verified by the sender using the "secure electronic signature," a form of advanced electronic signature that may be acquired from respective authorities in Latvia. However, this option is not commonly used and generally the VAT registration documents are submitted as hard copies.

Additionally, taxable persons registered in Latvia are obliged to use the EDS of the tax authorities, which is subject to an additional registration procedure.

Deregistration. The SRS has the right to exclude a person from the register of taxable persons if:
- The taxable person submits an application for removal from the VAT register.
- The taxable person has been liquidated or reorganized.
- The economic activity of the taxable person is suspended.
- The taxable person does not submit a VAT return within one month of the submission deadline, or they provide false information in a VAT return and do not correct this, following a written request to do so from the tax administration.
- The taxable person cannot be reached at their legal address or the declared place of residence (or if the address does not exist).
- A VAT group no longer complies with the registration conditions.

The SRS has the right to suspend a taxable person's registration number if possible fraudulent activities are identified.

In addition, the SRS has the right to exclude a person from the register of taxable persons if either of the following conditions exists:
- The taxable person is considered to be a risk person.
- The taxable person has not had economic activity for three months.

A person is excluded from the taxable persons register by the SRS if any of the following conditions exist:
- Material, technical or financial transactions of the taxable person do not match the field of their economic activity.
- The taxable person's registration number has been suspended and they do not apply for renewal of the registration code.
- The taxable person doesn't provide the SRS with requested information regarding their material, technical and financial activities.

Persons that are registered in the register of taxable persons must notify the SRS in case of any changes in company requisites (e.g., legal address, name) or legal status of company.

Changes to VAT registration details. The taxable person's obligation to notify the tax authorities, when there is a change in their VAT registration details, may differ depending on the changes made and the nature of the taxable person's status. Generally, taxable persons are given 10 days of making the changes to inform the SRS of Latvia. They do this by submitting the application

form with the changes (i.e., the taxable person's registration details, such as bank account, address, owners, people with signatory rights) electronically through the EDS.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 21%
- Reduced rate: 5%, 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the reduced rate, the zero rate or an exemption.

Examples of supplies of goods and services taxable at 0%

- Exports of goods and related services
- Intra-Community supply of goods
- International transport
- Tourism services provided outside Latvia
- From 1 January 2021, the zero-rate shall be applied to supplies of goods and services based on a permit approved by the competent authority of the Member State concerned, or by the competent authority of the Republic of Latvia, if the goods and services have been bought or acquired by European Commission, agency and structure, which has been established by European Union rules, to react to the COVID-19 pandemic; however, if the goods or services are further supplied for consideration, then the transaction no longer qualifies for the zero-rate according to this rule and will be treated as a taxable transaction according to the rules applicable at a time

Examples of goods and services taxable at 5%

- Mass media and subscriptions thereto, except erotic material and pornography *(effective from 1 January 2022)*
- Printed literature, including for schools and universities (specified by Latvian National Library) *(effective from 1 January 2022)*

Examples of goods and services taxable at 12%

- Specialized products for infants
- Medicines and medical devices (those authorized by state pharmaceutical authorities)
- Firewood and fuel wood supplied to natural persons
- Supply of thermal energy to natural persons
- Public transport services provided in Latvia
- Accommodation services provided in Latvia
- Foodstuffs that are fresh fruit, berries and vegetables listed in the VAT law, including washed, peeled, shelled, cut and packed, but not cooked or otherwise prepared, e.g., frozen, salted, dried *(effective until 31 December 2024)*

The term "exempt supplies" refers to supplies of goods and services that are not subject to VAT and that do not give rise to a right of input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Insurance and reinsurance services
- Health and welfare services
- Education and cultural services
- Postal services provided by Latvijas Pasts

- Betting and gambling and other forms of gambling, including gambling and lotteries that are organized through electronic communication services
- Regulated sports competitions and licensed sports classes, which are organized by associations and foundations
- Payment for the stay of children in children's camps organized in accordance with the requirements of the regulatory enactments regulating the field of education

Options to tax. Real estate transactions are generally exempt except for the sale of unused real estate or part of it and the sale of building land. In general, a plot of land is considered to be building land if building permission was issued after 31 December 2009. An option to tax is also in place for supplies of "used" real estate made to taxable persons.

E. Time of supply

In general, VAT is due when the following events occur:
- For local supplies and intra-Community supply of goods, the time when goods are delivered, or service is performed, and the VAT invoice is issued.
- A prepayment is received in accordance with the prepayment invoice issued, except in the case of an intra-Community supply of goods.

However, for a supply of services subject to the new place of supply rules under EU Directive 2008/8/EC, VAT is due when the service is performed or the prepayment is received.

A VAT invoice must generally be issued within 15 days after services are rendered or goods are supplied. If the transaction is performed continuously over a long period of time, the VAT invoice may be issued for a period not exceeding one, six or 12 months, depending on the type of transaction.

Deposits and prepayments. VAT paid on goods supplied or services provided is to be paid into the State Budget during the filing period in which the goods were dispatched or the services provided, and the tax invoice issued (except for intra-Community supply of services) or an advance payment made (except for intra-Community supply of goods) in accordance with the tax invoice. This means that if an advance payment or a prepayment is received before the supply is performed, VAT is due at the end of the filing period in which the advanced consideration is received.

Continuous supplies of services. If a local supply of services is performed without interruption over a long period of time, the tax shall become payable/declarable at the time payment for the service is received or the relevant filing period ends, but not less frequently than once in every six-month period.

Where an intra-Community supply of services is performed without interruption over a period of time that exceeds one year, and during this period no tax invoices are issued and no payments made, the tax becomes payable/declarable at the end of each year until the moment when the supply of services is fully completed.

Where an intra-Community acquisition of services is performed without interruption over a period of time that exceeds one year, and during this period no tax invoices are received and no payments are made, the transaction becomes declarable at the end of each year until the moment when the purchase of services is fully completed.

Goods sent on approval for sale or return. There are no special time of supply rules in Latvia for supplies of goods that are sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Note that for the supply of goods where the ownership is not transferred (e.g., supplied for treatment, evaluation, processing or repair [i.e., temporary use]), in general are treated as out of scope

for VAT purposes, on the basis that they are afterwards returned to the supplier within 24 months. If these goods are not dispatched back after the supply of the abovementioned services, it shall be deemed that the supply has taken place in the tax period in which the supply of such goods to any other person has taken place.

Reverse-charge services. Generally, the reverse-charge VAT is also applicable to the purchase of services from other EU and non-EU taxable persons, as well as on intra-Community acquisitions of goods. Additionally, the local reverse-charge mechanism applies to the transactions subject to the domestic reverse charge.

Leased assets. The leasing or hiring of movable goods, including means of transport, is a supply of services in so far as the lease qualifies as an operational lease. According to the VAT law, a financial lease (i.e., a lease of movable goods where at the end of the lease period the ownership of the movable goods is transferred to the lessee) is considered as a supply of goods.

Imported goods. Import VAT becomes due when goods are released for free circulation.

VAT on imports that is paid to the State Budget may be deducted as input tax on VAT returns filed for the period in which the goods are released for free circulation, that is, when the import VAT has been paid into the State Budget.

Under the Latvian VAT law, the principle of postponed accounting rules (declaration of VAT by way of reverse-charge mechanism) can be applied to the importation if the following conditions are satisfied:

- The importer of the goods is a taxable person; it performs the import of goods within the framework of its business activities, and it has obtained the special authorization/permit from the tax authorities.
- The importer of the goods is a fiscal representative representing a taxable person of another EU or non-EU country and it has obtained the special authorization/permit from the tax authorities.

Postponed VAT accounting corresponds to the principle that instead of a physical payment of import VAT, the taxable person may declare it by way of reverse-charge VAT. The postponed VAT accounting mechanism can also be applied to the importation of goods that are to be released in free circulation in the EU. However, a taxable person is entitled to apply the postponed accounting mechanism only if the person has received in advance a special permit from the Latvian SRS. To receive this permit, the following conditions must be satisfied:

- The taxable person must have registered its economic activities in Latvia.
- The taxable person is a registered client of the SRS electronic reporting system.
- On the date of submission of the application to receive the permit, the taxable person does not have a tax debt relating to previous tax periods or such tax debt is paid within five working days after the submission date of the application.
- The employee who has authority to sign the application has not been punished for criminal offenses of an economic nature.
- By a date specified by the SRS, the taxable person provides informative reports or additional information that is necessary to determine the amount of tax payable to the State Budget or the amount of an overpayment.

Nevertheless, the taxable person is still authorized to apply the postponed accounting rules with respect to import of goods even without the special authorization/permit if the following conditions are met:

- The taxable person imports fixed assets, which are intended fully or partially for use in its taxable transactions within a period of at least 12 months from the time of importation of the fixed assets.
- The value of the fixed assets (excluding VAT) is at least EUR700.
- The taxable person does not have a tax debt for previous tax periods.

A passenger car would qualify as such a fixed asset if imported by a taxable person engaged in the basic activity of leasing or hire-purchase transactions with passenger cars or the provision of taxi services and vehicle driver training.

Intra-Community acquisitions. The acquisition of goods in the territory of the European Union has taken place at the time when the acquisition of goods has been physically carried out, but not later than the time when the goods are received.

VAT related to the intra-Community acquisition of goods must be paid when the goods are received and the VAT invoice is issued.

If a tax invoice has not been issued within the allowed number of months, the VAT due must be included in the VAT declaration for the tax period following the period in which the intra-Community acquisition is made.

Intra-Community supplies of goods. An intra-Community supply of goods is one whereby the goods are dispatched or transported from Latvia to another Member State by or on behalf of the supplier or the person to whom the supply is made.

The time of supply of goods shall be the time when the supply of goods is physically carried out, but not later than the time when the goods are received by the recipient of goods. Where the supply of goods within the territory of the European Union takes place permanently over a continuous time period and exceeds one calendar month, it shall be deemed that the transaction has occurred in the end of each calendar month until the time when the supply of goods is completely finished.

Supply of goods with assembly or installation shall be deemed as taken place when the assembly or installation is finished.

Distance sales. There are no special time of supply rules in Latvia for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Latvia, VAT paid on imports of goods, and VAT self-assessed for intra-Community acquisitions of goods, for reverse-charge services received from foreign persons, as well as for domestic reverse-charge services, namely, supplies of specified scrap materials; supplies of timber products and related services; supplies of electronics (e.g., mobile phones, computer hardware, integrated circuits, game consoles); provisions of construction services and construction products; supplies of cereals and industrial crops; supplies of raw precious metals, precious metal alloys and precious clad metal; and supplies of metal products and related services, as well as supplies of electronic and electric household appliances.

The amount of the VAT reclaimed must be supported by a valid VAT invoice.

The time limit for a taxable person to reclaim input tax in Latvia is three years. Input tax generated in a tax period (i.e., a month or quarter) is recovered automatically within 30 days of the submission of a VAT return. However, input tax can still be under review by the Latvian tax authorities, which can extend the time frame until input tax can be recovered.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (e.g. goods acquired for the private use of an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Hotel accommodation (if nonbusiness expenditure)
- Business gifts (except representation gifts with the company logo for which 40% of the input tax is deductible)
- Taxi services (if nonbusiness expenditure)
- Business and employee entertainment

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease and hire of vans and trucks
- Fuel for vans and trucks
- Purchase, lease and hire of cars, including maintenance costs such as fuel and repair costs:
  - 100% deductible if the car has fewer than eight passenger seats or a vehicle is up to 3,000 kg in weight and registered as a lorry (Category N1), as well as the car's exclusive use in taxable transactions of the business is documented in accordance with the law's requirements
  - 50% deductible if the car has fewer than eight passenger seats or a vehicle is up to 3,000 kg in weight that is registered as a lorry (Category N1) and that has more than three seats (including the driver's seat) and car's value is less than EUR75,000 (VAT excluded), i.e., not a luxury car
- Purchase, lease and hire of luxury cars, including maintenance costs such as fuel and repair costs:
  - 100% deductible, if it can be proved that the luxury car is fully used in making taxable transactions of the business
  - 0% deductible, if the taxable person is not able to prove that the luxury car is fully used in taxable transactions of business and luxury car, as well as associated costs, incurred during the 60-month period when the car was registered in the ownership or possession of a person
- Parking
- Mobile phones
- Advertising
- Books
- Taxi services

Partial exemption. Input tax directly related to performing VAT-exempt supplies is not recoverable. If a taxable person established in Latvia makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as "partial exemption."

The amount of input tax that may be deducted by a partially exempt business is calculated based on the percentage of taxable supplies to total supplies made each month. The monthly calculation is adjusted annually.

The percentage of deductible input taxes to be rounded up to the next whole number (e.g., 19.2% is rounded up to 20%).

If a taxable person makes both taxable and exempt supplies and if the value of its taxable supplies is greater than 95% of the total value of its supplies in the period, the taxable person may deduct input tax in full (without applying the partial exemption calculation) on a monthly basis. A taxable person that is in this position must adjust its input tax deduction on an annual basis.

Partially exempt taxable persons must apply separate VAT accounting to allocate input tax to taxable and exempt supplies. The use of a pro rata calculation is allowed only in cases where separate accounting cannot be used. The calculation of pro rata is at the discretion of the taxable

person and must reflect the economic reality of the transactions conducted by the taxable person. The taxable person is not obliged to notify the SRS of the pro rata calculation used; however, they must have supporting evidence upholding the calculated pro rata, which can be used if the SRS would perform tax review activities (e.g., a tax audit) with respect to the pro rata calculation.

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Latvia. However, it is possible to voluntarily align with the tax authorities the application of the partial exemption standard or special methods or separate accounting, thus giving credibility that the tax authorities wouldn't challenge the applied method of choice.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years.

In Latvia, the capital goods adjustment applies to the following assets for the number of years indicated:
- Immovable property: 10 years
- Fixed assets that have a purchase or producing value (expenditure incurred to produce a fixed asset) exceeding EUR70,000 excluding VAT: Five years

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

During the construction, production or purchase phase for real estate or a fixed asset, the input tax is deducted according to the normal rules. The adjustment is applied each year following the year of construction, production or acquisition to a fraction of the total input tax (1/10 for immovable property and 1/5 for the fixed assets). The adjustment may result in either an increase or decrease of the deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased since the year in which the capital goods were acquired.

An adjustment is not made if the proportion does not change during the tax year.

If immovable property or a part of it is sold as an exempt supply within a period of 10 years after its acquisition or acceptance for service, the taxable person must repay to the State Budget an amount of input tax equal to an amount calculated by multiplying 1/10 of the deducted input tax by the number of years that remain in the 10-year adjustment period. This repayment is included in the value of the immovable property and the purchaser may not deduct it as an input tax.

While receiving services, such as the construction or assembly of an immovable object or fixed asset, the costs of the service can form part of the end value of immovable object or fixed asset. Hence the input tax adjustments over a certain time period (10 or five years) can also include the value of the service.

Refunds. If the amount of input tax exceeds output tax and the taxable person has any other tax debts with the State Budget, the excess is used to pay the other taxes.

If the taxable person has no other tax debts, it can claim back the excess from the SRS. If the taxable person has accrued VAT, the SRS refunds it to the taxable person's bank account within 30 days of submitting the VAT return or amended VAT return for a tax period (typically, monthly). However, VAT refunds are still subject to the SRS control procedures.

After the exclusion from the VAT register, a taxable person is required within 20 days to submit a VAT return for last tax period. If accrued VAT is present, the tax authorities may use the overpaid input tax to settle other tax debts and the excess is refunded to the taxable person's bank account within 30 days.

Overpaid VAT can be claimed back within three years of the prevailing statutory tax payment term.

Pre-registration costs. Input tax may be subject to VAT recovery if the goods or services were acquired up to 15 months before an entity was registered as a taxable person. Administrative services such as rent of premises and fuel costs are excluded, and additional rules apply.

Bad debts. Taxable persons who supply goods or provide services may recover VAT related to their bad debts if all the following specific conditions are met:

- The bad debt amount is less than EUR1,000 (EUR430 for invoices issued until 1 January 2024) or there is a court judgment on recovery of debt from the recipient of goods or services and a statement of a bailiff concerning the impossibility of the recovery.
- An invoice or tax invoice has been issued for the goods or services supplied.
- The debt has arisen during the last three taxation years.
- Tax has been calculated for the transaction performed and it is included in the tax return of the relevant tax period.
- The bad debt amount has been written off from the special provision amounts for bad debts or directly as losses (expanses) in the accounting of the registered taxable person in the current tax period or in any of the previous tax periods.
- The recipient of goods or services and the supplier of goods or services are not mutually related persons.
- The supply of goods or services to the relevant recipient of goods and services has been ceased at least three months before and has not been renewed
- A registered taxable person has not transferred their right to claim to another person.
- A registered taxable person can prove that they have taken measures for the recovery of bad debt.

After all the above mentioned conditions have been fulfilled, the supplier of goods or services has sent information to the recipient of goods and services, who is or was a registered taxable person at the time of supply of goods or services that the relevant debt is considered as bad debt.

VAT recovery can be performed on a periodic basis (monthly or quarterly) and additional bad debt recovery rules may apply, depending on specific situations, e.g., partial bad debt recovery options, if not all, but specific selected activities from mentioned list are performed, e.g., recovery in case of bankruptcy.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Latvia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Latvia is recoverable. The Latvian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Latvia.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9/EC may be used only if the EU business did not perform any taxable supplies in Latvia and therefore has a requirement to register for VAT in Latvia. If taxable supplies (excluding supplies covered by the reverse charge) have been performed in Latvia, then VAT refund cannot be claimed under EU Directive 2008/9/EC. *For full details, see the chapter on the EU.*

Find below specific rules for Latvia:

- The decision on the VAT refund for persons from other EU Member States is made within four to eight months, depending on whether additional information is required by the SRS or the tax

authorities of the other EU Member States. The SRS shall transfer the approved tax amount within 10 days after adopting a positive decision.
- If payment is delayed, then interest is paid upon refund by Latvia. Interest shall be calculated from the day following the last day for payment of the refund mentioned above until the day the refund is actually paid.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

Latvia applies the principle of reciprocity. Currently, refunds are made to taxable persons registered in Norway, Switzerland, Iceland, Monaco and the UK (as of 1 January 2021).

Find below specific rules for Latvia:
- The application form may be completed in Latvian or in English and may be submitted electronically through the EDS if an authorized person in the company already has established access to the system. The documents can also be delivered in person or delivered by mail or currier to the SRS of Latvia at:

  Talejas Street 1
  Riga
  LV-1978
  Latvia

- Refund claims may be made for the following periods:
  - One calendar year or a period of less than three months if the claim is made for the last three months of the calendar year (that is, the period from 1 October to 31 December).
  - A period of at least three calendar months and less than one calendar year. A claim for a complete calendar year must exceed EUR50, and a claim for a period of less than a calendar year, but longer than three months, must exceed EUR400.
- The documents must be submitted to the SRS within the following time limits:
  - For a claim for one calendar year or a period of less than three months (limited to the last three calendar months of the year): by 30 September of the following year.
  - For a claim for a period of at least three calendar months but not longer than one calendar year: within three months after the end of the period indicated on the application form.
- The documents must be submitted to the SRS by 30 September of the period following the requested refund period if the request is for a period of one year, or within three months from the end of the request period if the request is for a period less than one year. In practice, the VAT could be refunded within a four-month period from the date of submission of the documents. This period may be prolonged if the tax authorities ask for additional information. In such case, the SRS will make a decision on a tax refund within a period of four months from the date of receipt of all relevant documents and information additionally required and submitted by the respective taxable person. The approved amount of tax shall be refunded within 10 working days after the SRS has made a decision to refund the tax completely or partially, but no later than within four months after receipt of the application. No interest is paid upon refund.

Late payment interest. In an event where an EU or non-EU, non-established business has made a request to refund overpaid VAT (as outlined above) and the payment has not been transferred within the deadline, then the following late payment interest applies:
- Three-fifths of 0.05% times the principal debt for each day the payment has been delayed.
- If there is a confirmed decision from the highest tax authority or the court on the refund and the refund is not transferred within 15 days – from the 16th day the late payment interest is 0.05% times the principal debt for each day the payment has been delayed.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable supplies made and for exports within 15 days after the supply has been made or advance payment has been received.

Credit notes. A VAT credit note may be used to reduce the VAT charged and claimed on a supply. The document must be clearly marked "credit note," and it should refer to the original invoice. It is recommended that a credit note also indicate the reason for the correction and any new items arising from it.

Electronic invoicing. Electronic invoicing is allowed in Latvia, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Latvia. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*. However, the Latvian tax authorities have expressed an intention to implement mandatory electronic invoicing for B2B and B2G supplies as of 1 January 2025. *At the time of preparing this chapter, the implementation process is in the early stages and no definite information on the technical requirements or legislation updates has been disclosed by the authorities.*

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Latvia. The requirements related to electronic invoicing are the same as those for paper invoicing. Both parties of the transaction must agree on the exchange of electronic invoice, which can be performed by any electronic means.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the EU.

Simplified VAT invoices. A registered taxable person has the right to issue a simplified tax invoice in the following cases:
- For an inland transaction the value of which (excluding tax) is less than EUR150
- In case it uses a document that amends the initial tax invoice or especially and clearly indicates to it, indicating the date of issue of the initial tax invoice and identification number, as well as the particular data to be amended, in the additional simplified tax invoice

A cashier's check or another document may also be used as a simplified tax invoice, where the requirements outlined above are not met, only where it is accompanied by a source document in which the date and number of the cashier's check or another document and the information required for a normal tax invoice is indicated.

In addition, a cashier's check or another document, which does not meet the requirements outlined above, may also be used as a simplified tax invoice if it is issued for a transaction where the value of which (excluding tax) is less than EUR30.

Self-billing. Self-billing is allowed in Latvia. A recipient of goods or services is entitled to issue a tax invoice for themselves on behalf and interests of the supplier of goods or services for the goods or services supplied to them by a registered taxable person or a taxable person of another Member State, if there is a prior agreement between the parties and if the supplier of goods or services applies the mutual recognition procedure of invoices to each invoice.

Proof of exports and intra-Community supplies. The zero-rate applies to exports of goods and intra-Community supplies of goods. Export and intra-Community supplies of goods must be accompanied by evidence confirming that the goods have left the territory of Latvia. Suitable evidence includes the stamped customs exportation documentation or international transportation documents such as the CMR or bill of lading.

No special documentation applies in Latvia for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. If an invoice is issued in a currency other than the domestic currency, which is the euro (EUR), the amount of VAT must be converted to EUR if the place of supply is Latvia. The conversion must be done using the official exchange rate quoted by the European Central Bank on the date of the supply or on the date when the advanced payment has been received.

Supplies to nontaxable persons. Invoices for supplies to nontaxable persons may be issued upon request of the customer. However, if no invoice is issued, a supplementary internal document shall be issued for accounting and reporting purposes.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In accounting registers, all entries shall be made based on supporting documents (or source documents) that confirm the existence of an economic transaction of the undertaking. In Latvia, examples of which records must be held for VAT purposes include the following supporting documents:
- Outgoing and incoming invoices
- Agreements
- Transportation documentation
- Customs declarations
- Accounting registers

Source documents, accounting registers, inventory lists and other accounting organization documents of the undertaking shall be systematically arranged and stored in the archives of the undertaking.

In Latvia, VAT books and records can be held outside of the country. This is only allowed where they are stored by electronic means and full online access to the data concerned is guaranteed to SRS representatives.

Record retention period. An entrepreneur must store duplicates of the invoices issued and invoices received for a period of five years, except with respect to invoices relating to immovable property. Regarding the latter, invoices shall be stored for a period of 10 years.

Electronic archiving. Electronic archiving is allowed in Latvia. The duplicates of the invoices and other relevant documents must be stored in Latvia, except when they are stored by electronic means and full online access to the data concerned is guaranteed to SRS representatives.

The undertaking has the right to convert the original documents, which are in paper form, into an electronic form. The document converted into electronic form for its storage in the electronic environment shall have the same legal force as the original document. The undertaking has the right to destroy the original document only if the undertaking complies with the following provisions for the storage of a document converted into electronic form for its storage in the electronic environment:
- The portrayal and conformity of the content of the original document are ensured throughout the data storage period.
- It is possible to ensure that the content is provided in readable form on a computer and, if necessary, its derivatives can be created in paper format.
- The converted document is protected against unauthorized access, amendments, alterations or destruction.
- The conversion process and the process for the destruction of the original document are documented in accordance with the procedures specified by the undertaking.

I. Returns and payment

Periodic returns. In general, VAT returns may be filed monthly or quarterly, depending on the amount of taxable supplies made by the taxable person and the transaction types. A VAT return must be filed by the 20th day of the month following the end of the tax period via the EDS.

VAT returns must be filed on a monthly basis (such tax period is retained for six calendar months after VAT registration) if the amount of taxable transactions performed by a taxable person during the year before the tax year or during the tax year exceeds EUR50,000 or if the taxable person supplies goods or services within the EU.

VAT returns must be filed quarterly if, during the year before the tax year, the amount of taxable transactions of the taxable person did not exceed EUR50,000, and if the taxable person did not perform intra-Community supplies of goods or supply services that had a place of supply in other EU Member States.

Periodic payments. The VAT due must be transferred no later than 23 days after the end of the tax period to a specifically indicated State Budget single tax account. The tax period can be either a month or a quarter. Payments are made directly through the internet bank online to the single tax account of the SRS of the Republic of Latvia (for the State Budget) who is the receiver of the payment.

Electronic filing. Electronic filing is mandatory in Latvia for all taxable persons. Tax returns must be filed via the Electronic Declaration System (EDS). The EDS is an e-filing system of the SRS where taxable persons prepare and submit periodic VAT returns and their appendices. It is also used by the SRS to communicate with taxable persons, e.g., to request additional information and supporting documents with respect to reported transactions with a right to deduct VAT.

Taxable persons registered in Latvia are obliged to use the EDS of the SRS. Generally, when registering for VAT purposes in Latvia, the taxable person is automatically registered in EDS. However, in order to define the list of users that will be granted rights to work on behalf of the taxable person in EDS, a separate document has to be submitted.

Payments on account. Payments on account are not required in Latvia.

Special schemes. *Small businesses.* The voluntary special regime for small businesses is applicable to a taxable person who complies with at least one of the following criteria:
- Taxable transactions in the previous tax year have not exceeded EUR100,000.
- At the time of VAT registration, there is no expectation that taxable transactions in excess of EUR100,000 will be performed in the tax year.

The special regime provides that small enterprises, as well as persons who produce agricultural products specified in the VAT law, can remit VAT to the State Budget in the tax period in which the payment for supplies of goods or services is received. However, input tax can only be deducted in the period in which invoices from other taxable persons are paid.

Additionally, suppliers of residential house maintenance and management services that exceed the transaction threshold of EUR100,000 may also apply for this scheme if the total value of transactions does not exceed EUR2 million.

Farmers. The VAT law provides a special flat rate scheme for legal and private persons that produce agricultural products and are not registered as taxable persons.

Farmers subject to the flat-rate scheme cannot deduct input tax. They are also not allowed to charge VAT on their agricultural outputs. Input tax is, therefore, a cost for this type of farmer. The flat-rate scheme is based on the economic assumption that the farmers will and can transfer

the burden of VAT, i.e., the price of goods supplied by such farmers includes the nondeductible input tax.

Farmers subject to the flat-rate scheme are indirectly compensated by their customers for their input tax. To avoid the accumulation of VAT, the customer is entitled to deduct the average input tax burden on supplies made to it by the flat-rate farmer. The average VAT burden is set at a percentage of the supply price. The current flat rate is 14% of the farmer's supply price.

The scheme can only be applied to supplies of agricultural goods and services made by farmers in the course or furtherance of their agricultural business. If a farmer has voluntarily registered as a taxable person, the general rules regarding liability to VAT, issuing invoices and deducting input tax apply.

If a flat-rate farmer also runs a nonagricultural business, the farmer's supplies of goods and services from the latter are taxed (unless exempt) according to the normal rules if the farmer is required to register as a taxable person.

If a flat-rate farmer supplies agricultural goods to a taxable person in another Member State, the acquisition is taxed in that other Member State.

If a flat-rate farmer is the recipient of an intra-Community supply of goods and the total of the farmer's purchases is less than EUR10,000, the supply is taxed in the Member State of supply. The flat-rate farmer must register as a taxable person and is liable for VAT in Latvia on acquisitions of goods over this threshold. According to VAT law, a flat-rate farmer can choose to be taxed in Latvia even if the value of the farmer's intra-Community acquisitions is less than EUR10,000.

A taxable person who has been registered as a taxable person for VAT purposes before exceeding the EUR10,000 threshold may submit to the SRS an application for exclusion from the VAT registry not earlier than two years after registering.

Travel agents. VAT law provides for a special arrangement with regard to the taxation of margins of tour operators. The tax shall be applied to the services provided by tour operators if the tour operator acts in its own name and in favor of a traveler and uses supplies of goods and services provided by other persons for ensuring tourism services provided to the traveler.

All activities performed by inland tour operators related to travel shall be deemed to be a single service that the tour operator provides to the traveler. Such a service is taxable.

The taxable amount regarding services provided by tour operators shall be the difference between the total amount (without tax) paid by the recipient of the service (a traveler) and the actual costs of the supply of goods and services that are provided to the tour operator by other persons.

The tax calculated by a tour operator for the services that it provides (including compiling a travel package, publication of advertising brochures, etc.) shall be included in the total value of the travel package and collected from the recipient of the service. In calculating the amount of the tax payable into the budget, the tax paid for ensuring the tour operator's own services (including lease of premises, telephone calls, electricity, etc.) shall be deductible as input tax.

A tour operator must calculate the value of services provided and include it in the tax declaration for the taxable period in which the service was provided to the traveler and invoices were received from other persons in relation to the supply, but not later than in the next taxable period after the service has been provided to the traveler.

The tax for other tourism-related (travel-related) services (including services of hotels, transport, catering services, etc.), which are actually provided in Latvia by other taxable persons, shall be included in the total value of the charge for the travel services and is collectible from the recipient of the service. The amount of tax collected for these services is transferred, in full, by the tour

operator to the actual providers of the services. A tour operator may not deduct this amount as input tax.

The value of services provided by a tour operator itself is taxable at the standard rate. If the services provided by tour operators are provided both within the territory of the European Union and outside it, the 0% tax rate shall be applied only to that part of the services that is provided outside the territory of the European Union.

Secondhand goods, works of art, collectors' items and antiques. Taxable dealers are taxable persons who have, as their regular business, trade in secondhand goods, works of art, antiques and collectors' items. A taxable dealer who purchases goods falling within one of these categories from a person who did not or was not entitled to deduct the input tax can use the difference between the selling price and the purchase price (the profit margin) as the taxable amount.

A taxable dealer who makes use of the margin scheme cannot show VAT on the invoice. As no VAT is shown on the invoice, the purchaser cannot deduct input tax. The secondhand goods VAT scheme is optional; dealers may choose to apply the general VAT regime.

The margin scheme may be applied where a taxable dealer imports works of art, antiques and collectors' items, or when works of art are supplied to the dealer by the artist, by the successor in title or by a taxable person other than a taxable dealer.

The special margin scheme is not applicable to the supply of new means of transport.

The taxable dealer must issue a "purchase declaration" (*iepirkuma akts,* in Latvian) to the seller on the purchase of goods.

Supplies through auctions. If a bailiff enforcing an adjudication of a court sells the property of a taxable person, VAT is imposed on the market value (price) or the auction price of the property.

The tax on the sale of the property in the auction must be paid into the State Budget by the bailiff within 20 days of when the amount calculated is applied and cannot be appealed.

Investment gold. Articles 344-356 of the VAT Directive (Council Directive 2006/112) have been implemented into the Latvian VAT law so as to provide for a special arrangement for the supply of investment gold. Investment gold is defined as:

- Gold, in the form of bars and plates, with a purity of at least 995/1,000, whether or not in the form of securities
- Gold coins that:
  - Have a purity of at least 900/1,000
  - Were minted after 1800
  - Are or have been accepted as legal tender in the country of origin
  - Are usually sold at a price that does not exceed by more than 80% the open market value of the gold contained therein

According to the primary rule, local and intra-Community supplies of gold in the above forms are exempt from VAT. Imports and intra-Community acquisitions of investment gold are also exempt from VAT. In addition, the exemption applies to intermediary services supplied by agents.

The following suppliers of investment gold may opt for taxation according to the general VAT rules:

- A manufacturer of investment gold or a person modifying gold into investment gold
- A taxable person who supplies investment gold for industrial purposes in the course of their normal business
- An intermediary in the supply of investment gold, provided that the supplier has also opted to tax their supply

An option to tax must be made by notifying the tax authorities in advance in writing.

A supplier who does not opt for taxation but, rather, uses the exemption for the supply of investment gold can still deduct input tax on the following:
- The acquisition of investment gold that was supplied by a taxable supplier (in Latvia and other Member States) who exercised an option to tax
- The acquisition of gold other than investment gold from taxable suppliers (in Latvia and other Member States), on the assumption that the supplier changes the gold into investment gold
- Services received for changing the shape, weight or content of investment or other gold

A taxable person who produces investment gold or changes gold into investment gold can deduct VAT in connection with the local acquisition, the import or the intra-Community acquisition of goods or services that have a connection with the production or the modification of that gold.

The reverse-charge mechanism is applicable if the option for taxation is applied.

Regarding a taxable person who performs transactions with investment gold, the documents that are associated with such transactions must be retained for five years after the end of the calendar year in which the transaction occurred.

Cash accounting. Latvia operates a voluntary cash accounting scheme. To use cash accounting, a taxable person's transactions (threshold) are generally not more than an annual turnover of EUR100,000. A threshold of up to EUR500,000 is applicable to taxable persons in specified industries, e.g., some types of farmers.

Additionally, the supply of residential house maintenance and management services is subject to the voluntary cash accounting scheme if the total value of transactions for a taxable person in the previous tax period is between EUR100,000 and EUR2 million.

Annual returns. Taxable persons must submit an annual VAT return in Latvia, in the following circumstances:
- The proportion of taxable and nontaxable transactions for the taxation year has changed and it is not provided otherwise by the VAT law.
- Any tax due or input tax deducted is adjusted according to the requirements listed in the VAT law.
- Financial services are performed/supplied.
- A deposit system is applied to reusable packaging according to the packaging regulation.

This must be submitted prior to 1 May of the following year. Also, the respective tax amount must be paid prior to 1 May of the following year.

Supplementary filings. *Intrastat*. A taxable person that trades with other EU countries must complete statistical reports, known as Intrastat, if the value of either its sales or purchases of goods exceeds certain thresholds. The applicable form, which must be submitted to the Central Statistical Bureau of the Republic of Latvia, depends on the threshold prescribed for acquisitions and supplies, respectively.

The following are the Intrastat thresholds, effective from 1 January 2024:
- EUR350,000 for intra-Community acquisitions (if this threshold is met, Intrastat 1A must be submitted)
- EUR5 million for intra-Community acquisitions (if this threshold is met, Intrastat 1B must be submitted)
- EUR200,000 for intra-Community supplies (if this threshold is met, Intrastat 2A must be submitted)
- EUR7 million for intra-Community supplies (if this threshold is met, Intrastat 2B must be submitted)

The Intrastat return must generally be submitted on a monthly basis. The submission deadline is the 10th day of the month following the return period. Intrastat returns must be filed in EUR.

EU Sales Lists and EU Purchase Lists. If a taxable person makes intra-Community supplies of goods and services in a return period, it must submit an EU Sales List (ESL) to the SRS. An ESL must be submitted as an appendix to the VAT return.

ESLs must be submitted electronically on a calendar monthly basis by the 20th day following the end of the month.

If a taxable person makes intra-Community acquisitions of goods and services in a return period, it must submit an EU Purchase List (EPL) listing intra-Community acquisitions of goods and services to the SRS. The EPL must be submitted as an appendix to the VAT return.

EPLs must be submitted electronically on a calendar monthly basis by the 20th day following the end of the month.

Local sales lists and local purchases lists. Local Sales Lists (LSLs) and Local Purchases Lists (LPLs) and other information regarding the application of specific VAT schemes, such as, capital goods scheme and fiscal representative transactions, are submitted in the form of an appendix to the VAT return.

Correcting errors in previous returns. Corrections to VAT returns must be submitted through the EDS in the same way as the regular VAT returns but must be indicated as "Clarification." The amendments must be submitted as a resubmission of the entire VAT return in the same tax period the corrections must be made.

Note that VAT returns can be corrected within a three-year period under the assumption that no tax audits have been performed related to the respective periods by the Latvian tax authorities. The periods audited by the tax authorities are closed for any corrections.

Digital tax administration. VAT returns and Intrastat reports must be submitted electronically. Together with VAT returns, taxable persons are liable to submit transaction ledgers, which include detailed information on transactions performed within the tax period (i.e., LPLs, LSLs, EPLs). The obligation to submit such filings electronically, with detailed information on individual transactions, is considered as an alternative to SAF-T submission and is used by tax authorities for the tax review procedures.

J. Penalties

Penalties for late registration. There is no specific penalty in Latvia for the late registration of VAT. However, the following penalties may be assessed if VAT is not paid or if VAT returns are not filed as a result of late registration or non-registration:

- An administrative penalty in the amount of EUR50 to EUR350 may be imposed for non-registration in the taxable person's register.
- A penalty may be imposed for undeclared VAT. In such circumstances, undeclared VAT must be paid, together with a penalty of up to 30% of the unpaid VAT and late payment fines of 0.05% per day.
- A penalty in the amount of 0.05% per day may be imposed for late VAT payments.

Penalties for late payment and filings. Late payment charge is an interest payment imposed for late payment of taxes and duties.

Additionally, to late payment charge:

- In the case of submitting a tax declaration, violating the deadline specified in regulatory enactments regarding tax from 3 to 10 calendar days, except a one-time delay in the past 12 months

of no more than five days – a fine shall be imposed on natural and legal persons in an amount up to EUR70.
- In the case of submitting a tax declaration, violating the deadline specified in regulatory enactments regarding tax from 11 up to 20 calendar days – a fine shall be imposed on natural and legal persons in an amount from EUR75 up to EUR150.
- In the case of submitting a tax declaration, violating the deadline specified in regulatory enactments regarding tax from 21 up to 30 calendar days – a fine shall be imposed on natural and legal persons in an amount from EUR155 up to EUR280.
- In the case of submitting a tax declaration, violating the deadline specified in regulatory enactments regarding tax by more than 30 calendar days – a fine shall be imposed on natural and legal persons in an amount from EUR285 up to EUR700.
- In the case of a failure to submit an informative tax return on time incurs a fixed monetary penalty. If the delay exceeds two days, a fine shall be imposed no greater than EUR150. However, this penalty does not apply where this is the only delay by the taxable person in the past 12 months, and where the delay was no more than five days.

Penalties for errors. Penalties may be imposed for undeclared VAT. In such cases, the undeclared VAT must be paid, together with a penalty of up to 30% of the unpaid VAT amount and a late penalty fine in the amount of 0.05% per day.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details or to provide necessary information or providing false information incurs a penalty of up to EUR700. In addition, the members of the board of directors can be deprived of the right to take certain positions in commercial companies for a period of up to three years. In practice, penalties for errors for the registration details are minimal or not imposed at all. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax infringement is an unlawful, chargeable (deliberate or negligent) act or omission that results in the violation of the legal norms of the law, specific tax laws and other laws and regulations governing taxes and legal norms of the European Union and for which liability is provided for.

In the case of evasion of taxes and payments imposed together therewith, as well as the concealment (reduction) of income, profit or other object to which taxes may be applied – a fine shall be imposed on natural persons or board members in an amount from EUR140 up to EUR2,000, with or without depriving a board member of the right to hold certain positions in the company.

If a taxable person fails to register and carries out taxable transactions, he is liable for VAT without the right to deduct input tax from the day on which he should have registered.

If a taxable person unlawfully issues tax invoices and receives VAT to which he is not entitled, the tax administration may collect the tax unlawfully received and impose a penalty equal to 100% of the tax.

A failure to account for output tax on assets to which postponed accounting applies gives rise to a penalty of 10% of the VAT due.

A failure to account for output tax on reverse-charge services received from abroad, on intra-Community acquisitions or on certain intra-Community services, gives rise to a penalty of 10% of the VAT due.

The penalty for a repeated tax infringement shall be the double amount of the fine.

With respect to a failure to provide necessary information to the tax authorities, a penalty of no more than EUR700 is imposed on a natural person or a board member, with or without depriving the board member of the right to hold certain positions in the company.

For providing false information, a penalty of no more than EUR700 is imposed on a natural person or a board member, with or without depriving the board member of the right to hold certain positions in the company.

For refusal to allow tax officers to enter premises where they have a legal right to enter, natural and legal persons face a penalty up to EUR14,000. There is no specific penalty here in respect of personal/director's liability. However, personal/director's liability may occur due to a failure to provide the necessary information to the tax authorities or providing false information to the authorities.

Personal liability for company officers. Members of the board of directors face a penalty of between EUR140 and EUR2,000 and may be deprived of the right to take certain positions in commercial companies for a period of up to (or without) three years, if they have been found guilty of evading paying tax or concealing or falsely reducing amounts or objects liable to tax.

If a tax audit leads to a substantial underpaid tax assessment, tax authorities can request the amount to be collected directly from board members effective in the period when the tax debt incurred.

Statute of limitations. The statute of limitations in Latvia is three years. Assessments of underpaid or over-recovered VAT may be made by the tax authorities within three years of the prevailing statutory VAT payment term.

Lebanon

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	الضريبة على القيمة المضافة
Date introduced	1 February 2002
Trading bloc membership	None
Administered by	Ministry of Finance (http://www.finance.gov.lb)
VAT rates	
Standard	11%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (TIN) (no fixed number of digits for the TIN number, can vary from three to seven digits), followed by a dash and a code (i.e., 601 for taxable persons subject to VAT, and 611 for exporters)
VAT return periods	Quarterly
Thresholds	
Registration	LBP100 million (general)/None (exporters and importers)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Lebanon by a taxable person
- The importation of services by a person resident in Lebanon
- The importation of goods into Lebanon, regardless of the status of the importer

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Lebanon, services provided by a nonresident supplier to a resident in Lebanon, where the service is performed in Lebanon, are subject to the "use and enjoyment" provisions under Article 40 of the VAT law.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from VAT under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as exempt from VAT. In Lebanon, a TOGC is treated as exempt from VAT provided the transaction is compliant with Article 9 of the VAT law and its related decree. As per Article 9 of the VAT law, no tax is charged on the transfer of the principal assets of a business, whether for consideration or not, if such transfer enables the recipient to operate the business without any changes, provided that the transferor and the recipient are both taxable persons (or will become taxable persons as a result of the transfer). Decree No. 7298, issued in 2002, further elaborates on the provisions of Article 9 above, outlining the criteria that needs to be fulfilled for the sale to be exempt from VAT.

Transactions between related parties. In Lebanon, for a transaction between related parties, the value for VAT purposes is calculated at an arm's-length basis. This will otherwise be challenged and reclassified by the tax authorities based on the tax procedures law. There is no specific valuation guidance, the tax authorities follow different blended approaches to retrieve fair value.

C. Who is liable

A taxable person is an entity or individual who makes taxable supplies of goods or services in the course of doing business in Lebanon, in excess of the registration threshold. Furthermore, an entity or individual who imports and/or exports taxable goods or services is also considered to be a taxable person, regardless of turnover.

The VAT registration threshold is a taxable turnover of at least LBP100 million in any period varying from one to four consecutive quarters. The deadline for registration is two months following the last day of the quarter in which the obligation to register arose. Importers and exporters of taxable goods or services that are zero-rated are obliged to register with the Directorate of Value-Added Tax (DVAT), effective 8 November 2017, regardless of their turnover.

Exemption from registration. The VAT law in Lebanon does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Any taxable person performing taxable activities or activities related to goods and services that are zero-rated may voluntarily register for VAT, provided that the latter had a minimum turnover of LBP50 million in a period of one to four consecutive quarters.

Group registration. Group VAT registration is not allowed in Lebanon.

Fixed establishment. In Lebanon there is no legal definition of a fixed establishment for VAT purposes. However, Decree No. 3692, issued in 2016, relating to the application of the tax law, defines a permanent establishment (PE) to be any place of work (whether rented, owned or put at the disposal of the taxable person) through which taxable persons may perform their activities for a period exceeding six months in any 12-month period for public and private work and three months in any 12-month period for all the other types of work. Decree No. 3692 and the Organization for Economic Co-operation and Development (OECD) Model Tax Convention may serve as guidelines to define a PE. In Lebanon, there is no specific taxation for permanent establishment; in theory, whenever a PE is detected, it should be registered with the tax authorities as

a legal entity (subject to certain exceptions) and would be subject to the VAT laws and regulations outlined in this guide.

Non-established businesses. A "non-established business" is one that has no fixed establishment in Lebanon. A non-established business must register for VAT if it makes taxable supplies in Lebanon. This is the case even where the supplies are made to a VAT-registered customer in Lebanon.

Tax representatives. A non-established business must appoint a tax representative resident in Lebanon before it makes any supplies of goods or services in Lebanon, regardless of its expected level of turnover. The tax representative is jointly and severally liable for the payment of all VAT liabilities and penalties with the non-established business that it represents. The tax representative is solely responsible for complying with all the other provisions of the Lebanese VAT law.

Reverse charge. The reverse charge is a transfer of liability to account for and pay the VAT on imported services from the person providing the service (the supplier) to the person receiving the service (the recipient). If services are being supplied to Lebanon by a foreign non-established entity that has no agent in Lebanon to a Lebanese registered entity (i.e., a business-to-business [B2B] supply) and the supply of services is being consumed in Lebanon, it is the responsibility of the Lebanese taxable person to account for the VAT amount due on the service and declare it to the VAT department.

Domestic reverse charge. There are no domestic reverse charges in Lebanon.

Digital economy. There are no specific VAT rules regarding the digital economy in Lebanon. However, where a non-established business is selling digital services (e.g., electronically supplied services) to a Lebanon resident (i.e., business-to-consumer [B2C] supply), the non-established business is not considered to be performing services in Lebanon. As such, the non-established business is not required to appoint a tax representative in Lebanon and is not required to register for VAT in Lebanon. Subsequently, no VAT is accounted for on the supply of digital services. The customer cannot self-account for the VAT due because it is a consumer, not a business (i.e., B2C not B2B supply). Therefore, no VAT is accounted for digital services.

At the time of preparing this chapter, this is a scenario that the Lebanese tax authorities have not addressed, and as such, there is no mechanism to declare VAT on supplies of digital services.

For other e-commerce supplies, such as imported goods, VAT is cleared at customs and there is no requirement for the supplier to register with the directorate of VAT.

At the time of preparing this chapter, no special VAT rules have been introduced (or announced by the tax authorities) for e-commerce supplies.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Lebanon.

Registration procedures. A taxable person registering with the DVAT is required to manually complete hard copies of the necessary registration forms (K1-1, K11-1 and K12-1), along with other required documents (this includes a copy of the commercial register, the company's article of association, a detailed statement of the turnover number during the quarters preceding the date of submission, a pledge on the first VAT taxable supply and a copy of the first invoice that includes the delivery of taxable goods or services, a copy of the identity of the concerned person or a legal proxy to the company's agent) and submit them in person or by email to the DVAT within two months from the last day of the quarter in which the obligation to register arose (in case of mandatory registration). The DVAT takes an average of one week to complete the registration.

Deregistration. A taxable person that ceases to carry on business in Lebanon must cancel its VAT registration within two months from the cessation of taxable supplies. A taxable person whose turnover falls below the compulsory registration limit may also deregister within two months following the end of the calendar year in which the turnover fell below the VAT registration threshold.

A taxable person that is registered voluntarily may at any time request deregistration if its annual turnover does not exceed the compulsory VAT registration threshold.

Changes to VAT registration details. If there is a material change in a taxable person's VAT registration details, this must be communicated to the tax administration within two months of the date of change in the commercial register by manually submitting Form M4. Material changes may include name, address, type of activity, etc.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 11%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services, unless a specific measure provides for a zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- Exported services
- International transport (from/to Lebanon)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Postal services and stamps
- Education
- Insurance
- Financial services
- Transfer of real estate
- Medical services and equipment
- Precious metals and precious and semiprecious stones
- Betting and gaming
- Collective transport of persons
- Agricultural activities and products, including livestock, seeds, animal feed and pesticides
- Books, newspapers and magazines
- Basic foodstuffs and baby food
- Diesel oil

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Lebanon.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The tax point is the earliest of the following events:
- When the goods are delivered, or the services are performed.
- When the consideration is paid, if this occurs before the goods are delivered or services are performed.

- When the invoice is issued, if this occurs before the goods are delivered or services are performed.

The time of supply for imported goods is when the liability to pay customs duties arises, that is, either on the date of importation or when the goods leave a duty suspension regime.

A Lebanese resident who uses a service in Lebanon that is acquired from outside of Lebanon must account for VAT via the reverse charge on the service and pay VAT due to the tax authorities. The tax point is when the service is received, and the consideration is paid. The Lebanese VAT law does not differentiate between companies and individuals. However, in practice, individuals do not self-account for the VAT and no VAT is charged on the supply.

Deposits and prepayments. For supplies of deposits and prepayments, if, before the date of delivery of goods and services, the price has been partly or wholly paid by the customer, then the VAT is due at the date of payment based on the value of the amount paid.

Continuous supplies of services. For supplies of continuous supplies of services, the VAT is due on the earliest of either the invoice issuance or payment.

Goods sent on approval for sale or return. There are no special time of supply rules in Lebanon for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Lebanon for supplies of reverse-charge services. As such, the normal time of supply rules apply (as outlined above).

Leased assets. VAT on leased assets classified as operational leases is payable upon payment of each installment. If the asset is transferred to the lessee at the end of the lease term, the VAT is computed based on the purchase price.

The time of supply differs if the asset is classified as a financial lease, under any of the below criteria:

- Ownership transfers at the end of the lease (upon final payment or required buy out)
- Written option for bargain purchase
- The present value of the lease payments is equal to or more than 90% of the fair value of the leased property
- The lease term is equal or greater than 75% of the asset's economic life

Where any of these criteria apply, VAT is due upon the earlier of effective receipt of the asset, issuance of an invoice or payment of an amount.

Imported goods. VAT is paid at customs at the time of importation and clearance of goods.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Lebanon is four years.

Input tax includes VAT charged on goods and services supplied in Lebanon and VAT paid on imports.

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

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

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

Examples of items for which input tax is nondeductible

- Business entertainment
- Nonbusiness expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- Accommodation
- Advertising
- Business gifts
- Conferences
- Purchase, lease and hire of cars, vans and trucks (note the purchase of used cars is not subject to VAT)
- Business use of home telephone
- Mobile phones (80% provided that the invoices are in the name of the taxable person)
- Taxis

Partial exemption. Input tax directly related to making exempt supplies is not generally recoverable. If a Lebanese taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This is referred to as a "partial exemption." Zero-rated supplies (sometimes referred to as "exempt with the right of deduction" supplies) are treated as taxable supplies for these purposes.

A taxable person that makes both taxable and exempt supplies may generally recover input tax that is related to taxable supplies only. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible. The remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned. The apportionment may be calculated based on the value of taxable supplies made compared with total turnover.

Approval from the tax authorities is not required to use the partial exemption standard method in Lebanon. Special methods are not allowed in Lebanon.

However, certain VAT exempt entities, including hospitals, educational institutions and public benefit nonprofit organizations, known as "Article 59 entities," are subject to a special VAT recovery regime. Article 59 entities use fixed recovery percentages to recover input tax, depending on the type of expenditure. The following are the fixed percentages:

- 100% recovery is allowed for purchases of fixed assets.
- 100% recovery is allowed for current expenses.

Capital goods. No specific treatment applies for input tax recovery on capital goods, with the exception of cars that have a special treatment. If the input tax can be allocated to taxable supplies, it may be deducted from the output tax. However, if the input tax cannot be allocated to taxable or nontaxable activities, it should be apportioned as mentioned above.

Refunds. If the amount of VAT recoverable in a quarter exceeds the amount of VAT payable, the taxable person earns a VAT credit. The VAT credit is generally carried forward to offset output tax in the following VAT period. A refund of any remaining VAT credit may be claimed within 20 days following year-end provided that the claimed amount would be a minimum of LBP50 million. However, exporters (i.e., anyone who exports) may claim a refund of the VAT

credit at the end of each quarter provided that the claimed amount would be a minimum of LBP50 million.

The tax authorities should resolve the refund request within three months from the submission deadline. They have the right to extend this period once, for an additional three months, in the event of a tax audit.

If the VAT authority accepts the refund request, then it should pay the taxable person the excess amount of VAT within four months (seven months in the event of a tax audit). Otherwise, interest equal to the average interest of one-year treasury bills is due, and this interest amount should not exceed 9%.

Pre-registration costs. A taxable person who purchases fixed assets and inventory prior to registering for VAT can request a refund of input tax on these items once registered. The taxable person must submit a letter to the Ministry of Finance within two months from the date of registration in order to obtain a refund of the VAT. The amount to be refunded is deducted from the VAT amount to be paid starting from the period following the taxable period in which the refund request is approved.

Bad debts. Output tax accounted for on supplies that are not paid by the recipient (i.e., bad debts) cannot be recovered in Lebanon.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities, is not recoverable in Lebanon.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Lebanon is recoverable. This is on the basis that the input tax is related to expenses that arise from commercial activities in Lebanon and is restricted to expenses that are in the nature of accommodation, similar to conferences, rent and hotel expenses. The Lebanese tax authorities may refund the VAT incurred by businesses that are neither established nor registered for VAT in Lebanon under certain conditions.

Non-established businesses are defined to be foreign or Lebanese businesses and corporations residing outside Lebanon who do not have a permanent place of business nor a place of residence in Lebanon and whose visits to Lebanon are limited to providing/participating in conferences, lectures or exhibitions.

If the above individuals or corporations wish to benefit from the VAT refund, they should be:
- Registered with the related tax authorities or commercial register in their countries of residence or in the place their business is conducted
- Not performing any taxable/nontaxable activities in Lebanon

The VAT paid by the non-established businesses for services or goods purchased in Lebanon should exceed LBP1 million during a single or multiple visit/s per year. The input tax to be refunded should be specifically related to expenses arising from commercial activities in Lebanon (e.g., the conferences, lectures and exhibitions attended or provided should be business related).

H. Invoicing

VAT invoices. A taxable person must generally issue VAT invoices for all taxable supplies made to other taxable persons as well as for exports. Taxable persons that supply goods and services primarily to retail customers may issue simplified invoices instead of full tax invoices subject to the tax authorities' preapproval.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. The value of the supply may be reduced if a supply is canceled, goods are returned (in full or in part) or the contractual price is reduced. The amount of VAT credited must be separately itemized in the credit note. The credit note must be cross-referenced to the original VAT invoice and must contain generally the same information.

Electronic invoicing. Electronic invoicing is not allowed in Lebanon.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is not allowed in Lebanon. As such, only paper invoices are allowed in Lebanon.

Simplified VAT invoices. Simplified invoices can only be issued when issuing a regular invoice is impractical, e.g., for most retailers, noting that prior approval from the Ministry of Finance should be obtained beforehand and a regular formal invoice should always be prepared based on the client's request.

Self-billing. Self-billing is required in Lebanon according to the provisions of Article 8 of the VAT law, if the use of products or services of the company is for nonbusiness purposes or the sale of products is without any proceeds. Depending on the case, taxable persons are required to either impose output tax at the market value of the service/product or adjust the deduction of related input tax.

Proof of exports. Lebanese VAT is not chargeable on supplies of exported goods – such supplies are zero-rated. However, to qualify as zero rated, an export supply must be accompanied by official customs evidence and port clearance documents, stating that the goods have left Lebanon.

Foreign currency invoices. When the value of goods or services is set in a foreign currency, the taxable person should calculate the conversion value of the VAT in the domestic currency, which is the Lebanese pound (LBP), by exchanging the foreign amount to LBP according to the "Sayrafa" exchange rate at the date of transaction. Sayrafa is a platform controlled by the Central Bank of Lebanon.

Supplies to nontaxable persons. A taxable person must issue invoices compliant with Article 38 of the VAT law even if the supply of goods or services is provided to a nontaxable person (B2C). However, a taxable person that is not able to issue invoices in compliance with Article 38 of the VAT law (i.e., supermarkets) should obtain a special approval from the tax authorities to issue simplified invoices.

Records. In Lebanon, examples of what records must be held for VAT purposes include trial balance, general ledger, journal vouchers, contracts and any other supporting documents.

In Lebanon, VAT books and records must be held within the country. Records must be held at a taxable person's place of work or place of residency. The records must be properly preserved to avoid any damages and they must remain readable.

Record retention period. Taxable persons must retain the records, invoices and other accounting documents for a minimum of 10 years.

Electronic archiving. Electronic archiving is allowed in Lebanon. Taxable persons can maintain records electronically, but if requested by the tax authorities in paper form at a later stage and in case of tax inspection, then they will have to provide them in the mentioned form.

I. Returns and payment

Periodic returns. Lebanese VAT returns are submitted for quarterly periods. VAT returns must be filed within 20 days after the end of each quarter.

Periodic payments. Payment of VAT due is required in full by the same deadline as the VAT return, i.e., within 20 days after the end of each quarter VAT liabilities must be paid in Lebanese pounds. Once the VAT return is submitted on the Ministry of Finance online portal, the online payment form should be extracted, and the payment should be processed through bank transfer to the DVAT bank account number.

Electronic filing. Electronic filing is mandatory in Lebanon for all taxable persons. To do so, the taxable person should register online and create an account with the DVAT through the Ministry of Finance's website (www.finance.gov.lb).

Payments on account. Payments on account are not required in Lebanon.

Special schemes. No special schemes are available in Lebanon.

Annual returns. Annual returns are not required in Lebanon.

Supplementary filings. No supplementary filings are required in Lebanon.

Correcting errors in previous returns. An adjusted VAT return should be submitted on the Ministry of Finance online portal. There is no time limit for submitting amended returns. Penalties that may apply can be charged on a monthly basis, as outlined in *Section J. Penalties* below. However, if the amended tax return was submitted within 30 days from the original deadline, no false declaration penalty should apply if the additional tax does not exceed 10% of the tax that was initially due.

Digital tax administration. There are no transactional reporting requirements in Lebanon.

J. Penalties

Penalties for late registration. Late registration for VAT triggers the following penalties:
- LBP2 million for joint stock companies
- LBP1 million for limited liability companies
- LBP300,000 for sole proprietorships and other taxable persons

Penalties for late payment and filings. A penalty is charged for the late submission of a VAT return at a rate of 5% of the tax due for each month or part of a month that the return is late. The minimum penalty is LBP750,000 for joint stock companies, LBP500,000 for limited liability companies and LBP100,000 for other taxable persons, and the maximum penalty is 100% of the tax due. For these purposes, a fraction of a month is considered to be a whole month.

A penalty is charged for late payment of tax at a rate of 1.5% per month or part of a month that the tax is unpaid.

Penalties for errors. Penalties apply to a range of VAT errors and offenses, including the submission of incorrect tax returns (penalty is 20% of the difference between the tax due and tax paid), the issuance of incorrect VAT invoices (penalty is 25% of the tax due on the invoice), the issuance of VAT invoices by unregistered taxable persons (penalty is three times the VAT amount in the invoice).

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details within the prescribed period may result in the following penalties (per return):
- LBP200,000 for joint stock companies
- LBP100,000 for limited liability and sole proprietorships companies
- LBP50,000 for individuals and other taxable persons

For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Penalties for fraud vary between LBP1 million and LBP30 million or imprisonment that could vary from six months to three years, and in case the tax fraud is repetitive, both sanctions would be applicable. In addition to these sanctions, a penalty varying between 20 to 30 times the amount of tax may be applied.

In addition to the above, the below governs the penalties imposed in case of obstruction of tax control measures.

For each taxable person who refrains from presenting the accounting records and supporting documents for the submitted returns or refrains from booking certain accounting transactions, a penalty of 50% from the tax due is imposed. The minimum penalty is LBP750,000 for joint stock companies, LBP500,000 for limited liability companies and LBP100,000 for other taxable persons.

To collect taxes, the tax authorities have the privilege to access the taxable persons' funds. The privilege also encompasses the funds of the persons held responsible at the company.

Under certain conditions, the tax authorities have the right to issue a decision to withhold the taxable persons' funds in case the latter declines to settle their taxes.

Personal liability for company officers. The general manager of a limited liability company, the chairman and/or the general manager in a joint stock company can be held jointly liable with the company for the taxes resulting from failure to meet the company's tax obligations and for undertaking or performing acts leading to tax evasion, if proved by a court ruling.

Statute of limitations. The statute of limitations in Lebanon is five years. This time limit is applicable to the tax authorities to carry out inspections and taxable persons to submit revised VAT returns (also within the years that are still open for any tax inspections being carried out).

Lesotho

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 2001
Trading bloc membership	Southern African Development Community (SADC) Southern African Customs Union (SACU) African Growth and Opportunity Act (AGOA) Cotonou Agreement
Administered by	Revenue Services Lesotho (RSL) (https://www.rsl.org.ls/)
VAT rates	
Standard	15%
Reduced	10%
Other	Zero-rated (0%) and exempt
VAT number format	8-digit number, usually starting with "500," for example "500XXXXX"
VAT return periods	Monthly
Thresholds	
Registration	LSL850,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Lesotho by a registered person
- Reverse-charge services received by a person in Lesotho that is not entitled to claim full input tax credits (referred to as imported services)
- The importation of goods from outside Lesotho, regardless of the status of the importer

Goods that are imported from countries in the Southern African Customs Union (that is, Botswana, Namibia, South Africa and Swaziland) are not subject to customs duty, but they are subject to VAT.

A taxable supply in Lesotho means a supply of goods or services (other than an exempt supply) made in Lesotho by a vendor (i.e., a taxable person) for consideration in the course or furtherance of an enterprise carried on by the vendor. A taxable supply also includes a supply by way of an export of goods or services by a vendor for consideration in the course or furtherance of an enterprise carried on by the vendor.

A supply is made in the course or furtherance of an enterprise carried on by a vendor if the supply is made by the vendor as part of, or incidental to, any independent economic activity of the vendor, whatever the purposes or results of that activity. An enterprise does not include in the case of an individual, any activities carried on by that individual or any other person only as part of that individual's hobby or leisure activities.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Lesotho, no services are subject to the "use and enjoyment" provisions.

The legislation defines place of consumption in relation to cross-border supplies and services, to mean the place where consumption or enjoyment takes place.

A person who carries on an enterprise outside of Lesotho but whose goods or services are consumed in Lesotho shall apply for registration in Lesotho irrespective of whether such person meets the threshold, and such registration shall be renewable annually, at the expiry of the last registration date.

An "export" in the case of goods, means the delivery of the goods to, or the making available of the goods at, an address outside Lesotho as evidenced by documentary proof; or in the case of services, means the supply of the services for use or consumption outside Lesotho as evidenced by documentary proof, not being services which are supplied directly in connection with any movable or immovable property situated in Lesotho at the time of the supply.

An "import" means, in the case of goods, to bring or cause to be brought into Lesotho from a foreign country or place; or in the case of services, a supply of services by a person in the course or furtherance of an enterprise carried on outside Lesotho where the services are for use or consumption in Lesotho.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Lesotho, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- Both the transferor and the transferee are registered for VAT.
- Where the transferee has not registered for VAT, such transferee shall be liable to pay VAT.
- Where such transferee is a relative, and where the Commissioner General determines that the consideration was too low, the Commissioner General may impose a fair market value.

Transactions between related parties. In Lesotho, for a transaction between related parties, the value for VAT purposes is calculated at the fair market value.

The fair market value of a taxable supply or taxable import at any date is the consideration in money that a similar supply or import would generally fetch if supplied or imported in similar circumstances at that date, being a supply or import freely offered and made between persons

who are not associates. Where the fair market value of a taxable supply or taxable import cannot be determined for lack of a similar supply or import, the fair market value of the supply or import shall be such amount that, in the opinion of the Commissioner having regard to all the facts and circumstances of the supply or import, is the fair market value of the supply or import.

A supply is made for reduced consideration if the supply is made for no consideration or for a consideration that is less than the fair market value of the supply to (a) an associate (b) an employee or (c) any other person other than a supply of goods for use only as trade samples.

C. Who is liable

Registration is compulsory for any business that supplies taxable goods/services and whose annual taxable supplies (turnover) exceeds the registration threshold.

A person is required to register for VAT as a vendor, under the following circumstances:
- Within 14 days of the end of any period of 12 months if during that period the person made taxable supplies the taxable value of which exceeds LSL850,000 per annum
  Or
- At the beginning of any period of 12 months where there are reasonable grounds to expect that the total taxable value of taxable supplies to be made by the person during that period will exceed LSL850,000 per annum

VAT is imposed on every taxable supply and every taxable import. VAT payable in the case of a taxable supply is to be accounted for by the vendor making the supply, or in the case of a taxable import, is to be paid by the importer. A taxable supply means a supply of goods or services made in Lesotho by a vendor for consideration in the course or furtherance of an enterprise carried on by the vendor. A taxable supply includes a supply by way of an export of goods or services by a vendor for consideration.

Exemption from registration. The VAT law in Lesotho does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person whose turnover is below the compulsory registration threshold may register for VAT on a voluntary basis if the value of its taxable supplies exceeds LSL850,000 in any 12-month period. The application for voluntary registration must be made to the Commissioner of Domestic Taxes who has the discretion to accept or reject such a request based on the merits of the case.

Group registration. Group VAT registration is not allowed in Lesotho.

Fixed establishment. In Lesotho there is no legal definition of a fixed establishment for VAT purposes. However, in practice it includes references to a commercial establishment and a place of business in Lesotho. The Commissioner may cancel the registration of a vendor, where the vendor has no fixed place of abode or business in Lesotho. Every vendor whose principal place of business is outside Lesotho or who is outside Lesotho for more than one tax period shall have a nominated person for value-added tax purposes who is an individual who resides in Lesotho.

Non-established businesses. It must be noted that the normal registration requirements are only applicable to entities that are based in Lesotho. They do not apply to nonresidents.

A "non-established business" is a business that has no fixed establishment in Lesotho. Where nonresidents carry on an enterprise outside of Lesotho, but whose goods or services are consumed in Lesotho, that nonresident shall apply for VAT registration irrespective of whether such person meets the LSL850,000 threshold. Such registration shall be renewable annually, at the expiry of the last registration date.

Should a nonresident have a "permanent establishment" (PE) in Lesotho and registers either an external company (branch) or an internal company (subsidiary), then the M850,000 threshold would apply, and they would be required to register for VAT if this threshold is exceeded.

Tax representatives. A registered VAT vendor needs to appoint a natural person residing in Lesotho as a tax representative to assist in tax matters. No bank account, however, is necessary.

Reverse charge. The Revenue Services Lesotho (RSL) will introduce a reverse-charge mechanism to tax imported services. *At the time of preparing this chapter, the proposed VAT legislation has not been finalized or implemented in Lesotho.* As such, the current position is that the importer of the service makes payments to the RSL based on the value of services imported. If the service is used for the supply of taxable supplies, then the input can be claimed in a subsequent return by the imported that paid the import VAT.

Domestic reverse charge. There are no domestic reverse charges in Lesotho.

Digital economy. The supply of electronic services by a non-established business to recipients in Lesotho is subject to import VAT. An import means, in the case of services, a supply of services by a person in the course of furtherance of an enterprise carried on outside Lesotho where the services are for use or consumption in Lesotho, where:

- Such services are supplied by electronic means such as television or internet.
- Where the supplier is established out of Lesotho and the importer is an established in Lesotho who is importing television or internet services, then it shall be that importer who is liable to pay tax on such taxable import.
- Where such non-established business conducts sufficient business in Lesotho to the extent that such cable television or other service may be treated as supplied in Lesotho and not imported, then the Lesotho operation shall be liable to VAT through its PE.

The term "electronic means" is defined in the VAT Act. In relation to the supply of services, it means the transmission sent initially and received or downloaded at its destination of equipment for the processing (including digital compression) and storage of data or software, or entirely transmitted, conveyed and received by wire, wireless or optical means, or by other electronic means, including television broadcasting but excluding radio broadcasting.

Nonresident providers of electronically supplied services for business-to-business (B2B) and business-to-consumer (B2C) supplies are not required to register and account for VAT on supplies in Lesotho. This does not apply, however, if the nonresident has a permanent establishment in Lesotho, and if its taxable supplies exceed the VAT registration threshold.

The VAT due on the supply is treated as import VAT and is borne by the customer (i.e., the person receiving the service). As the reverse-charge mechanism has not been implemented in Lesotho for imported services (see the *Reverse-charge* subsection above), the importer of the service is required to pay the import VAT due to the RSL on the amount of services imported. If the service is used for the supply of taxable supplies (i.e., the electronically supplied service was made B2B not B2C), then the input can be claimed in a subsequent return.

There are no other specific e-commerce rules for imported goods in Lesotho.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Lesotho.

Registration procedures. To register for VAT, the vendor must visit the RSL Advice Centre (in person) to obtain Form VAT1. This should be submitted together with supporting documents as advised by the RSL. After registration, a VAT registration number will be issued. The certificate when issued must be displayed in a prominent position at your business so that customers and visiting tax officials may see it. Should an individual not qualify to be registered for VAT, they

will receive a notification from the Commissioner Domestic Taxes explaining the reasons why they have not been approved for registration.

Deregistration. The RSL is not clear on deregistration procedures. Communication with the RSL is required prior to deregistration to clarify the process.

Changes to VAT registration details. A vendor is required to maintain up to date records. There is no requirement nor timing to notify the tax authority. However, additional tax may apply to any person who fails to maintain proper records or issues false or misleading statement. For example, an invoice with the incorrect address.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 15%
- Reduced rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero-rate or exemption.

Note that zero-rated goods shall be restricted to those listed in Schedule IV of the Act, provided that the determination and duration of this rate shall be dictated by the extent to which such items may be regarded as a basic necessity. The minister shall make Regulations to redetermine the rate as a matter of State policy.

Examples of goods and services taxable at 0%

- Agricultural input (fertilizers, seeds and pesticides)
- Beans
- Bread
- Lentils
- Livestock feed and poultry feed
- Maize (grain)
- Maize meal
- Milk
- Paraffin intended for use as fuel for cooking, illuminating or heating
- Peas
- Sorghum meal
- Unmalted sorghum grain
- Wheat (grain)
- Wheat flour
- Export of goods or services from Lesotho by a vendor
- Goods that are supplied in the course of repairing, renovating or modifying a taxable supply, subject to the requirements set out in section 6A(3)(a)
- Supply consisting of illuminating kerosene intended for use as fuel for cooking, illuminating or heating and are not mixed with another substance
- Supply of services that would otherwise be taxable, which comprise the transport of goods or any ancillary transport services supplied directly in connection with the exportation from or importation into Lesotho of goods or the movement of goods through Lesotho from one export country to another export country, where such services are supplied directly to a person who is not a resident of Lesotho and is not a vendor, otherwise than through an agent or other person
- Services that are supplied directly in connection with land or any improvement thereto, situated in any export country

- Services that are supplied directly in respect of:
  - Movable property situated in any export country at the time the services are rendered
  - Goods temporarily admitted into Lesotho from an export country that are exempt from tax importation, as listed in Schedule II
  - Arranging the supply of goods being exported outside of Lesotho and transportation of goods within Lesotho for a person who is not a resident of Lesotho and is not a vendor
  - International transport passengers originating in Lesotho with a destination outside Lesotho
- Supply of goods or services is part of a transfer of an enterprise as a going concern by a vendor, provided certain requirements are complied with as contained in the Act

Examples of goods and services taxable at 10%

- Electricity

Examples of exempt supplies of goods and services

- Education services provided by the following:
  - Pre-primary, primary or secondary school
  - College or university
  - Institution established for promotion of adult education, vocational training, technical education or the education or training of physically or mentally handicapped persons, which is registered with the Ministry of Education
- Financial services, defined as follows:
  - Granting, negotiating and dealing with loans, credit, credit guarantees and any security for money, including management of loans, credit or credit guarantees by the grantor
  - Transactions concerning deposit and current accounts, payments, transfers, debts, cheques and negotiable instruments, other than debt collection and factoring
  - Transactions relating to shares, stocks, bonds and other securities, other than custodial services
  - Management of investment funds
- Transportation services, defined as the transportation of fare-paying passengers and their personal effects by road
- Supply of postal, transportation, medical or dental, financial, insurance or education services
- Supply of unimproved land
- Certain supplies by way of lease or letting of immovable property subject to certain provisions
- Supply of water
- Supply by amateur sporting organization of sport activities, where such activities are deemed for the purposes of this Act to be nonprofessional
- Supply of cultural activities and supplies deemed to be so by the Commissioner General, which would include, but are not restricted to, the collection of entrance fees, or where such events are regular events (provided that such activity is for a nonprofit supply or service)
- Supply of charity arrangements by an organization or institution deemed by the Commissioner General to engage in or conduct charitable activities or work subject to certain provisions
- Any supply prescribed by the Minister in regulations as an exempt supply

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Lesotho.

E. Time of supply

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

In Lesotho, the general time of supplies would be the earliest of the following:

- The date on which the goods are delivered or made available, or the performance of the services is completed
- The date on which the invoice for the supply is issued
- The date on which payment (including part payment) for the supply is made

Other tax points are used for a variety of situations, including "rental agreements," change in use, auctions, gifts, hire purchase agreements and finance leases.

Deposits and prepayments. There are no special time of supply rules in Lesotho for deposits and prepayments. As such, therefore the general time of supply rules apply (as outlined above).

Continuous supplies of services. The tax point for continuous supplies of services is the earliest of:
- The date on which the goods are delivered or made available, or the performance of the services is completed
- The date on which the invoice for the supply is issued
- The date on which payment (including part payment) for the supply is made

Goods sent on approval for sale or return. There are no special time of supply rules in Lesotho for supplies of goods sent on approval for sale or return. As such, therefore the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Lesotho for the supply of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. For time of supply purposes, a "rental agreement" means any agreement for the letting of goods other than a hire purchase agreement or finance lease.

The supply of goods under a hire purchase agreement or finance lease occurs on the date of commencement of the hire or lease. Where goods are supplied under a rental agreement or goods or services are supplied on a continuous basis under an agreement or law that provides for periodic payments, the goods or services are treated as successively supplied for successive parts of the period of the agreement or as determined by such law, and each successive supply occurs on the earlier of the date on which the payment is due or received.

Imported goods. The time of supply for imported goods is when the goods require clearance under the Customs and Excise Act, 1982, on the date on which the clearance is made or in other cases on the date the goods are brought into Lesotho.

Goods supplied by auction. Where goods are supplied by auction (other than by way of a sale out-of-hand), the time of supply is the date of the auction.

Exempt supplies. Where goods or services are applied to own or exempt use, the time of supply is the date on which the goods or services are first applied to own or exempt use.

Gifts. Where goods or services are supplied by way of gift, the time of supply is the date on which ownership in the goods passes or the performance of the services is completed.

F. Recovery of VAT by taxable persons

VAT payable by a vendor for a tax period is calculated according to the following formula, A-B where A is the total value added tax payable in respect of taxable supplies made by the vendor during the tax period; and B is the total input tax claimable by the vendor during the tax period and allowed as a credit in terms of the Act. In the event of B exceeding A, a refund of VAT is only allowed subject to an application for a refund to the Commissioner.

The time limit for a taxable person to reclaim input tax in Lesotho is four years. Application for refunds must be done in writing within 20 days after the end of the calendar quarter or within four years after the tax is due and payable.

Input tax means value added tax paid or payable in respect of a taxable supply to, or a taxable import by, any person, but does not include additional tax.

Input tax can be claimed to the extent that the input tax is payable or paid in respect of a taxable supply or taxable import by the vendor in the course of business of an enterprise carried on by the vendor, subject to the following conditions:

- Where there is a valid tax invoice
  Or
- Where there is a bill of entry or other document prescribed under the Customs and Excise Act, 1982, evidencing the amount of input tax payable or paid

There are instances where input tax can be claimed without a valid tax invoice. For this circumstance, the following needs to be proved to the Commissioner General:

- That the vendor took all reasonable steps to acquire a VAT invoice
- That the failure to acquire a VAT invoice was not the fault of the vendor
- That the amount of input tax claimed by the vendor is correct

If in consequence of a fraudulent action or misrepresentation by the recipient of the supply, a vendor applied a lower rate of tax (including a zero rate) than that correctly applicable to the supply, the Commissioner General may raise an assessment upon the recipient for the amount of VAT payable together with any additional tax that has become payable. The amount may also be recovered from the vendor.

Further, the input tax is allowable in the tax period in which the taxable purchases or imports are made. The vendor will only be allowed the input tax credit upon proof of valid tax invoices indicating the tax incurred by the vendor on acquiring taxable supplies in the tax period concerned. It is also important to take note that the input tax incurred by the vendor will only be refunded to the extent that it exceeds the output tax on the reported sales.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (for example, goods acquired for private use or services used for making exempt supplies). Input tax is nondeductible on purchases of goods and services that are not used for taxable purposes, such as private expenses. This also includes any other goods or services that are not used for taxable purposes.

Examples of items for which input tax is nondeductible

- Exempt supplies of goods and services
- Items considered to be of a personal nature
- For tax on purchases of used goods if the taxable value of a taxable supply of those goods is determined as the lesser of consideration paid or fair market value of the supply
- For any tax that is refundable
- For tax on purchases for noncommercial vehicles, entertainment representation and payments in kind to staff

Examples of items for which input tax is deductible (if related to a taxable business use)

If a vendor meets the definition of a taxable supply, then that supply can have input tax claimed, unless it is specifically stated as a supply that an input cannot be claimed, see above.

Partial exemption. If a vendor makes a purchase of a taxable supply in the furtherance of their enterprise, then input tax may be claimed. If the purchase is for their own personal use or exempt use, then no input may be applied. If the purchase is to be used for both taxable and personal or exempt use, then the vendor would have to apply an apportionment based on the taxable versus personal or exempt usage, i.e., turnover.

Approval from the tax authorities is not required to use the partial exemption standard method in Lesotho. Special methods are not allowed in Lesotho.

Capital goods. "Capital goods" in the Lesotho VAT Act means plant and equipment (including spare parts therefore, but not including registrable motor vehicles) for use directly in manufacturing.

Input tax incurred on capital goods can be claimed to the extent that the input tax is payable or paid in respect of a taxable supply or taxable import by the vendor in the course of business of an enterprise carried on by the vendor. If a vendor intends to use a capital good acquired for making taxable supplies, the vendor may deduct the input tax incurred on acquisition, but only to the extent of payment made. If the capital good is intended to be used partially for making taxable supplies and partially for nontaxable supplies, only the portion relating to the intended taxable use may be deducted.

Refunds. A person may apply to the Commissioner General for a refund VAT paid in excess of the amount due. Where the Commissioner General is satisfied that the refund is due to the vendor, they may apply the amount of tax overpaid against any other outstanding VAT liability or income tax liability or refund the amount. The Commissioner General may conduct VAT audits prior to refunds being paid out. Application for refunds shall be done in writing within 20 days after the end of the calendar quarter or within four years after the tax is due and payable. Refunds owing to certain organizations, such as diplomats, contractors and charitable activities, will follow specific rules.

Pre-registration costs. Where a person is registered for VAT, they can claim input tax relating to taxable supplies prior to registration, provided the goods or services were acquired by that person not more than two months before the date of registration and an application for the credit is made within two months after the registration date.

A person can claim an input tax credit in respect of goods and services relating to pre-incorporation expenses upon the incorporation where the vendor is a legal persona, but such person needs to register first for VAT and claim in respect of a commercial entity.

Bad debts. A vendor is allowed a credit for the VAT paid in respect of a taxable supply made by the vendor where the whole or part of the consideration for the supply is subsequently treated as a bad debt. The credit allowed is the amount of the VAT paid in respect of the supply that corresponds to the amount of the debt treated as bad.

The credit arises on the later of the date on which the bad debt was written off in the accounts of the vendor or 12 months after the end of the tax period in which the value added tax was paid in respect of the supply.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Lesotho.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Lesotho is not recoverable.

H. Invoicing

VAT invoices. A vendor making a taxable supply to another vendor shall provide that other vendor, at the time of the supply, with an original VAT invoice for the supply.

Credit notes. Credit notes must be issued by the vendor making the supply in the case where the consideration for the supply is reduced after an invoice has already been issued. This can be the result of, among others, cancellation of the supply, a discount offered, etc.

Debit notes are issued by the vendor making the supply in the case where the consideration for the supply is increased after an invoice has already been issued. This can be the result of, among others; the reduced rate of VAT being used instead of a standard rate of tax, a wrongly reduced quantity of goods is invoiced, etc.

Electronic invoicing. Electronic invoicing is allowed in Lesotho, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Lesotho. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Lesotho. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoices should contain the same particulars as nonelectronic invoices, but the format of electronic invoices is not prescribed. Vendors do not need prior approval from the Commissioner to implement electronic invoicing.

At the time of preparing this chapter, electronic invoicing has not been implemented in Lesotho. A tender in this regard was recently awarded in June 2023, with a projected period of 28 months to implement starting in July 2023. However, no further developments have been announced.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Lesotho. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Lesotho.

Proof of exports. The rate of VAT imposed on an export of goods or services from Lesotho by a vendor is zero. "Exports" in Lesotho are defined as the following:

- In the case of goods, the delivery of the goods to, or the making available of the goods at, an address outside Lesotho as evidenced by documentary proof acceptable to the Commissioner General
  Or
- In the case of services, the supply of the services for use or consumption outside Lesotho as evidenced by documentary proof acceptable to the Commissioner General, not being services, which are supplied directly in connection with any movable or immovable property situated in Lesotho at the time of the supply

Customs documentation relating to imports and exports must be retained by the vendor in order to zero-rate the exports. The legislation does not state what is considered to be acceptable documentary proof for such zero-rating. This would therefore be at the discretion of the Commissioner. The vendor would have to submit what they consider sufficient support of their goods or services.

Foreign currency invoices. If an amount is expressed in a currency other than the domestic currency, which is the Lesotho loti (LSL), the amount shall be converted at the exchange rate applying between the currency and loti at the time of supply.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Lesotho. As such, full VAT invoices are required.

Records. In Lesotho, examples of what records must be held for VAT purposes include the following:

- Original VAT invoices, credit notes and debit notes received by the vendor
- A copy of all VAT invoices, credit notes and debit notes issued by the vendor
- Customs documentation relating to imports and exports by the vendor
- Such other accounts and records as may be prescribed by the Commissioner General

Each vendor must maintain up-to-date books of account, physically stored in Lesotho, in the Sesotho or English languages that meet the following conditions:
- Correctly record and explain the transactions entered into by the vendor
- Will, at any time, enable the financial position of the vendor to be determined with reasonable accuracy
- Will enable the accounts of the vendor to be readily and properly audited
- Will enable the directors of a vendor that is a company to ensure that any balance sheet, profit and loss account, or income and expenditure statement of the vendor complies with the requirements applicable under all relevant laws of Lesotho

In Lesotho, VAT books and records must be held within the country. The records must be held in the Sesotho or English languages.

Record retention period. Records or accounts must be retained for as long as they remain material in the administration of the VAT Act. It is, however, accepted in practice that a duration of six years is the norm.

Electronic archiving. Electronic archiving is not allowed in Lesotho. Archiving must be made in paper form only.

I. Returns and payment

Periodic returns. The VAT return period is monthly for all taxable persons. VAT returns must be filed by the 20th day after the end of the tax period. This deadline is the same whether the returns are filed in person (at the RSL advice center) or by email.

Periodic payments. VAT must be paid by the 20th day after the end of the tax period. Payment should be made in person at the RSL banking hall in Maseru or the banks (standard Lesotho Bank, Nedbank Lesotho, FNB, Post Bank). Payments can also be made by electronic fund transfer and the proof of payment submitted to the RSL, together with the return filing for allocation and receipting.

Electronic filing. Electronic filing is allowed in Lesotho, but not mandatory. Vendors may file VAT returns electronically to the RSL via the e-services platform.

Payments on account. Payments on account are not required in Lesotho.

Special schemes. *Cash accounting.* Where 90% or more of the total taxable value of taxable supplies made by a vendor consists of the supply of services, the vendor may apply, in writing, to the Commissioner General to calculate VAT payable under the cash accounting special method. If the Commissioner General considers it appropriate to do so, the Commissioner General may grant the application by notice in writing with effect from the date specified in the notice. Cash accounting is where you claim input tax and declare output tax on a payment basis.

Goods sold by auction. A supply of goods by auction is treated as a supply of goods for consideration by the auctioneer as vendor-made in the course or furtherance of an enterprise carried on by the auctioneer. A supply of goods or services occurs where goods are supplied by auction (other than by way of a sale out-of-hand), on the date of the auction. Where VAT is payable by an auctioneer in respect of the supply of goods, the auctioneer shall charge the purchaser the amount of VAT payable in respect of the sale by adding the VAT to the amount of a successful bid, or in the case of sales out-of-hand, to the purchase price and shall recover that tax from the purchaser.

Annual returns. Annual returns are not required in Lesotho.

Supplementary filings. No supplementary filings are required in Lesotho.

Correcting errors in previous returns. The vendor may apply in writing for a voluntary disclosure process to declare any errors that they may have identified on previous filings.

However, adjustments must be made to a return where an incorrect amount of VAT was declared, the supply is canceled, the consideration has been amended, goods have been returned, amount charged on VAT invoice was incorrect, etc. Such an adjustment must be made in the returns in the fiscal year the error took place.

Digital tax administration. There are no transactional reporting requirements in Lesotho.

J. Penalties

Penalties for late registration. Once a vendor meets the VAT registration threshold, it is obliged to register for VAT, as its business is regarded as a registerable business. If a vendor fails to register for VAT, it will be liable to pay the VAT on all the taxable supplies it has made, regardless of whether it has actually charged and collected the tax. The Commissioner Domestic Taxes is entitled to consider the vendor's entire liability by looking back to the date it became liable to register and consequently recover the tax due for earlier periods.

In addition, the Commissioner can impose an additional amount of tax as a penalty for the vendor's failure to comply. This additional tax may be charged at the maximum rate of 200% of the unaccounted tax liability. Also, if it is discovered later that the actual VAT registration date (i.e., when the registration threshold was breached) was a date earlier than the one the vendor showed on the registration form, it will have to pay the VAT on the taxable supplies it made from the earlier date, together with the penal additional tax.

Penalties for late payment and filings. A vendor who fails to file a return or fails to pay VAT within the time required is liable for additional tax on the VAT payable for the period of the return at the rate of 3% per month or part of the month the return is outstanding.

Penalties for errors. There are no specific penalties in Lesotho for errors. However, additional penalties can be issued for the following:

- Offenses related to VAT invoices, credit notes and debit notes – failure to provide an invoice, credit note, and debit note as required
- Failure to give security – failure to pay security on import of goods
- Failure to comply with recovery provisions – failure to provide assistance to the Commissioner in recovering VAT due from third parties
- Failure to maintain proper records – not maintain proper records in terms of legislation
- Failure to provide reasonable assistance – failure to assist the Commissioner in executing their duties
- Improper use of taxable person identification number or VAT number – knowingly using a false taxable person identification number or VAT number on a return
- Failure to comply with a Section 50 notice – a Section 50 notice is a request for information issued by the Commissioner – failure to respond to such a request carries a penalty
- Failure to maintain secrecy – both the taxable person and an officer of the revenue authority has a duty to maintain secrecy in relation to the information
- Breach of Section 86 – prohibition on advertising; pricing on tax-exclusive or tax-inclusive basis – a vendor who advertises that the VAT on a supply will be borne or absorbed by the person
- Obstructing taxation officers – failure to assist officers to carry out their duties per legislation
- Impersonating an officer – there is a penalty for impersonating an officer of the authority
- Other offenses by companies – this section states that the nominated person, directors and other members of management are responsible for the above offenses if taken during the time they were in office

A taxable person who fails to abide by the legislation in relation to the above commits an offense and is liable on conviction to a fine. The fine ranges from an amount not less than LSL2,000 but not exceeding LSL12,000 or to an imprisonment for a term not less than two years but not exceeding six years or both.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A vendor who makes false or misleading statements, commits an offense and is liable on conviction to where the statement or omission was made knowingly or recklessly, a fine not less than LSL4,000 but not exceeding LSL12,000 or to imprisonment for a term not less than two years but not exceeding six years or both; or in any other case, a fine not less than LSL2,000 but not exceeding LSL6,000 or to imprisonment for a term not less than one year but not exceeding three years or both.

Personal liability for company officers. A vendor who makes false or misleading statements, commits an offense and is liable on conviction to where the statement or omission was made knowingly or recklessly, a fine not less than M4,000 but not exceeding M12,000 or to imprisonment for a term not less than two years but not exceeding six years or both; or in any other case, a fine not less than M2,000 but not exceeding M6,000 or to imprisonment for a term not less than one year but not exceeding three years or both.

The section does not apply where the offense was committed without such person's consent or knowledge, and the person exercised all such diligence to prevent the commission of the offense as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

Statute of limitations. The statute of limitations in Lesotho is four years. The time limit for amending an assessment are as follows:

- Where fraud or gross or willful neglect has been committed by, or on behalf of, the person assessed in respect of the period of assessment, the assessment may be amended at any time.
  Or
- In any other case, the assessment may be amended within four years after service of the notice of assessment.

Liechtenstein, Principality of

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A legal agreement between Switzerland and the Principality of Liechtenstein states that the Principality of Liechtenstein incorporates the substantive provisions of the Swiss value-added tax (VAT) Act into its State Law (agreement between the Swiss Confederation and the Principality of Liechtenstein regarding VAT in the Principality of Liechtenstein, completed 12 July 2012, entered into force 17 August 2012). As such, refer to the Switzerland chapter for details on VAT rules in Liechtenstein.

Nevertheless, the Principality of Liechtenstein manages VAT with its own tax authority [Steuerverwaltung Fürstentum Liechtenstein (STV)]. Businesses with a nexus to Liechtenstein have principally the requirement to register for VAT in Liechtenstein. Note that a business can only register either in Switzerland or in the Principality of Liechtenstein, and attribution rules depend on a few principles and individual agreement between the tax authorities in specific cases.

In addition, last resort decisions taken by a Liechtenstein court regarding substantive law provisions governing VAT may be subjected to a public law appeal before the Swiss Federal Supreme Court. The procedure is ruled by Swiss law.

Lithuania

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Pridetines vertes mokestis (PVM)
Date introduced	1 May 1994
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://finmin.lrv.lt) State Tax Inspectorate (http://www.vmi.lt) Customs Department (http://www.lrmuitine.lt)
VAT rates	
Standard	21%
Reduced	5%, 9%
Other	Zero-rated (0%) and exempt
VAT number format	LT123456789 LT123456789012
VAT return periods	
Monthly	Standard VAT return period
Quarterly	For legal persons with turnover not exceeding EUR300,000 in the preceding year
Other	For members of international groups (period may not be longer than 60 days and the entity's fiscal year must be the calendar year)
Thresholds	
Registration	
Established	EUR45,000 *(At the time of preparing this chapter, it has been proposed to increase the threshold to EUR55,000 from 1 January 2024, but this has not yet been approved.)*
Non-established	None
Distance selling	EUR10,000

Intra-Community acquisitions	EUR14,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services in Lithuania supplied for consideration by a taxable person performing economic activities
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- The importation of goods into Lithuania (subject to import VAT)
- Certain other cases linked to the international traffic of goods (for example, the supply of goods that are intended to be produced to customs and placed in temporary storage, the supply of goods that are intended to be placed in a free zone and the supply of goods that are intended to be placed under customs warehousing arrangements or special inward processing procedure)

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The Quick Fixes were adopted by implementing the respective amendments of the Lithuanian Law on VAT in December 2019, which in general follows the Directive with few minor deviations and which came into force starting from 1 January 2020. The following amendments were implemented:
- Call-off stock arrangements
- Chain transactions
- Mandatory VAT identification number to apply the zero VAT rate to intra-Community supplies
- Documentary evidence of proof of intra-Community supplies

In regard to the regulation on the evidence (documentation) of cross-border transportation, the supplier has the right to choose whether to provide documents according to the current Lithuanian practice (concerning a set of coherent documents proving the transport, the destination document, etc.) or the evidence specified in the Article 45a of the updated Council Implementing Regulation (EU) No. 282/2011. If the supplier chooses to prove intra-Community supplies based on the documents specified in EU Directive, the tax authorities should not require more documents to prove the intra-Community transport.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Lithuania, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. If the taxable person transfers a business or part of the business as a complex (i.e., including its assets and other related rights and obligations) to another taxable person as a going concern, such transfer of activities shall not be deemed to be neither a supply

of goods nor services. The transaction is considered to be as a transfer of a going concern and thus not subject to VAT, if the following conditions are met:
- Both parties are considered as taxable persons
- The activities will be continued after the transfer
- The transfer should constitute the totality of assets, rights and obligations related to the economic activity (including, but not limited to tangible and intangible assets and liabilities related to the transferred activities)

Transactions between related parties. In general, transactions between related parties must meet the "arm's-length" principle and follow the local, as well as international, transfer pricing rules when determining the taxable value of the transaction.

If the tax authorities have grounds to suspect that the taxable value of a supplied goods and/or services has been artificially increased or reduced, they may recalculate the taxable amount where the following criteria must be met:
- The taxable amount is either of the following:
  - Significantly lower than the open market value and the customer does not have a right to deduct the whole amount of input VAT or has a right to deduct part of it.
  - Significantly higher than the open market value and the supplier does not have a right to deduct the whole amount of input VAT or has a right to reduced part of it.
- The taxable amount is artificially reduced or increased to gain a tax benefit and the transaction is concluded between related parties.

C. Who is liable

Persons liable to VAT are as follows:
- A taxable person, i.e., a business entity, an individual established in Lithuania or elsewhere or a collective investment undertaking (fund) that performs an economic activity in the course of its business in Lithuania
- A legal entity that is not a taxable person with respect to intra-Community acquisitions of goods or any person with respect to the intra-Community acquisition of new means of transport

The VAT registration threshold for Lithuanian entities is turnover in excess of EUR45,000 in the preceding 12 months. If the total turnover of all entities controlled by a single entity or by an individual exceeds EUR45,000 , all entities are required to register for VAT, even if the turnover of each entity separately does not exceed the threshold. The provisions of this part do not apply if these persons can prove that:
1) None of their management bodies and/or individual members of the management body are the same person.
2) Their actual economic activities are not of the same nature, and they do not act for each other's benefit or interests.

At the time of preparing this chapter, it has been proposed to increase the VAT registration threshold for Lithuanian entities from EUR45,000 to EUR55,000. This is with effect from 1 January 2024. However, the proposal has been submitted for consideration in Parliament, and has not been approved.

The VAT registration threshold for farmers engaged in activities under a special scheme, legal nontaxable persons and taxable persons who are not eligible for input tax deduction is the amount of intra-EU acquisitions of goods exceeding EUR14,000 in the preceding 12 months (i.e., no threshold for taxable persons). Special rules apply to foreign or "non-established" businesses that have no fixed establishment in Lithuania.

Exemption from registration. There are no exemptions from the VAT registration for Lithuanian entities if their turnover exceeds the EUR45,000 threshold in the preceding 12 months. *Note the above proposal to increase the threshold to EUR55,000.*

Foreign entities are not required to register for VAT if their transactions are exempt, outside the scope of VAT or zero-rated (taxable at 0%). However, for certain supplies, VAT registration is required even though the zero rate of VAT applies. These supplies include the following:

- Exports of goods
- Supplies of goods that are intended to be produced to customs and placed in temporary storage
- Supplies of goods that are intended to be placed in a free zone or in a free warehouse
- Supplies of goods that are intended to be placed under customs warehousing arrangements or special inward processing procedure
- Services linked to the above supplies
- Intra-Community supplies of goods
- Supplies of new vehicles that are transported to another EU Member State
- Supplies of goods to a taxable person, who facilitates trade via e-commerce marketplace/platform/portal or similar means for distance sales of goods imported from third territories or third countries with an intrinsic value not exceeding EUR150 and/or who creates via the mentioned means the conditions for a taxable person, established outside the EU, to supply the goods to nontaxable persons in the EU

Taxable persons to which non-EU scheme and/or EU scheme and/or Import One-Stop-Shop (IOSS) scheme apply, and supply within the territory of the country the services and/or goods under those schemes and are already registered for VAT purposes in any other EU Member State in accordance with the provisions of the legal acts of that EU Member State are not obliged to register for VAT purposes in Lithuania. However, this only applies if their obligation to register for VAT purposes arises solely from the supply of such services and/or goods.

Voluntary registration and small businesses. Certain persons may register for VAT voluntarily. This possibility exists for 1) a business established in Lithuania that has turnover not exceeding the registration threshold (except when it is carrying out or intends to carry out only an activity for which input and/or import VAT on goods and/or services used could not be deductible under the provisions of Lithuanian VAT law) and 2) a person that acquires or plans to acquire goods from another EU Member State (except new means of transport or excise goods). In practice, persons established outside Lithuania may also voluntarily register for VAT.

Group registration. Group VAT registration is not allowed in Lithuania.

Holding companies. In Lithuania, a pure holding company cannot be a member of a VAT group, as group VAT registration is not allowed in Lithuania.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Lithuania. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Lithuanian VAT law).

The Lithuanian VAT law has adopted the provisions of the cost-sharing exemption in accordance with the Article 132(1)f of VAT Directive 2006/112/EC. Respectively, the supply of services by independent groups to its members where those members are persons carrying out activities specified in Chapter 2 of Title IX of the VAT Directive 2006/112/EC, which are directly necessary to the activities referred in this article, shall be exempt from VAT. The members of the independent group should not pay more for the service received than their share of the total costs.

Fixed establishment. In Lithuania, a fixed establishment is considered a structural or other division of a taxable person through which a taxable person of one country supplies and/or acquires goods and/or provides and/or receives services in another country. The criteria of fixed establishment defined in the Regulation No. 282/2011 are applied in Lithuania. No special guidelines are available from the tax authorities. The official Commentary of the Law on VAT only provides the general definition of a fixed establishment and gives the link to Regulation No. 282/2011.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Lithuania. A non-established business must register for VAT in Lithuania if it makes taxable supplies of goods or services in Lithuania. No VAT registration threshold applies to supplies made by foreign non-established businesses; that is, registration is required in the event a taxable supply is made in Lithuania, unless the reverse charge applies or unless the supply is outside the scope of VAT or is exempt. As mentioned above, for certain supplies, VAT registration is required even though the VAT zero-rate applies.

A non-established business must register for VAT in Lithuania if it makes distance sales of goods and/or supply of services to end customers (B2C) in Lithuania greater than EUR10,000 in the current or previous calendar year, unless it is registered for VAT with respect to a special taxation scheme (e.g., non-EU scheme, EU scheme or IOSS scheme) in another EU Member State. In the latter case, such business is not obliged to register for VAT in Lithuania with respect to the supplies made under those taxation schemes to nontaxable persons in Lithuania.

Tax representatives. A non-established business must register for VAT through a fixed establishment in Lithuania or appoint a fiscal representative.

The requirement to appoint a fiscal representative is not applicable to non-established businesses that are based in other EU Member States, as well as to non-established businesses that register for VAT in Lithuania only for the application of special taxation schemes, i.e., non-EU scheme, EU scheme or IOSS scheme. The requirement to appoint the fiscal representative is also not applicable to non-EU established businesses that are based in the territories where the provisions of Mutual assistance agreements are applied, which essentially are equivalent to the provisions of Directive No 2010/24/EU and Regulation No. 904/2010. The fiscal representative becomes jointly liable for VAT obligations with the company they are representing. Based on the rules on appointing the fiscal representative in Lithuania published by the Ministry of Finance, the fiscal representative must meet certain criteria, for example:

- The taxable person must be engaged in one of the following activities – legal, accounting, bookkeeping and/or audit, tax consulting
- Is registered for VAT purposes in Lithuania for at least three years
- Does not have tax arrears or debts to Customs over the past 12 months
- The management of the entity must have clean criminal record in terms of financial and tax matters

Reverse charge. A non-established business that makes taxable supplies in Lithuania is not required to register for VAT if the reverse-charge rule applies to all its transactions. Under the reverse-charge rule, a Lithuanian customer that is a taxable person established in Lithuania is responsible for the calculation and payment of VAT, unless either of the following circumstances exists:

- The supply is used by a fixed establishment of the person outside Lithuania
- The supply falls under the list of exceptions

Domestic reverse charge. Under the domestic reverse-charge rule, a customer that is a VAT-registered person in Lithuania is responsible for the calculation and payment of VAT with respect to supplies of the following goods:

- Natural gas, electricity, as well as heating or cooling energy
- Goods installed and assembled in Lithuania

The Lithuanian VAT law also provides for a reverse-charge procedure with respect to supplies between persons established in Lithuania, including the following:

- Supplies of goods and services while a supplier is under bankruptcy or a restructuring procedure *(applicable until 31 December 2021)*
- Supplies of metal scrap and similar products
- Supplies of timber *(applicable until 31 December 2021)*

- Supplies of construction services as detailed in the law on construction and supplies of certain construction materials
- Supplies of hard drives, provided that the customer is registered for VAT in Lithuania *(effective 1 August 2019 until 28 February 2022)*
- Supplies of mobile phones, tablets and laptops (classified under CN code 8471 30 00), provided that the customer is registered for VAT in Lithuania *(effective 1 August 2019 until 31 December 2026)*

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B*, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU. Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each EU Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Lithuania, for the rules on the requirement to appoint a fiscal representative for non-EU businesses, see the *Tax representatives* subsection above. In addition, for the details on the registration procedures required for a nonresident supplier to register for VAT purposes in Lithuania, see the *Registration procedures* subsection below.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single EU Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly VAT return. The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Lithuania, for the EU scheme, the country of OSS registration shall be the EU Member State in which a taxable person is established or in which it has a division. If a taxable person, that is not established in the EU, has divisions in more than one EU Member State, the country of OSS registration is the EU Member State in which such taxable person has a division and in which it chooses to treat as the country of OSS registration. In a case when a taxable person is not established in the EU and does not have a division in the EU, the country of OSS registration is the EU Member State in which the dispatch or the transport of the goods begins.

Respectively, in the EU scheme, the country of consumption shall be understood as below:
- In case of services – EU Member State in which the supply of services takes place
- In case of distance sales – EU Member State in which the transport of the goods to the final customer ends
- In case when a taxable person facilitates trade via e-commerce marketplace/platform/portal or similar means and the dispatch or transport of the goods begins and ends in the same EU Member State – that EU Member State

In Lithuania, for the non-EU scheme, the country of OSS registration shall be understood as the EU Member State in which a taxable person established outside the EU decides to register for OSS. Respectively, in the non-EU scheme, the country of consumption shall be understood as the EU Member State where the supply of services takes place.

The deadline to submit the VAT return via OSS and pay VAT in case of EU or non-EU schemes is the last day of the month following the taxable period, which is a calendar quarter. When making a payment, the identification number assigned to the VAT return in the OSS system shall be indicated. If no goods or services were supplied during the taxable period, a nil-VAT return shall be submitted. If it is necessary to correct the data of the VAT return submitted via OSS, all the corrections shall be made in the subsequent VAT return within three years after the date when the initial return had to be submitted.

To register for OSS, a taxable person must submit the respective registration application via OSS system (www.vmi.lt/oss). *For more details about the operation of the OSS, see the chapter on the EU.*

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Lithuania, the IOSS scheme can be used by the taxable persons established in the EU or outside the EU who perform distance sales of goods imported from third territories or third countries to the final customers in the EU.

In the view of IOSS scheme, the country of OSS registration shall be understood as below:
- When a taxable person is established outside the EU – the EU Member State in which such taxable person decides to register for OSS
- When a taxable person established outside the EU has a division in the EU Member State – that EU Member State
- When a taxable person is established in the EU Member State – that EU Member State
- When the import agent is established in the EU Member State – that EU Member State
- When the import agent established outside the EU has a division in the EU Member State – that EU Member State

Respectively, in the IOSS scheme, the country of consumption is the EU Member State in which the transport of the goods to the final customer ends.

A taxable person established outside the EU, in the territory where the provisions of mutual assistance agreements are not applied, which essentially are equivalent to the provisions of Directive No 2010/24/EU and Regulation No. 904/2010, that performs distance sales of goods imported from that territory shall appoint an import agent to use the IOSS scheme.

The deadline to submit the VAT return via OSS and pay the VAT in case of an IOSS scheme is the last day of the month following the taxable period, which is a calendar month. When making payment, the identification number assigned to the VAT return in the OSS system shall be indicated. If no goods were supplied during the taxable period, a nil-VAT return shall be submitted. If it is necessary to correct the data of the VAT return submitted via OSS, all the corrections shall be made in the subsequent VAT return within three years after the date when the initial return had to be submitted.

To register for OSS, a taxable person shall submit the respective registration application via the OSS system (www.vmi.lt/oss).

For more details about the IOSS, see the chapter on the EU.

Use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers. *For more details about the special scheme for postal services and couriers, see the chapter on the EU*.

In Lithuania, under this scheme, the obligation to pay the import VAT falls to the final customer to whom the goods are intended and who pays the import VAT to the taxable person, who declares these goods to customs. In other words, a taxable person that declares goods to customs (e.g., postal services provider or courier), collects the related import VAT from the final customer of the goods and pays it.

Respectively, postal services provider or courier at the end of each calendar month shall submit to the customs the respective report via electronic means containing information on the import VAT collected under this scheme. Both the person declaring the goods to customs, as well as the person to whom the goods are intended are jointly and severally liable for the payment of import VAT.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of the residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales

within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Lithuania there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. Effective 1 January 2019, Lithuania adopted provisions of the Council Directive (EU) 2016/1065. Changes in the local legislation defined single-purpose vouchers (SPV) and multi-purpose vouchers (MPV) and set the rules on taxation with VAT of transactions in both cases. New rules shall apply to all vouchers released from 1 January 2019 and onward.

SPVs are defined as vouchers where the place of supply of the goods or services to which the voucher relates, and VAT due on those goods or services is known at the time of issue of the voucher. An MPV is any voucher that is not a single-purpose voucher.

A transfer of an SPV shall be treated as a supply of goods or services to which the voucher relates (i.e., it is treated as a supply), and VAT shall be accounted for accordingly. MPVs shall only be subject to VAT when the voucher is redeemed, i.e., no VAT shall be due when the voucher is transferred through the supply chain. The value on which VAT should be accounted for is either the price paid by the consumer, or if that is not known, the face value of the voucher, less the amount of VAT relating to the goods or services supplied.

Registration procedures. Applications for registration as a Lithuanian taxable person and as a Lithuanian VAT payer can be filed electronically (recommended) or manually (paper) through the system Mano VMI. Registration as a Lithuanian taxable person takes up to five working days, and registration as a Lithuanian VAT payer takes up to three working days.

Note that a taxable person is a person who performs economic activities in Lithuania and who has the obligation to declare its transactions but is not obliged to register for VAT purposes. Meanwhile, a VAT payer is a taxable person, who was obliged to register for VAT purposes due to its transactions in Lithuania and who has already done that. For example, Lithuanian entities are not obliged to register for VAT purposes when their turnover does not exceed a EUR45,000 threshold in the preceding 12 months (*note the above proposal to increase the threshold to EUR55,000).*However, such entities are still obliged to register as Lithuanian taxable persons to be able to declare its transactions and to use the tax authorities' electronic systems.

The registration is performed via the individual account of the electronic system Mano VMI. It is given automatically to each resident of Lithuania (taxable person who is natural person). In respect to the access to a business's Mano VMI, it is provided to the representatives of the business as per registration application (e.g., head of the company, authorized persons). All other persons must be added manually. Note that the access to the business's account is also possible to foreign individuals, however, it is more complex.

There is no requirement to register in the commercial register before registering for VAT unless the business is establishing a branch or a separate entity in Lithuania.

For a VAT registration, the following documents must be submitted to the tax authorities:
- Registration application for the taxable person's register (Form FR0227)
- Registration application for the VAT payer's register (Form FR0388)
- Commercial register extract issued by the competent authority of the country of establishment, approved by apostille and officially translated into Lithuanian

Deregistration. A Lithuanian taxable person has the right to deregister voluntarily if:
- The taxable person's total turnover does not exceed EUR45,000 in the preceding 12 months (*note the above proposal to increase the threshold to EUR55,000).*

- The value of intra-EU acquisitions does not exceed EUR14,000 in the preceding 12 months.
- The taxable person finishes its activities due to liquidation or reorganization.
- The taxable person terminates its taxable activities.

A foreign person who is a Lithuanian taxable person has the right to deregister voluntarily if:
- The taxable person finishes its activities in Lithuania.
- The taxable person finishes its activities due to liquidation or reorganization.

Lithuanian taxable persons may be deregistered on the initiative of the tax administrator if:
- The taxable person does not perform economic activities or intra-EU acquisitions (e.g., the Lithuanian taxable person does not submit the VAT returns or does not report taxable supplies), for two months in a row.
- The taxable person finishes its activities due to liquidation or reorganization.
- The taxable person (natural person) is dead.

Changes to VAT registration details. Changes to a taxable person's VAT registration details must be notified to the tax authorities by completing a special form, within five working days from the data change. The special form can be submitted electronically via the tax authorities' website (Mano VMI), in person at the tax authorities' offices or by post.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 21%
- Reduced rates: 5%, 9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides a reduced rate, the zero rate or an exemption.

Examples of supplies of goods and services taxable at 0%

- Exports of goods from the EU and related services
- International transport and related services
- Supplies related to ships and aircraft
- Goods and services provided free of charge to charitable organizations, as these are described under the provisions of the Law on Charity and Support to support the disaster victims of the Russian Federation military aggression against the population of Ukraine that began on 24 February 2022; furthermore, 0% VAT is applicable to goods supplied to other subjects involved in resolving the after-effects of the Russian Federation military aggression against the population of Ukraine, provided that these goods may be exempt from import VAT if imported to the Republic of Lithuania under the decision of the European Commission issued to the Republic of Lithuania
- Supply of goods and services to diplomatic missions, consular posts and international organizations or their representations, as well as to the staff of the missions and institutions and their family members
- Supply of gold to the system of the European central banks, as well as to the European central bank
- Intra-Community supplies of goods
- Supply of goods to the recipients of sponsorship if the goods are transported out of the EU
- Work on movable tangible property (certain cases)
- Intermediary services for the above supplies

- Supplies of goods intended to be produced to customs and placed in temporary storage or to be placed in a free zone, free warehouse or under customs warehousing arrangements or special inward processing procedures as well as services directly linked to these supplies
- Supplies of goods to a taxable person who facilitates trade via e-commerce marketplace/platform/portal or similar means for distance sales of goods imported from third territories or third countries with an intrinsic value not exceeding EUR150 and/or who creates the conditions for a taxable person, established outside the EU, to supply the goods to nontaxable persons in the EU
- Vaccines against COVID-19 (*applicable until 31 December 2022*)
- Invitro diagnostic medical devices of COVID-19 (*applicable until 31 December 2022*)

Examples of supplies of goods and services taxable at 5%

- Medicines and medical aid products, subject to full or partial compensation from the state medical insurance budget, as well as non-compensated prescription medicines (excluding medicines that are subject to 0% VAT rate)
- Food products for special medical purposes, subject to full or partial compensation from the state medical insurance budget *(effective from 1 January 2023)*
- Technical equipment that is used to assist persons with disabilities as well as for the repair services of such equipment
- Printed and (or) electronic newspapers, magazines and other periodicals (even if they are published through electronic communication), including the electronic information documents and (or) their sets, which content mainly would be made analogous to periodicals content (not taking into account, if those electronic information documents and (or) their sets are printed, or not and which are periodically updated by public information disseminators; this subparagraph does not apply to technical, bibliographic databases, publications of erotic and/or violent nature or publications failing to comply with professional ethics, recognized as such by an institution authorized under the law; it also doesn't apply to printed products in which paid advertising accounts for more than 4/5 of total area of the publication or in the case that the most or all of paid advertising is consisted of music or video content (*with effect from 1 January 2021*)

Examples of supplies of goods and services taxable at 9%

- Supplies of books and printed non-periodical materials, such as encyclopedias, dictionaries, children's books and maps
- Supplies of electronic books and electronic non-periodical materials, such as encyclopedias, dictionaries, children's books and maps, etc. *(effective from 1 January 2023)*
- Heating and hot water supplies to residential premises; VAT compensation from the budget is applied to heat energy supplied to domestic consumers, supplied to heat residential premises (including heat energy transmitted through the hot water supply system), hot water supplied to residential premises or cold water for preparing hot water, and heat energy used to heat from 1 October 2022 until 30 April 2023 and from 1 October 2023 until 30 April 2024
- Passengers and their baggage transport services going on regular routes that are authorized by the Ministry of Transportation or the local authorities
- Accommodation services supplied according to the legislation regulating tourism activities
- Fuel wood and wood products intended for heating households
- Supplies of catering services and take-away food provided by restaurants, cafes and similar catering services, with the exception of alcoholic beverages and services or parts of services related to alcoholic beverages *(applicable until 31 December 2023)*
- Visiting all types of sports events, sports clubs and attendance of other persons providing services similar to those provided by sports clubs, when such services are not exempt from VAT under Lithuanian VAT law *(applicable until 30 June 2023)*
- Visiting all types of artistic and cultural institutions or events, when such services are not exempt from VAT under Lithuanian VAT law

- Performance services provided by performers (e.g., actors, singers, musicians, conductors, dancers or other persons who play, sing, read, recite or otherwise perform literary, artistic, folklore or circus numbers) (*applicable until 30 June 2023*)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Health care services and goods
- Real estate rent and disposals
- Insurance and reinsurance services
- Certain financial services
- Cultural and sporting activities
- Educational and training services
- Betting, gambling and lotteries
- Universal postal services
- Social services and related goods
- Supplies of special marks
- Radio and television services
- Goods and services supplied by nonprofit legal entities
- Imported goods (certain cases)
- Services supplied by independent groups, as in the Articles 132-134 of Directive 2006/112/EC

Option to tax for exempt supplies. A taxable person may opt to charge VAT on these supplies:

- Rent of real estate
- Disposal of real estate
- Certain financial services

The option is applied only if the above services are supplied to the taxable person. The tax authorities should be formally notified about the decision. A taxable person that has opted to charge VAT on any of the above services should charge VAT on all similar transactions for a period of not less than 24 months.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods and services is when the VAT invoice is issued. If an invoice is not issued, the time of supply is when the earlier of the following events occurs:

- Goods or services are supplied
- Payment for goods or services is received

Deposits and prepayments. The time of supply for a prepayment received before the supply is made is when the prepayment or the total payment is received. This rule applies to contracts that provide for a supply after 12 months. If the prepayment is received and if the supply will be triggered earlier than 12 months beginning on the date of the signing of the contract, the taxable person may choose the date of receipt of prepayment as the time of supply and calculate the VAT on this prepayment.

If the invoice is issued upon the receipt of prepayment, the remuneration indicated in the final invoice shall be reduced by the amount of prepayment. If special margin schemes for travel agents and for secondhand goods, works of art, collectors' items and antiques are applied, the above treatment of prepayments does not apply.

Continuous supplies of services. In the case where long-term services are supplied, i.e., services that are supplied for a certain continuous period such as telecommunications, leases and also in the case of long-term supply of electricity, gas, heat and other types of energy, VAT shall become

chargeable when the VAT invoice for the supply of goods or services during the accounting period is issued. In cases where the VAT invoice is not issued, VAT is chargeable upon receipt of the consideration for the amount of goods or services supplied during the accounting period.

Goods sent on approval for sale or return. There are no special time of supply rules in Lithuania for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). Thus, businesses should consider other simplification measures that could possibly apply in these cases (e.g., call-off stock simplification), due to timing of charging VAT, issuing invoices and/or VAT registration obligations.

If goods are returned to the seller and to the same EU Member State, the transaction is deemed as annulled, and it does not result in VAT obligations in Lithuania. If the goods are not sold but are not returned to the seller, the seller may be liable for VAT on the basis of making a fictitious intra-Community acquisition and a supply for private use.

Reverse-charge services. The time of supply for reverse-charge services is the date on which the invoice for the services is issued. If an invoice for the services is not issued, the time of supply for the services is when the earliest of the following events occurs:
- The services are provided
- The consideration is paid for the services provided

Leased assets. VAT shall become chargeable on the supply of leased assets when the goods are transferred in cases where goods are transferred under a lease contract or other contract that provides for payment on deferred terms or by installments and under the terms of this transaction a major part of risk and benefit relating to the ownership of the goods as well as the ownership of the goods shall pass to the person to whom the goods have been transferred.

Imported goods. Import VAT shall become chargeable upon the entry of the goods from a third country territory into the territory of Lithuania. Where the goods imported into the territory of Lithuania are subjected to certain actions, procedures or arrangements specified in VAT law, import VAT shall become chargeable upon cessation of the application of said actions, procedures or arrangements within the territory of Lithuania.

Postponed accounting for imports applies to imports made by taxable persons. The import VAT due is calculated by the customs authority, but the VAT is included and recovered on the VAT return in the same taxable period.

Intra-Community acquisitions. The time of supply for the goods acquired from another EU Member State is the date on which the supplier issues an invoice, but not later than the 15th day of the month following the month during which the transport of goods began.

Intra-Community supplies of goods. VAT shall become chargeable for the goods supplied to another Member State when the VAT invoice for the supply of goods is issued, but not later than the 15th day of the month following the month in which the goods were dispatched.

Distance sales. The time of supply for supplies of distance sales is the date on which the supplier issues an invoice, but not later than the 15th day of the month following the month during which the transport of goods began.

When a taxable person facilitates trade via e-commerce marketplace/platform/portal or similar means for distance sales of goods imported from third territories or third countries with an intrinsic value not exceeding EUR150 and/or creates via mentioned means the conditions for a taxable person, established outside the EU, to supply the goods to nontaxable persons in the EU, the taxable moment of such taxable person's supply, as well as the taxable moment of the supply to that taxable person, is the moment when the consideration is paid, within the meaning of Article 41a of Regulation No. 282/2011.

In case of distance sales of goods imported from third territories or third countries, the time of supply is the moment when the consideration is paid, within the meaning of Article 61b of Regulation No. 282/2011.

Construction work. The time of supply for the self-construction of a building is the moment when the building begins to be used in economic activities. For an essential improvement on a building, the time of supply is the moment when the works are finished. The time of supply for construction services is when the invoice for the services is issued. If the invoice for construction services is not issued, the time of supply for the services is when the earliest of the following events occurs:

- The services are provided
- The consideration is paid for the services provided

F. Recovery of VAT by taxable persons

A taxable person that is registered for VAT and that performs economic activities may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services acquired in Lithuania, VAT paid on imports of goods and VAT self-assessed for reverse-charge services received.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice or on cash receipts (for small amounts of VAT).

The time limit for a taxable person to reclaim input tax in Lithuania is three years. With respect to the statute of limitations in Lithuania, a taxable person has the right to recover input tax during the current and three preceding calendar years calculated retroactively from 1 January of the year in which the recovery of input tax is initiated.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by a business), are directly attributable to VAT exempt or out-of-scope activities. In addition, input tax may not be recovered for some items of business expenditure.

The following list provides examples of items for which input tax is not deductible.

Examples of items for which input tax is nondeductible

- Purchase, lease and hire of cars which shall not be sold, leased or used for the provision of transportation services; as of 1 January 2023, this rule does not apply to electric vehicles classified as M1 type passenger cars with the value not exceeding EUR50,000 (including VAT)
- Business gifts (if amount for "small gift" is exceeded)
- 50% of VAT for entertainment expenses, provided that the expenses do not exceed 2% of revenues, 100% of VAT for entertainment expenses greater than this limit
- VAT paid on behalf of a third party
- Tourism services if a special VAT scheme applies
- Secondhand and cultural value goods if a special VAT scheme applies

Examples of items for which input tax is deductible (if related to a taxable business use)

- Accommodation
- Advertising
- Books
- Conferences
- Fees from professional advisors such as accountants, lawyers and tax advisors

- Land and property
- Lease/purchase of vans and trucks
- Mobile phones
- Parking (on and off street)
- Petrol
- Petrol and maintenance costs of trucks and vans
- Subscriptions for periodicals and magazines (related to the business of the company)
- Telephone/faxes used in the office
- Travel expenses (air, rail, bus, boat)

Partial exemption. Input tax directly related to making exempt supplies is not generally recoverable. If a taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as "partial deduction."

The amount of input tax that may be deducted is generally calculated using the following two-stage calculation:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation is done using a pro rata method, based on the value of taxable supplies made in the period, compared with the value of total supplies made.

If a taxable person is not able to directly allocate VAT to taxable and exempt supplies, a pro rata calculation may be used for all input tax incurred.

A partially exempt taxable person may provisionally use the recovery percentage calculated for the previous year. If, at the end of the year, the taxable person's actual recovery percentage differs by more than 5% from the provisional percentage used, an adjustment calculation must be made.

Approval from the tax authorities is not required to use the partial exemption standard method in Lithuania.

Special methods are allowed in Lithuania. However, if a special method is used for input tax deduction (e.g., alternative allocation criteria instead of regular income based pro rata is applied for fixed assets), this must be agreed in writing, in advance with the tax authorities.

Capital goods. Capital goods are items of capital expenditure that are used in a business for more than one year. Input tax is deducted in the VAT year in which the goods are acquired or first taken into use. The amount of input tax recovered depends on the taxable person's partial deduction recovery position in the VAT year of acquisition or first use. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption recovery percentage changes during the adjustment period or if the capital goods are either used for nontaxable supplies or written off, including the cases when the taxable person is deregistered from VAT and will not be using the capital goods in its future taxable activities. The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the taxable person's recovery percentage increased or decreased in the year, compared with the year in which the capital goods were acquired or first used.

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

- Property immovable by its nature, including improvement of buildings or structures: adjusted for a period of 10 years
- Other types of tangible capital assets legally required to be depreciated over a period of at least four years for purposes of the taxes on profit or income: adjusted for a period of five years

In Lithuania, the capital goods adjustment does not apply to any services, unless the respective services were capitalized into the asset value.

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax (1/10 for immovable property and 1/5 for other tangible capital goods).

Refunds. If the amount of input tax that is deductible for a VAT period exceeds the amount of output tax that is chargeable in the same period, the taxable person has a VAT credit. The credit must first be used to offset other taxes payable. If the amount of VAT credit exceeds all taxes payable, the excess is refunded either on a monthly or semiannual basis (when a taxable person does not meet the minimum requirements for a reliable taxable person). This means that if a taxable person meets the minimum requirements for a reliable taxable person, then the VAT overpayment can be refunded monthly, and if it does not, it can only be refunded on a semiannual basis. The minimum requirements for a reliable taxable person are specified in Article 40-1 of the Lithuanian Law on Tax Administration and it came into force as of 1 January 2019. For details on the reliable taxable person status, see the *Penalties for late registration* and *Penalties for errors* subsections below.

Pre-registration costs. Input tax may be subject to VAT recovery in those cases where VAT was paid on goods or services acquired before an entity was registered as taxable person. Special rules and procedures apply, for example:

- Goods or services acquired before registering for VAT should have a direct link with the taxable activities after the registration and should be used in taxable activities.
- Where goods or services were acquired before registering for VAT, the input tax incurred on the purchase may be deducted only if the taxable person can prove the actual use of those goods or services in the taxable activities. Formally, it is also accepted to show the intention of the goods or services. However, it is often reviewed on a case-by-case basis and subject to sufficient supporting evidence.

Bad debts. Suppliers may be able to reduce the calculated payable VAT with the output tax amount attributable to bad debts (not applicable to margin schemes and when the supplier of goods or provider of services is a related person). As indicated in VAT law, a receivable remuneration is considered as a bad debt (including output tax), if the person cannot recover such remuneration for at least 12 calendar months from the taxation moment of the supplied goods or provided services and if the output tax amount was calculated and declared.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Lithuania.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Lithuania is recoverable. The Lithuanian tax authorities refunds VAT incurred by businesses that are neither established nor registered for VAT in Lithuania. Non-established businesses may claim Lithuanian VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, a refund is made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Lithuania during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Lithuania:

- A taxable person that is not established in Lithuania (that is, they are registered for VAT in another EU Member State) must submit the VAT refund application to the electronic VAT refund system through their home country tax authority.

- VAT refund application can be submitted via a representative. In such cases, power of attorney should be submitted together with the application as well. If the power of attorney is not in the Lithuanian or English language, the translation should be provided. The power of attorney has either to bear an apostille or be legalized if it is issued outside the EU.
- The VAT refund application must contain information about goods and services bought in Lithuania and described by purchase goods and services codes. General codes are indicated in EU Directive 2008/9/EC. However, Lithuania has chosen to require some, but not all detailed codes in the Regulation (EU) No.79/2012.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive.

Lithuania applies the principle of reciprocity, meaning the country where the claimant is established must also provide VAT refunds to Lithuanian businesses. Lithuanian VAT is only refunded on the condition of reciprocity to taxable persons of Armenia, Iceland, Norway, Canada, Switzerland, United Kingdom (UK) and Türkiye. The list of non-EU countries where established taxable persons can claim refunds of VAT paid in Lithuania is not final and may be adjusted, taking into account the practice of other countries in refunding VAT to the Lithuanian taxable persons.

Effective since 1 January 2018, foreign taxable persons established in countries that are members of the Organization for Economic Cooperation and Development (OECD), but that do not have a VAT (or an identical tax) are entitled to apply for a VAT refund and claim the VAT paid in the Republic of Lithuania. Currently, this provision applies only to the taxable persons established in the United States. To claim a refund, a non-established business must satisfy both of the following conditions:

- It must not have a business establishment in Lithuania through which activities are performed (or if the claimant is an individual, he or she must not be a permanent resident in Lithuania).
- It must not make taxable supplies of goods or services in Lithuania.

However, if the claimant supplies international transport services or sells goods that are taxed through the application of the reverse-charge mechanism, also if the claimant performs the economic activities subject to special taxation schemes, i.e., non-EU scheme, EU scheme and IOSS scheme, it may still apply for a VAT refund.

Find below specific rules for Lithuania:

- The deadline for submitting applications is 30 June following the claim year.
- The claim period cannot be any longer than one calendar year and no less than three calendar months of the same calendar year. The claim period can only be less than three calendar months, provided that these months are the last months of a calendar year.
- Documents can be submitted directly to Vilnius County State Tax Inspectorate, sent by post or using the online services via Mano VMI. However, to use online services, a person has to be an authorized user or to have a Lithuanian tax representative. If documents are sent by post, the application may be sent to the following address:

  Vilniaus Apskrities Valstybinė Mokesčių Inspekcija
  Ulonų g. 2,
  LT-01509 Vilnius
  Lithuania

- The minimum claim amount for a period of three months is EUR400. However, in cases when a refund application is submitted for VAT that was paid during a whole calendar year or during the part left before the end of a calendar year, which is shorter than three calendar months, the minimum refundable amount is EUR50.

Late payment interest. If the tax authorities refund the VAT for a taxable person established in the EU after the last date for refund, i.e., later than 10 working days after four months from the date of submission of the VAT refund application or later than 10 working days after two (or four) months from the date when the requested additional information was provided to the tax authorities, the claim amount refunded to the applicant shall be increased by the default late payment interest. In 2021 the default late payment interest was 0.03% per day of the claim amount; however, from 1 May 2023 until 1 November 2023, the rate was 0.029%. As of November 2023, it is 0.03% per each accrued day and is determined based on the government securities interest rate. If the tax authorities refund the VAT for a taxable person established outside the EU after the last date for refund, the claim amount refunded to the applicant is not increased by the default late payment interest (i.e., late payment interest is not paid to non-EU non-established businesses).

H. Invoicing

VAT invoices. A Lithuanian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. A VAT invoice is necessary to support a claim for input tax deduction.

Credit notes. A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the taxable value changes (for example, if the customer returns the goods or the supplier grants a discount) or if the VAT rate changes.

Electronic invoicing. Electronic invoicing is mandatory in Lithuania, for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Lithuania. This is in line with EU Directive 2014/55/EU (*see the chapter on the EU*). This is with effect from July 2017.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Lithuania. This is in line with EU Directive 2010/45/EU (*see the chapter on the EU*).

Electronic invoicing is mandatory for the public sector (i.e., B2G transactions) via the electronic invoices (i.e., e-invoices) (*E.sąskaita*) portal, but there are exceptions for verbal contracts and low-value contracts (until 31 December 2023, e-invoices based on verbal contracts must not be submitted, e-invoices should be submitted only based on written contracts, from 1 January 2024, e-invoices based on verbal contracts will have to be submitted when the value of the contract is bigger than EUR1,000 (excluding VAT). In July 2024, it is planned that the e-invoicing portal (*E.sąskaita)* will be modernized and renamed as "SABIS" (saskaitu administravimo bendroji informacine sistema). The national e-invoicing portal is connected to the EU PEPPOL platform and the goal of its modernization is to increase the platform's efficiency, to make it more user friendly, to increase its security, stability, etc. E-invoices that are received in electronic means are acceptable for the deduction of input tax, even without an electronic signature. The authenticity of the original e-invoice, the integrity of content and legibility must be ensured from the time of issue until the end of the 10-year archiving period. Businesses can decide individually how to ensure the authenticity of the original invoice, the integrity of content, and legibility, provided that a reliable audit trail between the invoice and the service is established.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. With certain exceptions, simplified invoices are permitted where the total value of goods or services supplied does not exceed EUR100 (including VAT). Simplified VAT invoices cannot be issued in the following cases:

- Distance selling
- Intra-EU supply of goods taxed with 0% VAT rate (under Article 49 of the Lithuanian Law on VAT)
- Supply of a new vehicle to another EU Member State

- Supply of services by a taxable person who is not established in an EU Member State in which the services are deemed to be supplied and the customer of the services is liable to account the VAT reverse charge for the services supplied

Simplified VAT invoices may also be issued in the below cases regardless of the value of the invoice:
- Supply of goods or services for private use
- Self-manufacture of assets
- Special cases indicated in Article 9 of the Lithuanian Law on VAT (e.g., transfer of property where it is transferred as a contribution in kind, improvement of the building)

Self-billing. Self-billing is allowed in Lithuania. The customer may issue a VAT invoice on behalf of the supplier provided that both parties agreed on this in advance (a formal written agreement is not required, but is recommended, i.e., the agreement may be made verbally). A reference to self-billing must also be indicated on the invoice (*Sąskaita faktūra išrašymas*).

Proof of exports and intra-Community supplies. Supplies of exported goods or the intra-Community supply of goods are zero-rated. However, to qualify as VAT zero-rated, exports and intra-Community supplies must be supported by certain evidence and proof. Acceptable proof inter alia includes the following documentation:
- In case of export supplies, a taxable person should obtain documents substantiating that the goods were exported outside the EU, i.e., transportation documents (e.g., CMR, air waybill, bill of lading), exportation documents (e.g., export notification Form IE559), payment documents. The documents should indicate that the transportation was arranged by the supplier or the purchaser or the other person on their behalf.
- In case of intra-EU supplies, in order to apply 0% VAT rate on intra-EU supplies, a supplier must possess either documents, specified in Article 45a of the updated Council Implementation Regulation (EU) 282/2011 or other documents, such as transportation documents (e.g., CMR, air waybill, bill of lading) substantiating that the goods were transported outside the territory of Lithuania, sales-purchases agreements, purchase orders, VAT invoices, etc. The documents should indicate that the transportation was arranged by the supplier or the purchaser or the other person on their behalf. The taxable person should also hold the proof that the customer had a valid VAT number in another EU Member State at the time of supply of goods. It should be noted that the transportation documents mentioned above must be filled in as per the rules established.

No special documentation applies in Lithuania for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Besides, as a part of the European Commission's action plan on VAT, effective from 1 January 2020 to apply VAT at the zero-rate for intra-EU supplies, two additional mandatory obligations arise. These are as follows:
- Indicating on the invoice a valid customer's VAT identification number, obtained from the customer and issued to them by an EU Member State other than the one from which the goods were dispatched
- Reporting the respective supplies in the EC Sales List (Form FR0564 in Lithuania)

Foreign currency invoices. If an invoice is issued in a foreign currency, the VAT amount must be converted to the domestic currency, which is the euro (EUR), and be denoted in EUR on the invoice.

Supplies to nontaxable persons. Taxable persons must issue VAT invoices for supplies made to nontaxable persons, except for exceptions outlined in the local legislation. The exceptions do not apply to the supply of a new vehicle to another EU Member State. The exceptions are:
- The supply of goods (services) when a cash register receipt is issued or the use of a cash register is not required (e.g., public transport tickets, lottery tickets, produce sold at international

fairs and exhibitions lasting for up to 10 days, payments received by libraries and schools, sale of goods in outdoor markets)
- Insurance services where an insurance policy is issued
- Financial services, provided that an accounting document is issued in compliance with specific regulation
- Long-term services that are supplied during a continuous period (e.g., telecommunication services, utilities, cold and hot water supplies, electricity, heating energy and gas supplies), provided that an accounting document is issued in compliance with specific regulation
- The supply of goods (services) through vending machines that comply with specific legal and technical requirements
- Services and goods supplied that are related to the renovation of apartments as specified in legislation
- The supply of goods (services) under the special taxation scheme, i.e., EU scheme
- The supply of goods (services) under the special taxation schemes, i.e., non-EU scheme or IOSS scheme, provided that the invoice was issued in accordance with the invoicing rules of the country of the supplier of the goods (services)

If a cash register receipt is issued, the purchaser has the right to request a VAT invoice.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. Taxable persons must keep their accounts in such a way that the accounting information enables a correct determination of the taxable person's obligations with respect to VAT. In Lithuania, examples of what records must be held for VAT purposes include registers of VAT invoices received and issued by them. Specific requirements apply for certain transactions (e.g., call-off stock transactions), also for taxable persons engaged in both taxable and exempt activities (partial deduction). This may include documents such as transportation document to support zero-rated supplies, etc.

In Lithuania, VAT books and records can be held outside of the country. This is because it is not contradicting the existing regulations but, in this case, certain rules that are specified below are applied. Records may be held in or outside of Lithuania. Records can only be held outside of Lithuania for non-established businesses (e.g., taxable persons that are only VAT registered in Lithuania but have no physical presence). However, records held outside of Lithuania must be made available in a timely manner upon request by the tax authorities. For established taxable persons, the paper records should be explicitly kept in Lithuania. But in case they are electronic, the taxable person may opt to keep them outside of Lithuania, as long as the tax authorities have proper and timely access to the documents and the taxable person informs the tax authorities in writing that the documents are stored outside of Lithuania.

Record retention period. Taxable persons must ensure that VAT invoices issued by them (or by customers or third parties on their behalf), as well as VAT invoices received by taxable persons established in Lithuania shall be retained for 10 years from the date of the issue.

When a taxable person facilitates trade via e-commerce marketplace/platform/portal or similar means, as it is regulated in the Article 54b of the Regulation No. 282/2011, for the supply of goods or services to a nontaxable person established in the EU, such person must also keep its accounting records related to such transactions for 10 years from the date of the end of that transaction. Also, it should be ensured that such accounting records are available via electronic means during the mentioned period so that the tax authorities of the EU Member State in which the goods or services were deemed to be supplied could read and review it upon request.

Electronic archiving. Electronic archiving is allowed in Lithuania. As of 1 January 2021, taxable persons may retain the invoices in electronic format irrespective of the format in which the

invoices were received, i.e., there is no obligation to retain them in the same format (hard copy or electronic) in which they were sent or submitted, which was applicable until 31 December 2020. Taxable persons must ensure that the authenticity of the origin and the integrity of the content of the VAT invoices are maintained throughout the retention period and that the documents remain legible. Taxable persons established in Lithuania must archive documents in the territory of Lithuania unless the documents are stored electronically. Taxable persons that keep invoices by using electronic means, must ensure full access to the documents for the tax authorities for supervisory purposes.

I. Returns and payment

Periodic returns. Lithuanian taxable persons must generally file VAT returns monthly. However, when a Lithuanian taxable person supplies goods and/or services under the EU scheme or non-EU scheme and fulfills its VAT liabilities via OSS, then such taxable person must generally file the VAT return on a quarterly basis.

A legal taxable person whose taxable supplies did not exceed EUR300,000 in the preceding calendar year may choose to file quarterly.

Individuals generally file semiannually. However, they may request a different VAT period.

Members of international corporate groups may request to file VAT returns for a different period if the group uses accounting periods other than calendar months. However, the maximum allowable return period is 60 days. In addition, both the beginning of the first period and the end of the last period must coincide with the calendar year (that is, beginning on 1 January and ending on 31 December each year).

Only the monthly VAT return period shall apply to taxable persons acquiring goods from other EU Member States and services where the buyer is liable to calculate and pay VAT reverse charge under Article 95(2) of the Lithuanian Law on VAT (i.e., any other VAT return period shall not be applied).

In general, monthly VAT returns must be filed by the 25th day of the month following the end of the tax period (other dates may apply).

Periodic payments. Payment of VAT due is required in full by the same date as the VAT return deadline, i.e., by the 25th day of the month following the end of the tax period. VAT return liabilities must be paid in EUR electronically, i.e., by a bank transfer to the bank accounts of the tax authorities. In addition, in the bank transfer the taxable person must indicate its VAT number and the payment code 1001.

Electronic filing. Electronic filing is mandatory in Lithuania for all taxable persons. For electronic filing, registration in the Electronic Declaration System is required.

Payments on account. Payments on account are not required in Lithuania.

Special schemes. *Farmers.* Farmers can receive 6% compensation from the buyers of their produced agricultural products. The receipt and payment of compensation should be declared to the tax authorities accordingly.

Travel agencies. Travel agencies calculate VAT on the margin of the services bought and sold to customers. Travel agencies have no right to deduct input tax on travel services bought from the third parties. Travel services supplied by travel agencies outside Lithuania are taxed at the zero-rate.

Investment gold. The supply of investment gold acquired from another Member State is exempt; agency services for supplies and acquisitions of investment gold are also exempt. However, VAT-registered persons manufacturing investment gold or reworking any gold into investment gold

can choose to charge VAT on the supplies they perform. In those cases, agents can also charge VAT for their services outlined above. Persons supplying investment gold that are not registered for VAT can register for VAT and make use of the provision outlined above.

Also, input tax incurred on acquisitions of investment gold for which the VAT has been chosen to charge in the case outlined above, acquisition or import of any gold to be turned into investment gold, acquisition of gold form, weight and purity changing services can be deducted. Persons manufacturing investment gold or reworking any gold into investment gold can also deduct any input tax incurred on acquisitions of any services or goods related to the processes named above.

Secondhand goods such as art, antiques and other collectibles. VAT is calculated on the margin of the goods bought and sold, and if this scheme is adopted, the seller has no right to deduct input tax. However, a seller (taxable person) has the right to calculate VAT on the total value of goods, in which case the seller has the right to deduct input tax paid, but not earlier than the date the goods are sold.

Cash accounting. Lithuania has not implemented Article 167a from Directive 2006/112/EC. However, there is a similar optional regime applicable to agricultural producers. Under this regime, VAT on the supplied agricultural products becomes chargeable upon the payment of the consideration.

Call-off stock simplification. As of 1 January 2020, Lithuania has implemented simplification measures regarding the supply of goods under a call-off stock regime. The call-off stock arrangements shall be deemed to exist where all the five following conditions are met:

- Goods are dispatched or transported by a taxable person, or by a third party on its behalf, to another EU Member State with a view to those goods being supplied there, at a later stage and after arrival, to another taxable person who is entitled to take ownership of those goods in accordance with an existing agreement between both taxable persons. The agreement must be in a written form.
- The taxable person dispatching or transporting the goods has not established its business nor has a fixed establishment in the EU Member State to which the goods are dispatched or transported.
- The taxable person to whom the goods are intended to be supplied is identified for the VAT purposes in the EU Member State to which the goods are dispatched or transported and both its identity and the VAT identification number assigned to it by that EU Member State are known to the taxable person dispatching or transporting the goods at the time when the dispatch or transport begins.
- The taxable person dispatching or transporting the goods records the transfer of the goods in the goods register or in other appropriate register established by another EU Member State and includes the identity of the taxable person acquiring the goods and the VAT identification number assigned to it by the EU Member State to which the goods are dispatched or transported in the report of the supply of goods and/or services to other EU Member States or other appropriate report established by another EU Member State.
- The taxable person dispatching or transporting the goods shall transfer the right to dispose of the goods as owner to the taxable person who acquires the goods no later than 12 months after their arrival in another EU Member State.

For further detail, see the subsection *Quick Fixes* above.

Annual returns. Generally, a taxable person is obliged to provide an annual VAT return only in cases where its partial exemption recovery percentage has changed or when adjustments in the context of the capital goods scheme are necessary. Otherwise, annual returns are not required in Lithuania.

Supplementary filings. A taxable person that trades with other EU countries must complete statistical reports, known as Intrastat, and EU Sales Lists (ESLs). Taxable persons must begin to report services provided to taxable persons established in other EU countries if these services are subject to VAT in those EU countries.

Intrastat. For the year 2024 the thresholds are as follows:
- If the amount of intra-EU acquisitions within the previous 12 months exceeds EUR550,000, the Intrastat form shall be filed to the Territorial Customs Office.
- If the amount of intra-EU supplies within the previous 12 months exceeds EUR400,000, the Intrastat form shall be filed to the Territorial Customs Office.

Also, additional statistical information needs to be provided in the Intrastat return (box 13) if the value of intra-EU supplies exceeds EUR10 million or the value of intra-EU acquisitions exceeds EUR7 million.

The deadline for submission of the Intrastat return is the 10th working day after the end of the calendar month to which it relates.

Intrastat returns may be submitted both electronically and manually. Intrastat returns must be filed in EUR.

Effective from 1 January 2022, the description of commodity code is no longer mandatory in Intrastat reports. Also, country of origin, as well as the customer's VAT number in the country of destination must be additionally indicated in the Intrastat report for dispatches. If the customer is not registered for VAT purposes in the country of destination or the VAT number is unknown, the "QV999999999999" code must be indicated instead.

EU Sales List. No threshold is applied. However, in cases where there are no transactions in a given period that would need to be reported, it is not required to submit a nil EU Sales List. EU Sales Lists can be submitted either manually or by electronic means.

Electronic VAT ledgers (i.SAF). Taxable persons registered for VAT must also submit monthly data on sales and purchases invoices to the Lithuanian tax authorities by electronic means (i.SAF data file) until the 20th of the month following the reporting period (see the *Digital tax administration* subsection below for more details).

Correcting errors in previous returns. Corrections of errors in previously filed VAT returns can be done by the taxable person by submitting an amended VAT return. The amended VAT return uses the same return form as the initial VAT return but must be marked as "amended." The submission procedures are the same as for the initial VAT return.

In general, the taxable person must submit an amended VAT return of the taxable period when the error was made in the following instances:
- The error has resulted in a tax underpayment in the previous taxable period
- The error relates to the intra-EU supply or acquisition of goods
- The error relates to the import of goods

Other errors (for example, overpayment of VAT for a local supply) may be corrected in the VAT return of the taxable period when such errors became known to the taxable person.

All corrections or adjustments of VAT returns should be done by submitting the adjusted VAT return electronically.

Filing amended returns voluntarily does not result in penalties for the taxes unpaid. However, the taxable person shall be subject to late payment interest and might still be imposed with a fine based on the Lithuanian Code of Administrative Offenses.

Digital tax administration. *Standard Audit File for Tax (SAF-T).* SAF-T contains the data about the taxable person's economic activity extracted from its accounting system. SAF-T is one of eight integrated elements of intelligent tax administration systems called i.MAS, implemented to automate the tax data collection and analysis processes while helping to support the tax authorities during their tax audits and other tax administration functions.

SAF-T file must be filed on request of the respective authorities (including tax authorities). SAF-T is compulsory only for the Lithuanian companies outlined below:
- From 1 January 2018 when a company's net sales revenue exceeds EUR700,000 in 2016
- From 1 January 2019 when a company's net sales revenue exceeds EUR300,000 in 2017
- From 1 January 2020 and later periods when a company's net sales revenue exceeds EUR300,000 in the year before the preceding year

SAF-T is not compulsory for foreign taxable persons registered for VAT in Lithuania, also for branches and representative offices of foreign taxable persons, permanent establishments, public sector entities and other nonprofit legal entities.

Establishing the accounting registers, the entities obliged or wishing to submit SAF-T shall follow the technical specification of SAF-T and the technical requirements. SAF-T is formed in XML (extensible markup language) format.

SAF-T consists of four parts:
- Header (basic information about the entity)
- Master data file (general ledger accounts, information about customers, suppliers, assets, owners, physical stock, products, etc.)
- GL entries
- Data of the initial documents (information about sales invoices, purchase invoices, payments, movement of goods and asset transactions)

Taxable persons may be imposed with penalties for failing to submit the SAF-T file upon the request of the authorities.

Electronic VAT ledgers (i.SAF). Taxable persons registered for VAT must submit monthly data on sales and purchases invoices to the Lithuanian tax authorities by electronic means (i.SAF). The i.SAF data include detailed information (e.g., general information about the legal person, taxable period, taxable amount, tax point, invoice number, information about suppliers, customers) about all performed and received supplies.

The i.SAF data may be submitted electronically as an XML data file in the tax authorities' integrated tax administration system or i.SAF data may be filed on the website. The i.SAF data shall be submitted by the 20th day of the month following the reporting period.

Note that the i.SAF and SAF-T are different reporting requirements. The i.SAF is for invoice registers, whereas SAF-T contains a significant amount of data registered in the ERP of the taxable person (including the invoice data). i.SAF is filed on a monthly basis, whereas SAF-T is on an on-demand basis (requested from the tax authorities and other government bodies, such as the one responsible for financial crime investigation), depending on the annual sales revenue. SAF-T contains much more information.

Transport data reporting (i.VAZ). The i.VAZ contains online data on transport documents. The i.VAZ system shall only be applied for goods that are loaded and carried by road transport within the territory of Lithuania. The transport document data has to be reported to the i.VAZ subsystem before the dispatch occurs.

Remote accounting services (i.APS). The i.APS system is a subsystem of remote accounting services developed for small businesses. Applicable from 2019, i.APS allows self-employed persons and small businesses to manage income-expenditure accounting by electronic means, using data, accumulated in other i.MAS subsystems.

J. Penalties

Penalties for late registration. In practice, penalties and interest are not assessed for late registration or failure to register for VAT. However, based on the Lithuanian Code of Administrative Offenses, failure to register for VAT may cause a warning or a penalty ranging from EUR390 to EUR1,100.

If a business does not register for VAT, it still must calculate and pay VAT. Failure to comply with this obligation may result in penalties and interest, as well as status of an "unreliable taxable person." If the taxable person is deemed unreliable, the following consequences may occur:
- Information about unreliable taxable person will be available for third parties.
- Longer limitation periods will be applied during the operational inspection.
- Unreliable taxable persons will lose the right to participate in public procurements.
- Unreliable taxable persons will not be able to obtain the status of a beneficiary or will lose the respective status.

Penalties for late payment and filings. Effective from 1 May 2023, the penalty assessed for the late payment of VAT ranges from 20% to 100% of the unpaid tax. The calculated fine is doubled for a taxable person who has already been assessed any penalty for the violation of the same tax law during a period of statute of limitation. Voluntary disclosure of the tax underpayment shall not result in penalty assessment, i.e., penalty may be imposed by the tax authorities in case late payments are discovered during a tax audit.

In addition, late payment interest is calculated from the day following the due date for payment up to the date on which the payment is made. The late payment interest rate is 0.03%. From 1 May 2023 to 1 November 2023 it was 0.029%, however, from 1 November 2023, the rate is again 0.03% per each accrued day and is determined based on the government securities interest rate. Based on the Lithuanian Code of Administrative Offenses, not fulfilling with respective tax reporting obligations may lead to the following consequences:

- Failure to fill taxable person's declaration procedures, late submission of declaration or failure to provide declarations to the Lithuanian tax authorities would cause a warning notice from the Lithuanian tax authorities or penalties ranging from EUR200 to EUR390.

Penalties for errors. *Error results in tax underpayment*. Penalties and late payment interest for errors resulting in tax underpayment are the same as penalties for late payment and filings (refer to the section above). Moreover, based on the Lithuanian Code of Administrative Offenses, reporting of incorrect data may cause a warning notice from the Lithuanian tax authorities or penalties ranging from EUR200 to EUR390.

Filing amended returns voluntarily does not result in penalties for the taxes unpaid, however, the taxable person shall be subject to late payment interest and might still be imposed with a fine based on the Lithuanian Code of Administrative Offenses.

Error does not result in tax underpayment. If the error does not result in tax underpayment, the taxable person may be imposed with an administrative fine. Based on the Lithuanian Code of Administrative Offenses, reporting of incorrect data may cause a warning notice from the Lithuanian tax authorities or penalties ranging from EUR200 to EUR390.

Unreliable taxable persons' status. Effective as of 1 January 2019, due to changes adopted on the Lithuanian Law on Tax Administration, minimum requirements for a reliable taxable person were introduced.

A taxable person will be given the status as unreliable, if the tax authorities impose a tax fine and calculate more than EUR15,000 of taxes for certain violation of tax laws, indicated in the Lithuanian Law on Tax Administration. See the subsection *Late registration penalties* above for more detail on unreliable taxable persons.

A taxable person will also be recognized as unreliable if it is imposed with a fine for certain violations indicated in the Lithuanian Code of Administrative Offenses and the fine is no less than EUR1,500 or a taxable person is imposed with a fine repeatedly for the indicated violation. A taxable person may also lose the status of a reliable taxable person due to other certain violations (e.g., illegal work, fraud, financial crimes). Failure to comply with SAF-T obligation may also result in a status of an unreliable taxable person.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may bring administrative liability to the taxable person in the form of warnings, penalties and other administrative actions. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Based on the Lithuanian Code of Administrative Offenses, fraudulent activity may result in penalties of up to EUR6,000, depending on the amount of taxes underpaid. Moreover, based on the Criminal Code of the Republic of Lithuania, in certain cases a person might be punished by community service or by a fine or even by imprisonment of up to eight years (a legal entity shall also be held liable for the act and criminal liability shall be imposed on the persons liable for the fraud). In addition, taxable persons shall be recognized as unreliable.

Personal liability for company officers. According to Article 187 of the Code of Administrative Offenses of the Republic of Lithuania, the omission to submit a tax return or provision of incorrect information in the tax returns (including VAT returns) to the tax authorities where there are no potentially fraudulent activities and tax evasion involved may result in a warning or a fine from EUR200 to EUR390, which may be imposed on the representatives of the taxable person responsible for the respective offense (e.g., a managing director). Note that where there are elements of fraud and/or tax evasion, the company officers responsible for the offense may be held personally liable and subject to penalties of up to EUR6,000 and in some extreme cases even criminal liability and penalties.

Statute of limitations. The statute of limitations in Lithuania is three years. A taxable person or the tax authorities may calculate or recalculate tax for a period not exceeding the current year and the three preceding calendar years calculated retroactively from 1 January of the year in which calculation or recalculation of tax is initiated.

Where the tax authorities conduct a reinspection of the taxable person, the statute of limitation of the current year and three preceding calendar years shall not apply, but the tax authorities may not calculate, during such inspection, the tax for a period exceeding the period in respect of which the tax was calculated in the course of the initial inspection.

If a taxable person submits a tax return or revises a tax return less than 90 days before the expiry of the standard time limit for tax calculation/recalculation mentioned above, the tax authorities may verify the correctness of the calculation of tax declared in this tax return and recalculate it without considering the standard time limit if the tax authorities start verification not later than within 90 days of the date when this tax return was submitted.

A limitation period for the current and five preceding calendar years shall apply to the calculation and/or recalculation of VAT in the following cases:

- When the tax authorities calculate or recalculate VAT of a taxable person who does not meet the minimum criteria of a reliable taxable person
- When the tax authorities calculate or recalculate VAT according to information obtained on the basis of automatic exchange of information

- When the aim is to prove bad debts and efforts to recover those debts pursuant to Article 891 of the Lithuanian VAT law, calculating or recalculating VAT for a period longer than the standard time limit is possible only as far as it is related to the circumstance referred to in this point
- When the tax is calculated or recalculated after the court has found that taxable person's bankruptcy is intentional
- When deduction of noncurrent assets other than immovable property is done. In this case, calculating or recalculating tax for a period that is longer than the standard time limit is possible only as far as it is related to the circumstance referred to in this point.

A limitation period for the current and the 10 preceding calendar years shall apply to the calculation and/or recalculation of VAT in the following cases:

- When it is necessary to determine in the criminal case the damage that was caused to the state, and when limitation periods for handing down a conviction, that are set out in the Lithuanian Criminal Code, have not expired
- When deduction of immovable property recognized as noncurrent assets is done. In this case, calculating or recalculating VAT for a period that is longer than the standard time limit is possible only as far as it is related to the circumstance referred to in this point

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	5 August 1969
Trading bloc	European Union (EU)
Administered by	Ministry of Finance (http://www.aed.public.lu)
VAT rates	
Standard	17%
Reduced	3%, 8%, 14%
Other	Exempt-with-credit and exempt-without-credit
VAT number format	LU12345678
VAT return periods	
Monthly	Turnover of more than EUR620,000
Quarterly	Turnover between EUR112,000 and EUR620,000
Annual	All taxable persons, including those with turnover below EUR112,000
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	None
Intra-Community acquisitions	EUR10,000
Electronically supplied services	None
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Luxembourg by a taxable person
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person or nontaxable legal person (*see the chapter on the EU*)
- The importation of goods from outside the EU, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

In Luxembourg, the Quick Fixes are applicable as of 1 January 2020, and an overview of the changes are below:
- Call-off stock – Luxembourg implemented the respective EU law without any local changes.
- Chain transactions – Luxembourg followed the approach of the respective Quick Fix already in the past; no practical change has been made in this respect.
- Proof of cross-border transactions – No specific legal provision has been implemented, as the Implementing Regulation is also directly applicable in Luxembourg.
- Valid customer VAT ID – VAT exemption related to intra-Community supply of goods cannot be applied if the respective EU Sales listings are missing or not completed properly (whether the mistake is connected to the EU VAT ID of the customer or to other numerical or timing difference).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Luxembourg, the following services are subject to the "use and enjoyment" provisions:
- Broadcasting services and telecommunication services, if the place of taxation would be Luxembourg but the use and enjoyment is outside the EU.
- Transport of goods, if the place of taxation would be Luxembourg but the use and enjoyment is outside the EU. This would not apply in the opposite direction, if transport on behalf of a non-EU customer but transport taking solely place in Luxembourg. Such a supply is deemed to take place where the recipient is established, even if the transport is solely taking place in Luxembourg.

Transfer of a going concern. The transfer of a totality of assets or part thereof does not qualify as a transaction falling within the scope of VAT. To qualify as such, the assets should be located in Luxembourg, should allow the transferee to continue the business independently, and both the transferor and the transferee should be registered for Luxembourg VAT.

Transactions between related parties. By derogation to the normal rules, the VAT taxable basis of transactions between related parties supplying goods or services is the open market value, if the remuneration is lower than the normal value and the recipient has no full right to recover input tax, if the remuneration is lower than the open market value, the supplier has no full right to recover input tax and the supply is exempt from VAT or if the remuneration is higher than the open market value and the supplier has no full right to recover input tax.

C. Who is liable

A taxable person is any business entity or individual that carries out economic activities independently and regularly. Economic activities include activities such as supplies of goods or services, intra-Community acquisitions (*see the chapter on the EU*) in the course of a business.

For the purpose of applying the rules concerning the place of supply of services, a nontaxable legal person registered for VAT is regarded as a taxable person if it receives services from a taxable person. This rule does not affect the liability for and payment of the tax in the case of local supplies by a Luxembourg taxable person to a Luxembourg nontaxable legal person. However, for cross-border supplies of services, this rule leads to a shifting of the tax liability to a nontaxable legal person registered for VAT, which must self-assess and pay the VAT due in its country of establishment under the reverse-charge mechanism.

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

Special rules apply to foreign or non-established businesses.

For the supply of distance sales of goods, there is no threshold. The supplier is liable for the VAT due in the country of arrival. The supplier can use the One-Stop Shop (OSS) to report the VAT due via one central registration. However, as a derogation to this rule, when the supplier is established in one single Member State different from the country of arrival and the value of the goods does not exceed the threshold of EUR10,000 of distance sales, the supplier can choose for taxation in its Member State of establishment.

Exemption from registration. The VAT law in Luxembourg does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Taxable persons established in Luxembourg, whose annual turnover does not exceed EUR35,000 are in principle not subject to the normal VAT rules and only have to notify the authorities their beginning of activity and inform the authorities of their turnover realized on an annual basis. However, they can opt to be subject to the normal VAT rules.

The VAT law in Luxembourg does not contain any other provisions for voluntary VAT registration.

Group registration. VAT grouping is permitted under Luxembourg VAT law if Luxembourg entities are closely bound to one another by financial, economic and organizational links. An entity can only be member of one VAT group. The constitution of a VAT group is optional but if a VAT group is constituted, all companies that fulfill the legal conditions to be a member, should opt to be a member of the VAT group.

The minimum time period required for the duration of a VAT group is two calendar years.

The group members are jointly and severally liable for VAT debts, interest and penalties.

Holding companies. In Luxembourg, a pure holding company can be a member of a VAT group, if it is bound by the other entities by financial, economic and organizational links. In principle, the fact that a member of a VAT group is a pure holding should not have an impact on the right to deduct input tax by the group. However, VAT on costs directly related to the holding activity should still not be recoverable.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Luxembourg. This provides an option

to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Luxembourg VAT law).

Fixed establishment. There is no legal definition of fixed establishment and there are no administrative guidelines on how to interpret the term "fixed establishment" in Luxembourg. The tax authorities must apply the rules fixed by the Council Implementing Regulation 282/2011. A fixed establishment is defined as any establishment, other than the place of establishment of a business, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it either to receive and use the services supplied to it for its own needs or to provide the services which it supplies.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Luxembourg. A non-established business that makes taxable transactions in Luxembourg must register for VAT, unless it is not liable for VAT (for example, because its supplies to taxable persons may be taxed using the "reverse-charge" mechanism). Under the reverse charge, the recipient of the supply must account for the tax. The reverse charge does not apply to supplies of goods and services made to private persons. A non-established business must register for Luxembourg VAT if it makes any of the following supplies, which are all subject to Luxembourg VAT (unless an exemption applies):

- Intra-Community supplies or acquisitions
- Distance sales (*see the chapter on the EU*)
- Supplies of goods and services to which the reverse charge does not apply

Tax representatives. Businesses established in the EU that are required to register for VAT in Luxembourg cannot appoint a tax representative.

Businesses established outside the EU may be required by the Luxembourg VAT authorities to provide a security deposit to secure their VAT liability. The deposit must be in the form of cash or a letter of indemnity provided by an approved bank.

The VAT registration application for non-established businesses must be sent to the following address:

Administration de l'Enregistrement et des Domaines
Bureau d'imposition 10
14, avenue de la Gare
L-1610 Luxembourg
BP 31
L-2010 Luxembourg

Alternatively, the application can be done electronically.

Reverse charge. The basic rule is that the supplier of services or goods, which are subject to Luxembourg VAT, is liable to charge VAT to its customers and should therefore register for Luxembourg VAT. Hence for local supplies, the supplier should charge VAT to its customers, even if they are a non-established business. By exception to the basic rule, the Luxembourg VAT-taxable recipient of services falling under the basic rule of place of taxation of services [business-to-business (B2B)] is liable for the VAT and should apply the reverse charge if the supplier is not established in Luxembourg.

Domestic reverse charge. A domestic reverse charge applies in Luxembourg for the transfer of allowances to emit greenhouse gases as well as for the supplies of gas and electricity certificates. As such, a taxable person has to self-assess VAT on the purchases of allowances to emit greenhouse gases or gas and electricity certificates, regardless of whether or not the supplier is established in Luxembourg and whether or not the supplier is registered for VAT in Luxembourg.

At the time of preparing this chapter, the government has submitted a bill to the parliament to extend the domestic reverse-charge mechanism with the intention of combatting VAT carousel fraud. As such, with effect from 1 January 2024, taxable persons (B2B supplies) will have to pay VAT on the following supplies:

- *Supplies of mobile telephones, being devices made or adapted for use in connection with a licensed network and operated on specified frequencies, whether or not they have any other use*
- *Supplies of integrated circuit devices, such as microprocessors and central processing units, in a state prior to integration into end-user products*
- *Supplies of game consoles, tablet PCs and laptops*
- *Supplies of raw and semifinished metals, including precious metals, where they are not covered by the margin regime for secondhand goods, works of art, collector's items and antiques under the special scheme for investment gold*

Note, where the sales amount, excluding VAT, does not exceed EUR10,000, the VAT due will remain the responsibility of the seller without considering later reductions of the consideration.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States, with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000, with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Luxembourg non-EU businesses are required to provide a guarantee in favor of the State for their potential VAT debts. No other special rules apply.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic, telecommunication and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies of goods, as well as services that fall under the OSS.

In Luxembourg there are no additional special rules.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU, regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Luxembourg there are no additional special rules.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In Luxembourg the importer of records is liable to deal with the Luxembourg VAT due if Luxembourg is the country of importation (or the interface is liable to do so if the interface facilitates the distance sales).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Luxembourg there are no additional special rules.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021 taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The

supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Luxembourg there are no additional special rules.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. The VAT treatment of vouchers depends on whether they qualify as a "single-purpose" voucher (SPV) or a "multi-purpose" voucher (MPV).

An SPV is a voucher where the place of supply of the goods or services to which the voucher relates and the VAT due on the supply is known at the time of the voucher's issue. Each transfer of an SPV qualifies as a supply of goods or services.

An MPV is any voucher other than an SPV. VAT will be due at the time the MPV is used.

Registration procedures. The application file to register for VAT should be submitted with the tax authorities at the latest within 15 days after the start of the economic activity of the taxable person. The application file can be sent to the tax authorities in hard copy or electronically through the website of the tax authorities.

The application document should be accompanied by several documents, such as a copy of the articles of association of the company, a copy of the ID cards of the Directors of the company, a copy of a rental agreement or domiciliation agreement and possibly others. After the filing of a complete application, it usually takes three to five weeks before the VAT number is actually granted.

Deregistration. If a taxable person stops performing the economic activity that had triggered the obligation to be registered, it should apply for a deregistration within 15 days after stopping the activity.

Changes to VAT registration details. On the application document to register for VAT, some information should obligatory be indicated, such as the name of the company, its address and its legal form. A VAT-taxable person must inform the authorities if there are changes with regard to this information. This can be done by email or postal mail and should be sent to the competent VAT office of the company.

In case a company changes its legal form (for instance from a SA to a Sarl) it should deregister for VAT and apply for a new VAT number under its new legal form. There is no possibility to "recycle" a VAT number.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to VAT.

The VAT rates are:
- Standard rate: 17% *(16% from 1 January 2023 to 31 December 2023)*
- Reduced rates: 3%, 8% *(7% from 1 January 2023 to 31 December 2023),* 14% *(13% from 1 January 2023 to 31 December 2023)*

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate or an exemption.

Examples of goods and services taxable at 3%

- Food for human consumption, excluding alcohol
- Agricultural products

- Books, newspapers and periodicals
- Shoes and clothes for children under age 14
- Sale of domestic accommodation
- Pharmaceutical products
- Restaurant services, excluding alcohol
- Water
- Transport of persons
- Admission to cultural events

Examples of goods and services taxable at 7/8%

- Liquid gas for heating, lighting and fueling engines
- Electric energy
- Plants and other floriculture products
- Hairdressing
- Repair of bicycles, shoes and other leather goods
- Cleaning of private accommodation

Examples of goods and services taxable at 13/14%

- Wine of grapes with a concentration of alcohol up to 13 grades
- Solid mineral combustibles, mineral oil and wood used as fuel
- Advertising brochures and other prints
- Steam, heating and cooling
- Custody and management of securities
- Management of credits and credit guarantees by an entity other than the entity that granted the credit

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction. However, in Luxembourg some supplies are classified as "exempt-with-credit," which means that no VAT is due, but the supplier may recover related input tax. Exempt-with-credit supplies include exports of goods and related services and intra-Community supplies of goods (*see the chapter on the EU*).

Examples of exempt supplies of goods and services (without VAT credit)

- Real estate transactions
- Supplies of postage and fiscal stamps at face value
- Services of doctors and dentists
- Finance
- Insurance
- Cultural and sporting services
- Welfare services
- Education

Option to tax for exempt supplies. Luxembourg operates an option to tax in respect of supplies and rent of real estate to the extent the purchaser or lessee will use the real estate predominantly for purposes that entitle the right to deduct input tax. There are no other options to treat exempt supplies as taxable.

E. Time of supply

The time when VAT becomes due (or the chargeable event occurs) is called the "time of supply" or "tax point." For supplies of goods, the basic time of supply is when the goods are delivered, and the power of disposal is transferred. The basic time of supply for services is when the services are completed.

The actual time of supply of goods or services, with the exception of services subject to VAT in the recipient country, may be delayed by the issuance of an invoice (if the issuance of an invoice is mandatory), but no later than the 15th day of the month following the month in which the basic time of supply occurs. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued. Specific rules apply to continuous supplies of services. For supplies of services subject to VAT in the recipient country, the time of supply is when the chargeable event occurs (that is, when the supply is completed).

Deposits and prepayments. If a prepayment is made in advance of a transaction and there is no obligation to issue an invoice, then VAT becomes due at the time of the prepayment. However, if there is an obligation to issue an invoice and it is issued with the prepayment, then VAT is due before the 15th of the month following the month during which the transaction takes place.

Continuous supplies of services. In case the customer is liable to self-assess VAT and no statements of account are issued and no payments are made, the VAT becomes due at the end of the calendar year.

Goods sent on approval for sale or return. There are no special time of supply rules in Luxembourg for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). The time of supply (when the VAT becomes due) is when the supply takes place.

In case the sale of the goods only takes place when the customer approves the sale, then the supply will take place at the time of the approval by the customer.

If the goods are not approved and are returned to the supplier, no supply will take place and there should be no VAT consequences related to the return of the goods.

If the goods are not approved, but are not returned to the supplier, the VAT consequences would depend on what the supplier will do with these goods. Where the goods stay in Luxembourg and are stored in a warehouse, then the supplier will have to perform an assimilated intra-Community acquisition of the goods and have to register for VAT. Where the goods are not stored and sold in Luxembourg (but, for example, destroyed), then no VAT consequences should occur.

Reverse-charge services. For supplies of services subject to VAT in the recipient country, the chargeable event occurs when the supply is completed.

Leased assets. There are no special time of supply rules in Luxembourg for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of the supply for imported goods is the date of importation or the date on which the goods leave a duty suspension regime.

Intra-Community acquisitions. The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition takes place. If the supplier issues an invoice or a document serving as an invoice (other than relating to an installment) before such date, the time of supply is when the invoice is issued.

Intra-Community supplies of goods. Intra-Community supplies of goods are deemed to take place at the time the invoice is issued (at the latest the 15th of the month following the month during which the supply took place or when a payment on account is received) or when the invoice should have been issued if not issued timely.

Distance sales. The time of supply for supplies of distance sales is when the goods are delivered, and the power of disposal is thus transferred.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied within Luxembourg, VAT paid on imports of goods, VAT paid on intra-Community acquisitions of goods and VAT self-assessed on reverse-charge services (*see the chapter on the EU)*.

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

Taxable persons should be entitled to claim back input tax by reporting it as deductible VAT in their VAT returns within the statute of limitation (which is five years after the end of the year during which the VAT has become due). However, as the recovery of the VAT is conditioned by the existence of a direct and immediate link between the costs incurred and the related income generated and the taxable person must be able to document such link, it is recommended to report the deductible VAT in the period during which the VAT has become due and a valid invoice was available.

Nondeductible input tax. In Luxembourg, input tax may be deducted in full for all items of business expenditure. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, the private use of an entrepreneur's home telephone or goods acquired for private use).

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

Examples of items for which input tax is nondeductible

- Private expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire, lease, maintenance and fuel for cars, vans and trucks
- Parking
- Business gifts
- Attending conferences, seminars and training courses
- Business entertainment
- Business use of home telephone
- Advertising
- Transport

Partial exemption. If a Luxembourg taxable person performs both exempt and taxable supplies, it may only recover a portion of input tax. This situation is referred to as "partial exemption." The taxable person calculates its right to recover input tax itself. Approval from the tax authorities is not required to use the partial exemption standard method in Luxembourg.

The tax authorities will, however, review the calculation when performing a VAT audit/assessing the annual VAT returns.

The amount of input tax that may be recovered is calculated in the following two stages:

- The first stage identifies the input tax that may be directly allocated either to exempt or to taxable supplies. Exempt-with-credit supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is fully recoverable.

- The second stage prorates the input tax on mixed expenditures (relating to both taxable and exempt supplies) in order to allocate a portion to taxable supplies (which may be recovered). This treatment applies to the input tax on general business overhead expenses.

The general pro rata method calculates the amount of recoverable VAT based on the ratio of turnover that entitles the taxable person to deduct input tax (that is, taxable turnover and exempt turnover with credit) to total turnover within the scope of VAT. Incidental supplies of capital goods and incidental real estate and financial transactions are excluded from turnover for these purposes. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).

Alternatively, the Luxembourg VAT authorities may authorize a taxable person to use a special deduction method based on the direct allocation of all or certain goods and services used in making taxable and exempt supplies. The VAT authorities may direct a taxable person to use this method. The administration may also authorize or direct the use of a special deduction method for each sector of a single business or for certain sectors of the business. If wished by the taxable person, it does not have to request an approval from the tax authorities to use this special method, but the tax authorities will review the calculation when performing a VAT audit/assessing the annual VAT returns.

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

In Luxembourg, capital goods are defined as tangible, movable or immovable goods that are subject to depreciation under income tax law. It also includes services that have similar characteristics as capital goods (for example, the purchase of tailor-made software).

The capital goods adjustment applies to the following assets for the number of years indicated:
- Immovable capital assets (primarily, buildings): adjusted for a period of 10 years
- Movable capital assets: adjusted for a period of five years

For movable goods, the adjustment period starts 1 January of the year in which the goods are manufactured or purchased. If the goods are first used in a later year, the period begins on 1 January of the year in which the goods are used for the first time. The adjustment is applied each year to 1/5 of the total input tax, unless the goods are sold. If the goods are sold, the adjustment is made once for the total remaining period. The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired (or used for the first time).

For immovable goods, the adjustment period starts on 1 January of the year in which the acquisition takes place or construction, or refurbishment work ends or on 1 January of the year in which the immovable property is used for the first time if the year of first use differs from the year of acquisition or the year in which the construction or refurbishment work is finalized. The adjustment is applied each year to 1/10 of the total input tax unless the immovable property is sold or if the VAT deduction depends on the rental status of the immovable property. In such cases, the adjustment is made once for the total remaining period. The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the immovable property was acquired, constructed or refurbished.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. This input tax credit may usually be carried forward to the next reporting period. However, a refund may be requested.

Pre-registration costs. Input tax incurred on pre-registration costs in Luxembourg is not recoverable.

Bad debts. If it can be reasonably expected that the customer will not pay (or not pay the full amount), the taxable person is entitled to reclaim the VAT on the unpaid VAT amount. There are no specific rules to determine as from when it can be reasonably expected that the customer will not pay. A regularization should be done if after the reclaim of VAT, the customer would make a payment.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Luxembourg.

G. Recovery of VAT by non-established businesses

The Luxembourg VAT authority refunds VAT incurred by businesses that are neither established nor registered for VAT in Luxembourg. Non-established businesses may claim Luxembourg VAT to the same extent as VAT-registered business. Businesses, which are not established in Luxembourg, and which are not liable for VAT, cannot register for VAT in order to recover any input tax incurred but should apply the below procedures.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Luxembourg during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Luxembourg:
- Applications for refunds of Luxembourg VAT under EU Directive 2008/9/EC must be submitted to the EU Member State in which the claimant is established via the electronic portal set up by that EU Member State.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive.

Luxembourg does not exclude any non-EU country from the refund scheme (no reciprocity required).

Find below specific rules for Luxembourg:
- The deadline is 30 June of the year following the calendar year in which the tax was incurred.
- Claims must be submitted in English, French or German. The application for refund must be accompanied by the appropriate documentation.
- The claim period is one year.
- The minimum claim amount is EUR250; there is no maximum amount.
- Applications for refunds of Luxembourg VAT under the EU 13th Directive must be sent to the following address:

  Administration de l'Enregistrement, des Domaines et de la TVA
  Bureau d'imposition XI
  Remboursements et franchises
  67-69, Rue Verte, L-2667 Luxembourg
  BP 31
  L-2010 Luxembourg

- The Luxembourg VAT authorities do not pay interest on late refunds of VAT made under the EU 13th Directive scheme.

Late payment interest. The Luxembourg VAT authorities do not pay interest on late refunds of VAT made by non-EU businesses.

In case of late VAT refund payments to EU businesses, according to the Directive n° 2008/9/EC implemented in the Luxembourg VAT law, Luxembourg must pay late payment interest at a rate of 7.2% per year from the date on which the refund should have been made.

H. Invoicing

VAT invoices. A Luxembourg taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies to other taxable persons or to nontaxable legal persons. Invoices are not automatically required for retail transactions to private individuals, unless the supply is a distance sale or the customer requests an invoice.

A VAT invoice is required to support a claim for input tax deduction or a refund under the EU Directive 2008/9/EC or EU 13th Directive refund schemes (*see the chapter on the EU*).

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. It must be cross-referenced to the original VAT invoice and contain the same information.

Electronic invoicing. Electronic invoicing is mandatory in Luxembourg, for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Luxembourg. This is in line with EU Directive 2014/55/EU (*see the chapter on the EU*). This is with effect from 18 March 2023. The rules previously only applied for large and medium sized businesses.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Luxembourg. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*.

Electronic invoices can be only used if the customer has approved the use of such invoices. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Luxembourg. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoices can be submitted through the European delivery network Peppol. However, there are alternate ways of submission available on MyGuichet.lu for businesses that are not connected to the Peppol network.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the EU.

Simplified VAT invoices. Simplified VAT invoices are allowed in Luxembourg. Simplified VAT invoices are only allowed if the amount of the invoice, VAT included, does not exceed EUR100. There are some exceptions to this rule, where the issuance of simplified invoices is not allowed, for instance in case of self-billing.

Self-billing. Self-billing is allowed in Luxembourg. It is allowed by the customer of a supply of goods or services, only where there is agreement between both parties and each invoice is subject to an acceptance procedure by the supplier.

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

- For an export, a copy of the export document, officially validated by customs, showing the supplier as the exporter. The invoice must include the following language: "Not subject to Luxembourg VAT, article 43, 1, a of the Luxembourg VAT Law – export."
- For an intra-Community supply, a range of commercial documentation such as purchase orders, tax invoices, transport documentation, proof of payment and contracts. No specific document as such is required or indispensable. However, if a supplier is in possession of the documents introduced by the Quick Fixes, the authorities must accept the proof of the transport (see the subsection above *Quick Fixes*). The invoice must include the following language: "Not subject to Luxembourg VAT, article 43, 1, d of the Luxembourg VAT Law – intra-Community supplies of goods."

No special documentation applies in Luxembourg for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. If an invoice is issued in a foreign currency, the VAT amount must be converted to the domestic currency, which is the euro (EUR), using the official rate in force on the date of the invoice, be published by an approved bank and be indicated on the invoice.

Supplies to nontaxable persons. Except in case of distance sales of goods and the supply of new means of transports, no invoice should be issued to private individuals who do not qualify as VAT-taxable persons.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Luxembourg, examples of what records must be held for VAT purposes include general ledger, trial balances, purchase and sales invoices, register of consignment stock, transport documents and agreements.

In Luxembourg, VAT books and records can be held outside of the country only if they are electronically archived, and this only applies in the EU. If the records are stored in hard copy, they must be kept in Luxembourg.

Record retention period. All books (e.g., general ledger and trial balances), documents and information required by the VAT law (e.g., purchase and sales invoices, register of consignment stock, transport documents, agreements) should be stored for 10 years from the date of the issuance (in case of invoices issued or received) and from the date of closing (in case of accounts) or their date (in case of other documents).

Electronic archiving. Electronic archiving is allowed in Luxembourg. In principle, all books, documents and information required by the VAT law should be stored by a Luxembourg taxable person in hard copy in Luxembourg. However, electronic storage is allowed, if the data guaranteeing the authenticity of the origin and the integrity of the content are also stored electronically. In the latter case, the Luxembourg taxable person should inform the authorities of the place of storage when filing its annual VAT return. Electronic archiving is only allowed if it is done in the EU.

I. Returns and payment

Periodic returns. In principle, Luxembourg VAT returns must be filed on a monthly basis. However, the authorities can allow taxable persons whose annual turnover does not exceed EUR112,000 to file only a single annual return for the calendar year. The due date is 1 March of the following year.

Taxable persons with annual turnover between EUR112,000 and EUR620,000 may be allowed to submit periodic returns quarterly. In addition, they must file a recapitulative annual return. The due date for the periodic returns is the 15th day of the month following the end of the return period. The due date for the annual return is 1 May of the following year.

Taxable persons with annual turnover that exceeds EUR620,000 must submit periodic returns monthly, plus a recapitulative annual return. The due date for the periodic returns is the 15th day of the month following the end of the return period. The due date for the annual return is 1 May of the following year.

Filing extensions are automatically granted for both the periodic (two months) and the annual returns (eight months). However, these extensions apply exclusively to the filing of the returns. As a result, provisional VAT payments can be requested within the legal deadline.

A Luxembourg taxable person, who only performs transactions, which do not entitle the right to recover input tax should not register for VAT, except if it would be liable to self-assess Luxembourg VAT on services received from non-Luxembourg suppliers or perform intra-Community acquisitions of goods transported from other EU Member States into Luxembourg. In case a company should be registered for VAT, it is in principle liable only to file annual returns. The due date of filing these returns is 1 March (with an automatic extension of eight months).

Periodic payments. Luxembourg VAT-payable amounts, resulting from periodic VAT returns, should be paid by the 15th of the following month. If the annual returns result in an (additional) VAT-payable amount, it should be paid by 1 March of the following year in case of single or simplified VAT return, or by 1 May of the following year in case of recapitulative VAT return. When making a payment to the bank account of the tax authorities, a reference should be made wherein the tax number of the VAT taxable person (so-called *Matricule* number, which is different than the VAT number) and the return concerned is included. Payments must be made by bank transfer and by using the correct reference.

Electronic filing. Electronic filing is mandatory in Luxembourg for all taxable persons. Taxable persons that are required to submit VAT returns monthly or quarterly must file all returns (periodic and annual returns) and EC sales listings electronically, using the tax administration's electronic portal (eTVA).

Payments on account. Payments on account are not required in Luxembourg.

Special schemes. *Cash accounting.* Businesses with an annual taxable turnover (excluding VAT) of less than EUR500,000 are eligible to use the cash accounting scheme that allows VAT to be accounted for on the basis of cash or other consideration paid and received. However, if their annual taxable turnover (excluding VAT) subsequently exceeds EUR500,000, they must stop using the scheme.

Travel agencies. A special VAT scheme is applicable to transactions carried out by travel agents, who deal with customers in their own name and who use supplies of goods or services provided for the direct profit of the customers by other VAT taxable persons in the provision of travel

facilities. The place of taxation of their services is deemed to be where the travel agent is established. The VAT-taxable basis of the services rendered by the travel agency is the margin realized, decreased with the VAT due on the margin. A travel agent has no right to deduct input tax, which has been invoiced on the supplies of goods and services rendered for the direct benefit of the customers by the other VAT-taxable persons.

Margin scheme on secondhand goods and artwork. Under certain conditions, a special VAT scheme is applicable on the supplies of secondhand goods and artwork. If this scheme is applicable, the VAT taxable basis of the supply of goods by a re-seller is the margin realized, decreased with the VAT due on the margin. The margin is the difference between the sales price requested by the re-seller and its purchase price.

Investment gold. The supply, intra-Community acquisition and import of investment gold is exempt from VAT. However, producers of investment gold or transformers of gold can opt to tax their supply to VAT.

Annual returns. Annual returns are required for all taxable persons in Luxembourg. This is in addition to the periodic returns. The annual return is the sum of the periodic returns. If adjustments or regularizations are required (e.g., when calculating the definitive deductible prorate), these should be reflected in the annual returns.

Supplementary filings. *Intrastat.* A Luxembourg taxable person that trades with other EU countries must complete statistical reports, known as Intrastat returns, if the value of its sales or purchases of goods exceeds certain thresholds. Separate reports are required for intra-Community acquisitions (Intrastat Arrivals) and for intra-Community supplies (Intrastat Dispatches). Electronic submissions via email are allowed.

The threshold for Intrastat Arrivals in 2023 is EUR250,000. The threshold for Intrastat Dispatches in 2023 is EUR 200,000. *At the time of preparing this chapter, the thresholds for 2024 are not known, but are unlikely to change.*

Luxembourg taxable persons must complete Intrastat declarations in EUR.

Intrastat returns are due monthly by the 16th working day of the month following the period.

EU Sales Lists. If a Luxembourg taxable person performs intra-Community supplies of goods, it must submit an EU Sales List (ESL) for goods.

In principle, ESLs for goods must be submitted by the 15th day of the month following the end of the month. However, ESLs for goods may be submitted quarterly if the threshold of EUR50,000 of intra-Community supplies of goods to other EU Member States is not exceeded during the concerned quarter or during the four preceding quarters. For a quarterly filing, the ESLs for goods must be submitted by the 15th day of the month following the concerned quarter.

A Luxembourg taxable person must also file an ESL for services rendered. This ESL must provide information regarding services rendered to taxable and nontaxable persons who satisfy the following conditions:

- They are registered for VAT in another EU Member State, and the services are rendered in the other EU Member State.
- The services are not exempt from VAT in the EU Member State where they are deemed to take by application of the basic B2B rule.
- The recipients are liable to deal with the VAT in the other EU Member State.

ESLs for services must be filed on a monthly basis by the 15th day of each month. Taxable persons may file the lists on a quarterly basis by the 15th day of each quarter.

If no transactions reportable in ESLs are performed, no ESLs need to be filed for the concerned month or quarter.

Correcting errors in previous returns. In principle, a taxable person registered for Luxembourg VAT must file monthly VAT returns, as well as annual recapitulative VAT returns. The latter returns are the final ones and are assessed by the authorities. Any amendments or corrections to be made regarding monthly returns should be regularized by reporting the correct amounts in the annual recapitulative VAT returns. This does not include a waiver for any penalties due to incorrect filing at the time. However, if the corrections only concern minor amendments/errors, it is unlikely that penalties will be charged.

Digital tax administration. *Standard Audit File for Tax* (*SAF-T).* The OECD has developed a standard audit file for tax audits (SAF-T) and a standard set of tests to be performed by the local tax authorities during an audit. Luxembourg has adopted the SAF-T. *Ficher d'Audit Informatisé* AED (FAIA is the name of the file to be provided to the Luxembourg tax authorities, and the Luxembourg law allows the tax authorities to carry out electronic VAT audits. The intention of the authorities is to perform all VAT audits paperless. The law outlines that each taxable person (with some exceptions) using an electronic accounting system is obliged to be able to provide the data in a "FAIA" format on request of the tax authorities. In principle, FAIA (which is a file structured under the XML format) must include all the information and data concerning the business activity of the taxable person.

J. Penalties

Penalties for late registration. A penalty of between EUR250 and EUR10,000 may be assessed for late VAT registration.

Penalties for late payment and filings. Penalties are assessed for the late payment or late submission of a VAT return in the following amounts:
- For monthly or quarterly returns, the fine may vary from EUR250 to EUR10,000
- For annual returns, the fine may vary from EUR250 to EUR10,000

For Intrastat, a penalty may be imposed for late submission or for missing or inaccurate declarations. The fine is generally EUR500 (although the statistical authorities may impose a penalty of between EUR251 and EUR2,500).

For ESLs, a penalty may be imposed for late, missing or inaccurate ESLs. The penalty may vary from EUR250 to EUR10,000.

Penalties for errors. Infringements against VAT compliance obligations, such as the obligation to issue compliant invoices and the timely filing of returns, wherein the correct amounts are reported, can be penalized by a fine, which may vary from EUR250 to EUR10,000.

Some infringements, such as the obligation to provide a FAIA file if requested by the authorities can be penalized by a fine of (maximum) EUR25,000 per day.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In case the taxable person fails to fulfill its VAT obligations, the manager(s) will be considered personally and severally liable for the payment of the VAT owned by the company to the VAT authorities. The liability of the manager(s) is strictly limited to: (i) the delegated administrators of public limited companies, (ii) the managers of limited liability companies and (iii) ipso jure or de facto managers taking care of the day-to-day management of the company.

The manager(s) can only be held liable in the case of blameworthy failure to fulfill their legal requirements.

In the case of fraudulent actions to avoid payment or to illegally obtain the reimbursement of VAT, penalties up to 50% of the evaded VAT can be assessed.

Personal liability for company officers. Administrators and directors of companies (established and/or VAT registered in Luxembourg), as well as "de jure" and "de facto" managers in charge of the day-to-day management of such companies, can be held jointly and personally liable in the event of nonpayment of the VAT due by the taxable person they manage in case of blame for the failure to meet their legal requirements.

Statute of limitations. The statute of limitations in Luxembourg is five years. This is from 31 December following the date from which the VAT became due. This statute of limitation applies for the tax authorities to go back to review returns, identify errors and assess fines, as well as for the taxable person to correct errors in previous VAT returns, under conditions.

Malawi

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	12 August 2005
Trading bloc membership	African Free Trade Zone (AFTZ) Common Market for Eastern and Southern Africa (COMESA) Southern Africa Development Community (SADC)
Administered by	Malawi Revenue Authority (MRA) (www.mra.mw)
VAT rates	
Standard	16.5%
Other	Zero rated (0%) and exempt
VAT number format	2 0 0 0 0 0 0 0
VAT return periods	Monthly
Thresholds	
Registration	MWK20 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is charged on the following:
- Every supply of goods and services made in Malawi
- Every importation of goods
- The supply of any imported service, other than exempt goods and services

A taxable supply is a supply of goods or services made by a taxable person for consideration in the course of or as a part of its business activities and includes:
- The processing of data or supply of information or similar service
- The supply of staff
- The making of gifts or loans of goods
- The appropriation of goods for personal use or consumption by the taxable person or by any other person

- The sale, transfer, assignment or licensing of patents, copyrights, trademarks, computer software and other proprietary information
- Exports

A supply is made as part of the business activities of a person if a supply is made by them as part of or incidental to any economic activity they conduct. Where a person produces goods by processing or treating the goods of another person, the supply of goods shall be regarded as supply of goods. The supply of any form of power, heat, refrigeration or ventilation shall be regarded as supply of goods.

A supply is made for consideration, if the supplier, directly or indirectly, receives payment wholly or partly in money or in kind from the person supplied or any other person.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Malawi, in instances of non-taxation for non-established businesses that provide services from outside Malawi, but the services are enjoyed and used in Malawi, the VAT Act does not require the registration of the non-established business but rather the importer or the person that enjoys and uses the imported service is required to charge itself VAT on the imported service and remit the same to the Malawi Revenue Authority (MRA). Where the importer of the service is registered for VAT, the importer is entitled to claim VAT paid as input tax.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Malawi, a TOGC is treated as outside the scope of VAT and the sale of a business or part of a business must be capable of separate operation. Where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is not registered for VAT at the time of the transfer, the transferee shall at the time of the transfer become liable to be registered for VAT and shall apply for registration. The transferee shall be required to notify the Commissioner General with 30 days of the transfer and the transaction shall be outside the scope of VAT and no tax invoice issued.

Transactions between related parties. In Malawi, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, where there is an adjustment due to transfer pricing, then automatically the same adjustment will affect VAT.

C. Who is liable

VAT is due on the following:
- In the case of a taxable supply, by the taxable person making the supply
- In the case of imported goods, by the importer
- In the case of imported services, by the receiver of the services

Exemption from registration. The VAT law in Malawi does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person may voluntarily register for VAT if they qualify as a taxable person or has grounds to believe that they will qualify as a taxable person by

applying voluntarily to the Commissioner General within 30 days of qualifying or having grounds to believe that they will qualify as a taxable person.

Group registration. Two or more corporate bodies may apply to be registered as members of a VAT group if each body is a registered as a corporate body in Malawi and has an established place of business in Malawi. One of the corporate bodies should have control of the other or other members of the group or one corporate body controls all the members of the group.

For purposes of payment of VAT, the group is registered as one designated taxable person.

There is no minimum time period required for the duration of a VAT group.

All members of a VAT group in Malawi are jointly and severally liable for VAT debts and penalties.

Fixed establishment. In Malawi there is no legal definition of a fixed establishment for VAT purposes. However, the Taxation Act defines a permanent establishment as to "includes an office or other fixed place of business through which business activity is carried on." Generally, for VAT registration, one of the requirements is that the taxable person should have a fixed place of business if it is to register for VAT in Malawi.

Non-established businesses. The Commissioner General may refuse to register the applicant if they are satisfied that the taxable person has no fixed place of abode or business. However, a non-established business may register for VAT in Malawi, provided it exceeds the registration threshold (MWK10 million per annum) and the Commissioner General is satisfied that:

- The applicant will keep proper accounting records relating to any business activity carried on by that person
- The applicant will submit regular and reliable returns as required by under the VAT Act
- They are a fit and proper person to be registered

Tax representatives. A tax representative (normally referred to as the public officer) may be appointed by the taxable person if the taxable person operates offshore and has no physical presence nor has employees in Malawi. The taxable person is required to notify the tax authority of the appointed tax representative who fulfills the relevant tax obligations on behalf of the taxable person.

Reverse charge. The reverse-charge mechanism is applicable in Malawi on importation of services by the recipient of the services. This applies for business-to-business (B2B) supplies only, so where the recipient is a taxable person in Malawi.

Domestic reverse charge. There are no domestic reverse charges in Malawi.

Digital economy. Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for VAT in Malawi.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Malawi. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

However, note that taxing digital transactions (i.e., electronic services and the digital economy) is a challenge facing the country, as the digital economy is characterized by extensive use of data, multi-sided business models, and challenges to identify where value creation occurs. Digital tax administration is at infancy level.

There are no other specific e-commerce rules for imported goods in Malawi.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Malawi.

Registration procedures. The registration application is done online via the MRA online portal. The application is done by filing a prescribed form VAT Form 1 online and attaching all the necessary documents. This includes the VAT Form 1 with proof of annual turnover for the period or anticipated annual turnover, copy of the Certificate of Registration or incorporation, copies of ID for the directors or individuals for incorporated applicants and proof of physical address of the business.

After submission of the application form and upon successful consideration of the application by the Malawi Revenue Authority, the applicant is issued a registration certificate, which includes the trading name, taxable person identification number, place of business and the effective date of registration. The certificate is displayed at the principal place of business of the taxable person.

Deregistration. Upon cessation of carrying on business, the taxable person shall notify the Commissioner General in writing within 30 days from ceasing operations for cancellation of registration.

Changes to VAT registration details. Every taxable person is required to notify the Commissioner General in writing if the business ceases to operate or is sold or there is a change in the location of business; or if there is material change in the ownership of the business; or of any change in the name or address of taxable person, material nature in the business activities or in the nature of taxable supplies being made. Such changes must be notified within 30 days from the change taking place.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 16.5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and services
- Exercise books
- Goods shipped as stores on aircraft and vessels leaving the territory of Malawi
- Fertilizers
- Sheath contraceptives (condoms)
- Salt
- Motor vehicles for transport of goods
- Pharmaceutical products
- Buses
- Military equipment
- Building materials for factories and warehouses
- Goods for use in tourism industry
- Miscellaneous chemical products
- Cycle ambulances
- Motorcycle ambulances
- Syringes with or without needles

- Mosquito and sand fly nets
- Poultry or chicken feed
- Printed books
- Gas cylinders
- Wood cook stoves
- Solar products
- Energy-efficient bulbs

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Banking and life assurance services. The exemption on banking services does not include the following:
  - Administration fees, such as fees for providing statements, payment orders or transfers and charges for the pro-vision of online banking
  - Credit card late payment fees or limit excess fees
  - Charges for withdrawals from any auto teller machines
  - Charges for safe keeping services and safe deposit boxes
  - Fees for processing credit or debit card payment transactions, including gateway fees
  - Charges for cash handling, such as counting, sorting and safe storage
  - Interchange fees between banks
  - Interchange fees between a bank and other financial institution or mobile financial payment service provider
  - Merchant service fees or discount rate fees
  - Point of sale imprinter or terminal rental charges
- Live animals
- Postal services
- Transport of exports
- Educational services
- Medical equipment
- Animal products
- Vegetable products in raw state
- Printed matter
- Petroleum products
- Vehicles other than railway and train way rolling stock
- Industrial machinery and construction machinery
- Coin
- Funeral service
- Medical services
- Rentals and sale of properties used for residential purposes
- Betting and gaming including lotteries
- Rail locomotives and parts
- Medical surgical or laboratory sterilizers
- Tap water
- Laundry soap

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Malawi.

E. Time of supply

The general time of supply rule in Malawi is considered the earliest of the following:

- The goods are removed from the premises or from other premises of the taxable person where the goods are under the control of the taxable person

- The goods are made available to the person to whom they are supplied
- The services are supplied or rendered
- Payment is received for all or part of the supply
- A tax invoice is issued

Deposits and prepayments. Any deposit or prepayment, whether refundable or not, given in respect of the supply of goods or services shall not be regarded as a payment for the supply of goods or services, or a taxable transaction unless the supplier applies the deposit as payment or part payment for the supply.

Where the deposit or prepayment is paid in the expectation that it will form part of the total payment for a particular supply, the time of supply is the receipt of the deposit or prepayment.

Continuous supplies of services. VAT applies on continuous supplies of services, provided there is:
- The performance of services for another person
- The making available of any facility or advantage
- Toleration of any situation or refraining from the doing of any activity

Considering the above, if services are supplied continuously and payment is made periodically, a tax point is created each time a payment is made or a VAT invoice is issued, whichever occurs earlier.

Goods sent on approval for sale or return. When goods have been supplied on sale or return, the tax point shall be the earliest of:
- The date when the purchaser chooses to keep the goods
- The issue of the tax invoice by the seller
- The receipt of payment by the seller
- The expiry of the period within which the customer may return the goods

Reverse-charge services. The beneficiary of imported services is responsible for payment of VAT. They self-declare output tax by declaring the VAT on the imported services. The tax point for reverse-charge services is when the service is performed.

Leased assets. The supply of leased assets occurs on the date the leased assets are made available under the lease agreement.

Imported goods. The time of supply for imported goods is the date of importation.

F. Recovery of VAT by taxable persons

A taxable person may seek a refund of the excess VAT if the input tax is more than the output tax due.

A taxable person that is in a refundable position for a continuous three months may apply for a VAT refund. Evidence in the form of supplier fiscalized invoices is required for a pre-refund audit before MRA issues a refund check. The Commissioner General is supposed to give the refund within 30 days of the application being submitted, but MRA usually delays refunds due to lack of funding.

The time limit for a taxable person to reclaim input tax in Malawi is six months.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). Input tax cannot be recovered on invoices that are more than 12 months from the date of issue and cannot be recovered from invoices that are not supported by the mandatory fiscal slips.

In addition, input tax may not be recovered for some items of business expenditure. The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible.

Examples of items for which input tax is nondeductible

- Repairs, hiring and maintenance of motor vehicles and purchase of spare parts, unless the taxable person is engaged in the business of hiring motor vehicles or selling motor vehicle spare parts
- Entertainment, hotel expenses, restaurant and meals, unless the taxable person is in the business of providing entertainment

Examples of items for which input tax is deductible (if related to a taxable business use)

- Communication costs
- Office rentals
- Stationery
- Utilities, e.g., electricity and water
- Office furniture

Partial exemption. A taxable person is considered partially exempt if they make both taxable and exempt supplies of goods and services. They can only claim input tax that is directly attributable to the taxable supplies. An apportionment formula is used to determine the deductible input tax.

A refund of VAT is possible where the amount of input tax exceeds the amount of output tax, and the excess credit remains outstanding for a continuous period of three months or more.

Approval from the tax authorities is not required to use the partial exemption standard method in Malawi. Special methods are allowed in Malawi.

Capital goods. Input tax incurred on capital goods acquired for the business is claimable, except for motor vehicles as indicated above. A taxable person who is registered from a specified effective date and has in stock capital goods that have been held for a period not exceeding a period of six months from the date of their registration may claim credit or refund of VAT. There are no further special input tax recovery rules for capital goods. Normal input tax recovery rules apply.

The input tax on capital goods at hand on the date of registration acquired six months prior to the effective date of VAT registration is claimable and the deduction must occur within 12 months from the effective date of registration.

Refunds. Where the amount of input tax that is deductible exceeds the amount of output tax due in respect of the accounting period, the excess amount shall be credited by the Commissioner General to the taxable person. Where the taxable person remains in an excess VAT position for a continuous period of three consecutive months or more, a refund shall be made.

Pre-registration costs. A taxable person may recover the VAT on stocks purchased prior to registration if the goods are still in possession of the taxable person at the time of registration and if the purchase or importation of stocks occurred not more than four months prior to the date of registration.

Bad debts. VAT on sales that are declared bad is supposed to reduce the output tax payable by making the necessary adjustments on the VAT return. Where a customer does not pay for the supply, the taxable person must prove that they took all the reasonable steps to collect the amount due and failed. The VAT Act allows the taxable person to do an adjustment in its VAT return that was previously filed with the tax authority declaring the output tax based on accrual.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Malawi.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Malawi is not recoverable.

H. Invoicing

VAT invoices. A taxable person shall, on supply of taxable goods or services to a customer, issue to the customer a tax invoice prescribed by the Commissioner General.

Credit notes. Where a tax invoice has been issued and the amount shown as VAT on the tax invoice exceeds the VAT properly chargeable in respect of the supply, the taxable person making the supply shall issue a credit note to the recipient of the supply.

Electronic invoicing. Electronic invoicing is mandatory in Malawi for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Malawi. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Malawi.

Every taxable person (i.e., a VAT-registered operator) is required by law to issue electronic tax invoices and be in possession of the mandatory electronic fiscal device (EFD). In circumstances where the EFD is not working, an authorization letter from the tax authority should be obtained to permit the VAT operator to issue non-fiscalized invoices up until the machine starts functioning. The EFDs are all connected to the MRA server and transmit live data to the tax authorities.

A taxable person that does not receive a fiscal invoice may request the taxable person who supplied the goods or services to it to provide a tax invoice in respect of the supply. The maximum retention period for the tax invoices received from suppliers is six years, and input tax is claimable only if the fiscal invoices are available as basis for claiming input tax.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Malawi. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Malawi.

Proof of exports. Exports of goods and services are zero-rated. For proof of exports, the following are mandatory export documents:
- Customs Declaration Form 12
- Supplier's commercial invoice
- Currency Declaration Form CD1
- Carrier's cargo manifest
- Certificate of origin

Foreign currency invoices. Invoices in a foreign currency but relating to the supplies made in Malawi should be converted to the domestic currency, which is the Malawian kwacha (MWK), for purposes of claiming input tax where VAT is explicitly shown on the invoice. The exchange rates to use for such conversions are the Reserve Bank of Malawi's exchange rate at the date of the time of supply.

Supplies to nontaxable persons. A tax invoice is supposed to be issued for any supply of goods or services, even if the supply is made to nontaxable persons. There are penalties for not issuing fiscal invoices.

Records. In Malawi, examples of what records must be held for VAT purposes include:
- A VAT account to show total output tax, total input tax and the amount of VAT due or refundable for each month
- Relevant business and accounting records, including sales and purchase journals, cashbooks, ledgers and other subsidiary books of accounts
- Copies of all tax invoices issued
- All tax invoices received
- Documentation relating to the importation and exportation of goods and services
- All debit and credit notes or other documents providing evidence of any increase or decrease in the value of goods and services purchased or sold

In Malawi, VAT books and records must be held within the country. Such records may be requested for review by the Commissioner General.

Record retention period. Records, as prescribed by the Minister or directed by the Commissioner General must be kept for a minimum of six years at such a place and time as gazetted. Written permission of the Commissioner General to destroy any book, document, account or record that is less than six years old, should be obtained. The permission granted shall specify the book, document, account or records to which the permission relates.

Electronic archiving. Electronic archiving is not allowed in Malawi. Archiving must be made in paper form only.

I. Returns and payment

Periodic returns. VAT returns are due on the 25th of the following month to which the VAT return relates. VAT returns are submitted physically to the tax offices.

Periodic payments. Payment of VAT due must accompany the filing of the VAT return, i.e., by the 25th of the following month to which the VAT return relates. Payment of VAT can be made through the ePayment platform, bank certified checks or by way of cash to be deposited at the bank.

Electronic filing. Electronic filing is not allowed in Malawi. All returns must be physically filed to the relevant tax office in Malawi.

Payments on account. Payments on account are not required in Malawi.

Special schemes. No special schemes are available in Malawi.

Annual returns. Annual returns are not required in Malawi.

Supplementary filings. No supplementary filings are required in Malawi.

Correcting errors in previous returns. A taxable person who made bona fide errors in a VAT return may make an application to the tax authority to correct the error and make adjustment to the VAT return. The application to the tax authority may be made online or by physical delivery to the tax authority.

Digital tax administration. All taxable persons are required to use an EFD and all the EFDs are connected to the MRA server, transmitting live data to the tax authorities. For further details, see the subsection Electronic invoicing above.

J. Penalties

Penalties for late registration. The penalty for late registration for VAT in Malawi is MWK100,000.

Penalties for late payment and filings. The penalty for late payment of VAT is an additional sum of 15% of the amount of VAT involved, plus a further additional sum of 5% per month or part thereof for the period during which the VAT remains unpaid.

Interest is charged on the unpaid amount at the prevailing bank lending rate plus 5% per annum.

Penalties for errors. Fine of MWK200,000, plus imprisonment for 10 years for falsification and alteration of documents. The goods involved are confiscated.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The penalty for VAT fraud is a fine not exceeding 20 times the amount of VAT involved and imprisonment for 5 years.

Personal liability for company officers. Where anybody corporate or unincorporated, liable for the payment of VAT, or of any penalties or interest arising under the VAT Act, or for any penalties or interest arising under the VAT Act, defaults in payment, in whole or in part, after written demand, the directors shall be jointly and severally liable to pay the sum due.

Statute of limitations. The statute of limitations in Malawi is six years. The taxable person has 12 months to correct errors.

Malaysia

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A. At a glance

Name of the taxes	Sales tax and service tax (SST)
Local name	Cukai jualan dan cukai perkhidmatan (CJP)
Dates introduced	
Sales tax	1 September 2018
Service tax	1 September 2018
Service tax on digital service (SToDS)	1 January 2020
Sales tax on low-value goods (SToLVGs)	1 January 2024
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	Royal Malaysian Customs Department (RMCD) (http://www.customs.gov.my)
SST rates	
Sales tax	
Standard	10%
Other	5%, exempt and several specific rates for certain petroleum products
Service tax	
Standard	6% on prescribed taxable services *(increased to 8% effective from 1 March 2024)*
Other	Specific rate of RM25 per year on the provision of credit card or charge card services
SToDS	6% on taxable digital services provided by foreign-registered persons *(increased to 8% effective 1 March 2024)*

SST number format	15 digits (first alpha (usually W) remaining digits are numerical)
SToDS number format	8 digits (numerical)
SToLVGs number format	10 digits (numerical)
SST return periods	
SST registrants	Bimonthly (every two months (i.e., SST-02 returns)
Non-SST registrants and Sales tax only registrants	Monthly submission exclusively for Service Tax on Imported Services (i.e., SST-02A returns)
SToDS registrants	Quarterly (every three months (i.e., DST-02 returns)
SToLVGs registrants	Quarterly (every three months (i.e., LVG-02 returns)
Threshold	
Registration	
Sales tax	RM500,000
Service tax	RM500,000
SToDS	RM500,000
SToLVGs	RM500,000
Recovery of SST by non-established businesses	No

B. Scope of the taxes

Sales tax. Sales tax is a single-stage tax applied to sales of locally manufactured taxable goods as well as to taxable goods imported for domestic consumption.

All taxable goods manufactured in, or imported into, Malaysia are subject to sales tax, unless they are specifically exempted by law. However, sales tax does not apply to goods manufactured in, or imported into, Labuan, Langkawi, Tioman, Pangkor, (intercountry) Joint Development Area, free zones, licensed warehouses, licensed manufacturing warehouses and licensed Petroleum Supply Bases.

The term "manufacture" is defined as the conversion of materials by manual or mechanical means into a new product by changing the size, shape, composition, nature or quality of such materials and includes the assembly of parts into a piece of machinery or other products. However, this does not include the installation of machinery or equipment for construction purposes. With respect to petroleum products, the term "manufacture" pertains to the process of refining that includes the separation, conversion, purification and blending of refinery streams or petrochemical streams.

Service tax. Service tax shall be charged and levied on any taxable services provided in Malaysia by a registered person in carrying on his business or self-assessed on any imported taxable services. It is applicable to specific taxable services prescribed under the First Schedule of the Service Tax Regulations 2018. Services that are not included in the prescribed list are not taxable. There are 10 major groups of taxable services that currently form the prescribed list. Taxable services include, but are not limited to, accommodation, food and beverage, night clubs and karaoke center services, private clubs, golf clubs, betting and gaming, professional or skills (e.g., legal, accounting, surveying services, employment services, consultancy, training or coaching services, management services, engineering services, information technology services, architectural services, safety or security services, digital services), credit card and charge cards, other specific services (e.g. insurance, advertising, telecommunication services, brokerage and underwriting services, parking, motor vehicle repair, cleaning services), and logistics (covering logistics and delivery services (except delivery of food and beverage), courier, and customs agents).

Various amendments and some new measures were proposed during the Budget 2024 announcement on 13 October 2023, as follows:

- Increase in service tax rate from 6% to 8% for all prescribed taxable services, except food and beverage, telecommunications, logistics and vehicle parking space services, starting 1 March 2024.
- The service tax scope was expanded to include karaoke center services, brokerage and underwriting services for non-financial services such as brokerage for ship and aircraft space, commodity and real estate, and logistics services, starting 1 March 2024. In addition to these services, the Service Tax (Amendment) Regulations 2024 included maintenance and repair services effective 1 March 2024. The mandatory registration threshold for such prescribed services is set at RM500,000 per annum.
- Introduction of new legislation to implement the high-value goods tax (HVGT) at a rate from 5% to 10% on certain high-value items such as jewelry and watches based on the threshold value of these goods. The HVGT was announced in the previous Budget 2023 announcement as luxury goods tax. No effective date has been announced.
- Introduction of import duty and sales tax exemptions on importation and acquisition of manufacturing aids for specific industries and prescribed categories of goods, starting 1 January 2024.
- Increase in excise duty rate on ready-to-drink, sugar-sweetened beverages under the tariff headers 22.02 and 20.09 from RM0.40 per litre to RM0.50 per litre, starting 1 January 2024.
- Imposition of excise duty on chewing tobacco products covered under the tariff code 2403.99.5000 at 5% + RM27 per kilogram, from 1 January 2024.
- Excise duty exemption of up to RM100,000 for the purchase of a completely knock down (CKD) vehicle for approved applicants under the Returning Expert Program, from 1 January 2024 until 31 December 2027.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for sales tax and service tax (SST) in every jurisdiction where it has customers that are not taxable persons. In Malaysia, no services are subject to the "use and enjoyment" provisions.

However, taxable services rendered in relation to land, goods or matters in relation to Malaysia are generally subject to service tax. For a non-established business (i.e., a foreign service provider [FSP]), it is not required to be registered for service tax when rendering taxable services to consumers in Malaysia (i.e., individuals or businesses), except for the provision of digital services.

Transfer of a going concern. Normally the sale of the assets of an SST-registered or SST-registrable business will be subject to SST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of SST. In Malaysia, for sales tax, generally the sale of an asset, a business or part of a business by an SST-registered or SST-registrable business will not attract SST. However, if a sales tax-registered manufacturer transfers, sells or disposes inventories (i.e., finished taxable goods and raw materials), machinery and/or equipment, this may attract sales tax, subject to conditions.

Transactions between related parties. For the provision of taxable services, the value to impose service tax will be determined based on the value of the prescribed taxable service in the normal course of business to the person not connected to the taxable person. For the provision of taxable goods, the valuation rules for transactions between related parties under sales tax are modeled after the World Trade Organization's rules of valuation.

C. Who is liable

Sales tax. Any person that manufactures taxable goods while doing business must apply for a sales tax registration.

Exemption from registration. The following manufacturers are excluded from sales tax registration:
- Manufacturer of nontaxable goods (not eligible for voluntary registration)
- Manufacturer below the registration threshold (RM500,000)
- Subcontractor manufacturer below threshold (RM500,000)
- Manufacturing activities that have been exempted from registration

Importers. An importer of taxable goods does not need to apply for a sales tax registration. Sales tax on imported goods is assessed and collected when the goods are cleared by the Royal Malaysia Customs Department, together with any customs duties payable.

Service tax. Subject to the relevant registration thresholds provided in the service tax regulations, any person that carries on a business of providing taxable services must apply for service tax registration.

Mandatory registration is required where:
- The historical taxable annual turnover is more than the prescribed threshold (RM500,000).
- There are reasonable grounds that the future taxable annual turnover will be more than the prescribed threshold (RM500,000).

The following examples indicate businesses subject to the existing service tax registration thresholds (these lists are not exhaustive):

Examples of businesses with nil threshold
- Customs clearance agents
- Credit card or charge card services provider regulated by Bank Negara Malaysia

Examples of businesses with a RM500,000 threshold
- Professional engineer
- Accommodation services operator
- Parking operator
- Consultancy, training or coaching services, excluding research and development companies

Example of businesses with a RM1.5 million threshold
- Caterer
- Food court operator
- Operator of restaurant, bar, snack bar, canteen, coffee house or any place that provides food and drinks
  - Eat-in or take-away
  - Excluding canteens in an educational institution or operated by a religious institution or body

Exemption from registration. The following persons are excluded from service tax registration:
- Persons/businesses providing non-taxable services (not eligible for voluntary registration)
- Persons below the registration threshold (RM500,000)

Voluntary registration and small businesses. If the value of taxable supplies made by a business is below the registration threshold, the business may apply to register for SST voluntarily.

Group registration. Group SST registration is not allowed in Malaysia. However, branch or divisional registration is allowed. A business that operates through branches or divisions must determine whether it is liable to be registered based on the aggregate total taxable supplies of all the branches and divisions. On approval, each branch or division may apply to register individually under the name of that branch or division.

Supplies made between divisions within the divisional registration are disregarded for SST purposes. There is no minimum time required for the duration for businesses to be registered under the same branch or division. All members of an SST branch/divisional registration in Malaysia are jointly and severally liable for SST debts and penalties.

Fixed establishment. In Malaysia, there is no legal definition of a fixed establishment for SST purposes. Similarly, the permanent establishment rules under direct taxation do not have any relevance under SST, since this concept does not exist under SST law. In general, SST adopts a territorial scope, i.e., within the borders of Malaysia. In the case of goods, any person in Malaysia manufacturing or importing taxable goods in Malaysia is liable to sales tax. As for services, any person in Malaysia providing taxable services or acquiring imported taxable services in Malaysia is liable to service tax. However, the service tax on digital services (SToDS) adopts an extraterritorial scope, i.e., beyond the borders of Malaysia. In this regard, any FSP or foreign registered person (FRP) providing digital services to a consumer in Malaysia is liable to SToDS.

Non-established businesses. With effect from 1 January 2020, FSPs who provide digital services to consumers in Malaysia (i.e., individuals or businesses) are liable to be registered for SToDS when the total value of digital services provided to a consumer in Malaysia exceeds RM500,000 per year. FSPs who are liable to register for SToDS shall apply for registration not later than the last day of the month following the month in which they exceed the threshold. FSPs may register by completing and submitting the DST-01 Form online via the SToDS portal.

With effect from 14 May 2020, FRPs may apply group relief (i.e., intragroup exemption) on the provision of digital services to any qualifying group company in Malaysia.

However, should the FRP also provide the same digital services to any Malaysian companies outside of the group of companies in Malaysia (i.e., third party), all digital services provided to both companies within and outside the group of companies will be subject to service tax.

Aside from SToDS, there are no additional special rules for non-established businesses.

Tax representatives. Tax representatives are not required in Malaysia.

Reverse charge. Service tax at a rate of 6% *(increased to 8% effective 1 March 2024)* shall be charged and levied on any imported taxable services acquired on or after 1 January 2019 by any person carrying on a business in Malaysia. The recipient of imported taxable services is required to self-account and pay 6% service tax *(increased to 8% effective 1 March 2024) based* on the actual value of the imported taxable services. There is no input tax recovery.

Domestic reverse charge. There are no domestic reverse charges in Malaysia.

Digital economy. With effect from 1 January 2020, the scope of taxable services under the Service Tax Regulations 2018 was expanded to cover the provision of digital services, including the provision of electronic media that allows the suppliers to provide supplies to customers or transaction for the provision of digital services on behalf of any person. Local service providers providing specific digital services related to banking and financial services are not subject to service tax. This applies only until 31 July 2025.

A local service provider who provides digital services as prescribed above shall be liable to register under Service Tax legislation if the value of services during a period of 12 months or less exceeds the threshold of RM500,000. This value shall be determined based on either historical or future method. SToDS at the rate of 6% *(increased to 8% effective 1 March 2024)* shall be charged and levied on any qualifying digital service provided by an FRP to consumers (i.e., businesses or individuals (both business-to-business [B2B] and business-to-consumer [B2C]) in Malaysia. Similar to local service providers, an FSP who provides digital services (i.e., electronically supplied services) to consumers in Malaysia, where the value of these services during a period of 12 months or less exceeds the threshold of RM500,000, will be required to register

for SToDS. The value of the digital services can be determined based on either the historical or future method.

Legislation pertaining to the imposition of sales tax on low-value goods (SToLVGs) imported into Malaysia were introduced via the Sales Tax (Amendment) Act 2022, which was gazetted on 18 October 2022. Online sellers (whether from Malaysia or overseas) would be required to register for sales tax and charge the same accordingly.

The SToLVGs was due to be effective on 1 April 2023. However, on 8 December 2023, the appointment of effective date of SToLVGs was gazetted and came into operation on 1 January 2024.

The guide dated 3 November 2023 has been published by the Director General (DG) of RMCD on 3 November 2023, which explains the explaining of the implementation of SToLVGs to persons selling LVGs via an online marketplace or operating an online marketplace. *The guide comprises both Part I – Imposition and Scope on LVGs and Part II – Customs Clearance Procedures on the Importation of LVGs.* LVGs at the rate of 10% shall be charged and levied on all goods with a sales value of RM500 or less, brought from outside Malaysia via land, sea, or air, into Malaysia. For SToLVGs purposes, Malaysia also includes Special Areas (such as free zone, licensed warehouse, licensed manufacturing warehouse, Joint Development Area and petroleum supply base) and Designated Areas (such as Labuan, Langkawi, Tioman and Pangkor).

However, LVGs exclude cigarettes, tobacco products, smoking pipes (including pipe bowls), electronic cigarettes and similar personal electric vaporizing devices, preparation of a kind used for smoking through electronic cigarette and electric vaporizing device, in forms of liquid of gel, not containing nicotine, and intoxicating liquor.

When computing the sales value of LVGs, this does not include transportation and insurance costs for transporting the goods from overseas to Malaysia, and any tax or duties, chargeable and payable on the sale of LVGs.

For LVGs imported into Malaysia, the LVG registration number must be displayed on all packages imported by air, road or sea mode, as well as postal service. This is to ensure that LVGs that were charged sales tax at the point of sale (i.e., sales tax on LVGs) will not be charged sales tax on import during customs clearance. For LVGs imported by air, these are to be declared using the electronic Pre-Alert Manifest (e-PAM) system and, subject to conditions, will generally be exempted from import duty and sales tax on import. For LVGs imported via road or sea mode, these are to be declared via the Customs No. 1 Form (K1) and will generally be subjected to import duties during importation. For LVGs imported via postal service, the Consignment Note (CN) 22 or CN 23 is used for declaration purposes and, subject to conditions, will generally be exempted from import duty and sales tax on import.

Sellers who sells LVGs to consumers in Malaysia, where the value of these services during a period of 12 months or less exceeds the threshold of RM500,000, will be required to register for SToLVGs. The sales value of the LVGs can be determined based on either the historical or future method.

Online marketplaces and platforms. In Malaysia, an online marketplace or platform is defined as any person operating an online platform (for buying and selling goods or providing services) and who supplies digital services on behalf of any person. An example of online platforms includes offering online advertising space on an intangible media platform and offering a platform to trade products or services.

To the extent that the value of the digital services provided by the online platform operator to consumers (B2B or B2C) in Malaysia exceeds the prescribed threshold for registration, the operator would be liable to register for service tax (local) or SToDS (foreigner).

Registration procedures. For sales tax and service tax, businesses may apply for registration by completing and submitting Form SST-01 electronically via the MySST portal not later than the last day of the month following the month in which the business is liable to be registered.

FSPs who are liable to be registered for SToDS shall apply for registration via the DST-01 Form electronically via the MYSToDS portal not later than the last day of the month following the month in which the threshold has been exceeded.

Sellers who are liable to be registered for SToLVGs shall apply for registration via the LVG-01 Form electronically via the MyLVG portal not later than the last day of the month following the month in which the threshold has been exceeded. Upon registration, the LVG registration number will be provided and the seller will be known as a registered seller (RS).

For sales tax, service tax, SToDS and SToLVGs, RMCD would require the businesses to complete the relevant details/information in the online registration form (e.g., business particulars/information, manufacturing/type of services provided). No other documents are required for submission of the registration form to RMCD. However, where necessary, RMCD may request additional information via email after the application is successfully received by them for their verification purposes.

Once the application has been approved, the business will be notified in writing and assigned a registration number by the Malaysian tax authorities (RMCD).

Deregistration. A business that ceases operations must cancel its SST registration. The business is required to notify the RMCD within 30 days from the date of such occurrence.

For SToDS, an FRP may apply to cancel its registration if its liability to be registered has ceased or the DG determines that the person is not liable to be registered. The FRP shall notify the DG in writing of that fact and the date of cessation within 30 days from the date of cessation. This can be done by completing an online application via MYSToDS portal.

For SToLVGs, an RS may apply to cancel its registration if its liability to be registered has ceased or the DG determines that the person is not liable to be registered. The RS shall notify the DG in writing of that fact and the date of cessation within 30 days from the date of cessation. This can be done by completing an online application via MyLVG portal.

Changes to SST registration details. Taxable persons are required to notify the RMCD controlling station, in writing, of any amendments to the following:

- Changes in the name of business
- Changes in the address of any place of business
- Changes in partners of a partnership
- Changes in the status of business
- Changes or addition in the manufactured goods or taxable services provided
- Changes of any new place of business or closing of any place of business at which business is no longer carried on

There is no specific time limit stated in the legislation for notification of such changes. The exact wording of the Regulations refers to "shall immediately notify."

Designated area. The duty-free islands are free from all types of customs duties and excise duties. For the purposes of SST, the duty-free islands are known as designated areas (DAs) and currently refer specifically to the islands of Labuan, Langkawi, Tioman and Pangkor. Generally, any supplies of taxable goods or taxable services made by any person within or between the DAs are not subject to SST unless they are prescribed otherwise by the Minister. Further, any goods imported from overseas are not subject to sales tax unless they are prescribed by the Minister.

D. Rates

Sales tax. Sales tax is an ad valorem tax and different rates apply based on the customs classification (HS codes) of the taxable goods. It is, therefore, crucial that the correct HS code classification is assigned to each of the products to ensure accuracy of the sales tax rate being applied.

The term "taxable goods" refers to goods that are locally manufactured, as well as imported goods, both of which are not exempt under the sales tax law.

The sales tax rates are:
- Standard rate: 10%
- Reduced rates: 5% and specific rates (imposed on certain petroleum products)
- Zero-rate: 0%

The standard rate of sales tax applies to all supplies of goods, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Example of goods and services taxable at 5%

- Nonessential goods (including among others, foodstuffs and building materials)

The term "exempt" refers to supplies of goods that are not liable to tax.

Nevertheless, the Minister of Finance has the power to exempt the following:
- Any goods or class of goods from the whole or any part of the sales tax, subject to conditions as they deem fit
- Any person or class of persons from payment of the whole or any part of the sales tax that may be charged and levied on any taxable goods manufactured or imported, as below:
  - Schedule A: class of person, e.g., ruler of states, federal or state government department, local authority, inland clearance depot, duty-free shop
  - Schedule B: manufacturer of specific nontaxable goods, e.g., raw materials, components, packaging to be used in manufacturing activities
  - Schedule C: registered manufacturer, e.g., exemption of tax on acquisition of raw materials, components, packaging to be used in manufacturing of taxable goods

Example of exempt supplies of goods

- Raw food (e.g., meat, vegetables, seafood)
- Bricks, blocks, tiles
- Bicycles and other cycles (including delivery tricycles), not motorized
- Trucks, motorcycles

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Malaysia.

Service tax. Service tax is imposed at a rate of 6% on the price, charge or premium for the taxable service. A specific rate of RM25 applies per year for each principal and supplementary card upon activation and subsequent years on the provision of credit card or charge card services by banks and financial service providers regulated by the Bank Negara Malaysia. From 1 March 2024, the service tax rate increased from 6% to 8% for all prescribed taxable services, except food and beverage, telecommunications, logistics and vehicle parking space services.

Specific exemptions are available for service tax registered persons, as follows:
- Intragroup exemption may apply when a company in a group of companies provides services to a related-party company, provided all the following conditions under Regulations 3 to 8, First Schedule of the Service Tax Regulations 2018, as amended, are met:
  i. Taxable services fall under items (a) to (i), Group G, First Schedule of the STR 2018. The underlying services in question can be classified under one of the following taxable services:
     - Legal services

- Accounting, auditing, bookkeeping and other services by public accountants
- Surveying services, including valuation, appraisal and estate agency services
- Engineering services
- Architectural services
- Consultancy, training or coaching services
- Information technology services
- Management services
- Digital services
- Maintenance and repair services

ii. Control requirement:
- Two or more companies are eligible to be treated as companies within a group of companies if one company controls each of the other companies.
- A company shall be taken to control another company if the first mentioned company holds directly, indirectly through subsidiaries, or together directly or indirectly through/from subsidiaries:
- More than 50% of the issued share capital of the second mentioned company
  Or
- From 20% to 50% of the issued share capital of the second mentioned company and the first mentioned company has exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

iii. Exclusivity requirement – services provided only within the group:
- Where a company provides any such specified Group G taxable services to another person outside the group of companies, all such taxable services (whether provided to a company within or outside the group of companies) shall be taxable services, unless the total value of taxable services provided to the third parties does not exceed an amount equal to 5% of the total value of the same taxable service within a 12-month period.
- Where a company in a group of companies acquires the abovementioned professional services from any company within the same group of companies outside Malaysia, such service shall not be an imported taxable service, with effect from 1 September 2019.
- On a separate note, where an FRP provides digital services to a company in Malaysia within the same group of companies with the FRP, such services shall not be subject to service tax, effective 14 May 2020. However, where an FRP provides the same digital services to any company outside the group of companies, such digital services provided within or outside the group of companies will be subject to service tax.

A B2B exemption is applicable to a service tax-registered person who acquires the same taxable services as provided by it, from another service tax-registered person. Specifically, the B2B exemption will only apply to certain specific professional services as follows:

- Legal services
- Accounting, auditing, bookkeeping and other services by public accountants
- Surveying services, including valuation, appraisal and estate agency services
- Engineering services
- Architectural services
- Consultancy services, training or coaching
- Information technology services
- Management services
- Digital services
- Maintenance and repair services
- Advertising services
- Logistics services (covering logistics and delivery services (except delivery of food and beverage), courier and customs agents)

On a separate note, a B2B exemption on imported services was also introduced from 1 January 2020. This is to exempt the first leg of a qualifying B2B supply chain, where there is an import

of taxable services (i.e., services are provided by an overseas service provider), which are subsequently followed by provision of the same service by the service tax-registered person to its Malaysian customers. This B2B exemption for imported taxable services would only be applicable for professional services as listed in the bullet above.

E. Time of supply

Sales tax is due on goods manufactured in Malaysia when the goods are sold, used or disposed of by a taxable person. The definition of "disposal" includes the manufacturer diverting the goods for its own use, destroying the goods, giving away or donating the goods and making a supply of manufactured goods for no consideration.

Service tax is due when payment is received for taxable services rendered. If payment is not received within 12 months after the date of when the services were provided, the tax is due on the day immediately after the expiration of the 12-month period. However, the registered person may apply to RMCD in writing, to account for service tax upon issuance of the invoice, subject to approval from RMCD.

Service tax on imported services is due upon the earliest of payment or invoice receipt date.

Deposits and prepayments. There are no special time of supply rules for deposits and prepayments for sales tax in Malaysia. As such, normal time of supply rules apply (as outlined above).

In principle, advance payments are subject to service tax if these payments are received as payment for the taxable services to be provided. Service tax is to be accounted upon receipt of such payments from the customer. However, payment as a deposit is not subject to service tax until such deposit is realized as payment for the taxable service rendered and an invoice has been issued.

Continuous supplies of services. If services are supplied continuously and payment is determined in whole or in part or payable periodically or from time to time, the tax is to be reported when the payment is received from customers, or the tax invoice is issued (subject to approval by RMCD).

Goods sent on approval for sale or return. There are no special time of supply rules for goods sent on approval for sale or return in Malaysia. As such, the normal time of supply rules apply (as outlined above).

Reverse-charge services. Service tax in respect of imported taxable services shall be due and payable at the time when the payment is made or an invoice is received for the service, whichever is earlier.

Leased assets. Lease or rental of assets is not a taxable service under the First Schedule of the Service Tax Regulations 2018. As such, no time of supply rules apply.

Imported goods. Sales tax is due on imported goods at the time the goods are cleared by the Royal Malaysia Customs Department or removed from a customs bonded warehouse.

F. Recovery of SST by taxable persons

SST is a single-stage tax that is a cost to businesses as SST on purchases. It is not recoverable as input tax from RMCD.

There is no input tax recovery mechanism in Malaysia, and as such the SST incurred is a true cost to the business. This means that taxable persons that incur SST on purchases are unable to claim the tax back from customs. However, this does not apply in certain situations, for example any overpaid/erroneously paid tax to customs. For further information, see the *Refunds* subsection below.

Sales tax is a single-stage tax, applied to sales of locally manufactured taxable goods, as well as to taxable goods imported for domestic consumption. Service tax is charged and levied on any taxable services relating to Malaysia by a registered person in carrying on their business or self-assessed on any imported taxable services.

There are only certain specific exemptions or the drawback facility under the sales tax regime.

Nondeductible input tax. Input tax incurred in Malaysia is generally not recoverable.

Partial exemption. Deduction of input tax is not allowed in Malaysia.

Capital goods. Input tax incurred on capital goods in Malaysia is not recoverable.

Refunds. There are several credit facilities and refunds available for sales tax and service tax, as follows:

Sales tax
- Drawback: Drawback of sales tax may be allowable to any person on which sales tax has been paid, if the taxable goods have been exported within three months from the date sales tax was imposed, subject to conditions.
- Deduction of sales tax: A registered manufacturer is eligible to make a deduction of sales tax paid, at the rate of 2% or 4% of the total value of taxable goods purchased (i.e., raw materials, components or packaging materials) used solely in the manufacturing of taxable goods, from a person other than a registered manufacturer, subject to certain conditions.
- Refund of erroneously paid or overpaid tax: Any person who has overpaid or erroneously paid any sales tax, surcharge, penalty, fee or other money shall make a claim for refund in the prescribed form (i.e., JKDM Form No. 2), subject to conditions.

Service tax
- Contra system: It is a facility that allows any registered person to deduct its return the amount of service tax paid but subsequently refunded to his customer because of either cancellation or termination for taxable services. An application can be made to the DG of RMCD, subject to conditions.
- Refund of erroneously paid or overpaid tax: Any person who has overpaid or erroneously paid any sales tax, surcharge, penalty, fee or other money shall make a claim for refund in the prescribed form (i.e., JKDM Form No. 2), subject to certain conditions.

Pre-registration costs. Input tax incurred on pre-registration costs in Malaysia is not recoverable.

Bad debts. Claiming for bad debt is allowed for any person who is or has ceased to be a registered manufacturer or person provided that the SST has been paid, the whole or any part of the tax payable has been written off as bad debt. The claim for a refund on the whole or any part of the service tax paid shall be made within six years from the date the service tax is paid by the business.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Malaysia.

G. Recovery of SST by non-established businesses

Input tax incurred by non-established businesses that are not registered for SST in Malaysia is not recoverable.

H. Invoicing

SST invoices. For both sales and service tax, every registered manufacturer/person who sells/provides any taxable goods/service is required to issue an invoice to customers containing prescribed particulars in the national (Bahasa Melayu) or English language. The amount of sales/service tax payable is to be stated separately from the total amount payable.

Where certain exemptions apply (e.g., applicable for service tax-registered persons who acquire the same taxable services as provided by them, from another service tax-registered person), the supplier shall issue an invoice under Regulations 10 (1) and (1A) of the Service Tax Regulations 2018, which require the following additional details:
- Name and address of the client
- The client's service tax registration number
- The client's total amount of service tax that is exempted

Credit notes. Adjustments generally arise because of the cancellation of a transaction, a change in the amount previously invoiced or a change in tax rate. Adjustment notes (i.e., debit and credit notes) should contain the prescribed particulars under the regulations and must cross-reference the original tax invoice number and date it relates to. The DG may disallow any deduction where the credit notes presented are untrue or incorrect.

Electronic invoicing. Electronic invoicing is allowed in Malaysia, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Malaysia.

Electronic invoicing applies to all taxable persons undertaking commercial activities in Malaysia. This includes businesses engaged in the provision of goods and services and certain non-business transactions between individuals.

The Malaysian SST Act presumes that an invoice has been issued to the customer, even though there is no delivery of any equivalent document in paper form to the customer, as long as the requisite information is recorded in a computer and is transmitted to the customer by electronic means or produced on any material other than paper and delivered to the customer.

It was announced during the Budget 2024 that a phased introduction of mandatory electronic invoicing will be from 1 August 2024 to 1 July 2025. The Government has issued legislation pertaining to electronic invoicing, as well as releasing the software development kit (SDK) for taxpayers to implement electronic invoicing.

At the time of preparing this chapter, the Inland Revenue Board of Malaysia (IRBM) has issued the following guidelines to date:
- *e-Invoice Guideline Version 2.3 (published on 6 April 2024) – which explains the processes and procedures and provides a structured approach for taxable persons to implement e-Invoicing, from generation and transmission, and to the storing of e-Invoices, to meet compliance obligations.*
- *e-Invoice Specific Guideline Version 2.1 (published on 6 April 2024) – which provides further guidance on the issuance of e-Invoice relating to certain transactions.*
- *e-Invoice SDK Version 1.0 (released on 6 April 2024) – which provides a collection of tools, libraries and resources providing a set of functionalities, Application Programming Interfaces (APIs) and development guidelines to assist businesses in integrating their existing system to the MyInvois System via API.*

Electronic invoicing will be implemented and administered by the IRBM. An electronic invoice (e-Invoice) is a digital representation of a transaction between a supplier and a buyer, which replaces paper or electronic documents, such as invoices, credit notes and debit notes. An e-Invoice contains the same essential information as traditional document, for example, supplier's and buyer's details, item description, quantity, price excluding tax, tax and total amount, which records transaction data for daily business operations.

The proposed mandatory electronic invoicing implementation timeline are as follows:

(i) From 1 August 2024 – taxable persons with an annual turnover or revenue of more than RM100 million

(ii) From 1 January 2025 – taxable persons with an annual turnover or revenue of RM25 million to RM100 million
(iii) From 1 July 2025 – all other taxable persons

The types of e-Invoices that taxable persons are required to issue are as follows:
- Invoice: A document that itemizes and records a transaction between a supplier and buyer.
- Self-billed invoice: a document to record goods and/or services acquired from a foreign supplier not under the MyInvois system.
- Credit note: A document issued by suppliers to correct errors, apply discounts, or account for returns in a previously issued e-Invoice with the purpose of reducing the value of the original e-Invoice without involving the return of monies to the buyer.
- Debit note: A document issued to indicate additional charges on a previously issued e-Invoice.
- Refund e-Invoice: a document issued by a supplier to confirm the refund of monies to the buyer.

However, it is proposed that certain persons will be exempt from issuing an e-Invoice, e.g., rulers of states (including former rulers and consorts), federal or state government department, local authority, statutory body and statutory authority, and consular and diplomatic offices.

The IRBM proposed that the following types of income or expense does not require an e-Invoice, namely employment income, pension, alimony, distribution of dividends by companies under a single-tier taxation system, as well as those listed on Bursa Malaysia, zakat (contribution by Muslims under Islamic law) and scholarship.

Simplified SST invoices. Under the current SST regime, the document to support the SST-relevant transaction is referred only as an "invoice." However, the DG may allow any particulars specified in the SST regulation not to be stated on an invoice issued, upon request in writing.

Self-billing. Self-billing is not allowed for SST purposes in Malaysia.

Proof of exports. Exports of goods are exempt from sales tax. To qualify for exemption, it must be proved that the goods have been exported from Malaysia. Acceptable documentation includes a customs export declaration and an export sales invoice issued by a registered manufacturer.

Foreign currency invoices. If an invoice is issued in foreign currency, the total amount payable before SST, the total SST chargeable and the total amount payable (including SST) must be converted to the domestic currency, which is the Malaysian ringgit (RM), by using the selling rate of exchange prevailing in Malaysia at the time of sale of taxable goods or when the taxable services are provided. In the case of SST levied on the importation of goods, the exchange rates published by RMCD that are updated every week, would be applied.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Malaysia. As such, full SST invoices are required.

Records. Every taxable person and non-established taxable person must keep complete and true up-to-date written records of all transactions that affect or may affect their liability to sales tax or service tax. In Malaysia, examples of what records must be held for SST purposes include the following:
- All records of sales of taxable goods or provision of taxable services by or to that taxable person, including invoices, receipts, debit notes and credit notes
- All records of importation and exportation of taxable goods
- All records of imported taxable service
- All records by FRPs relating to provision of digital services, including invoices and receipts
- All other records as the DG of Customs may determine

In Malaysia, SST-related books and records can be held outside of the country. Generally, the documents should be kept in Malaysia. However, to the extent that the registered persons intended to retain these records outside Malaysia, a written approval must be obtained from the DG, subject to such conditions as they deem fit.

For SToDS, a non-established taxable person can keep their documents or records related to service tax on digital services outside Malaysia if the records are readily accessible when required.

Record retention period. Taxable persons are required to maintain their SST records for seven years and the records must be in English or in the national language (Bahasa Melayu). Any records shall be kept in Malaysia, except as otherwise approved by the DG.

Electronic archiving. Electronic archiving is allowed in Malaysia. Records can be kept electronically, where they shall be kept in such manner as to enable the record to be readily accessible and convertible into writing. If the record is originally in a manual form and is subsequently converted into an electronic form, the record shall be retained in its original form prior to the conversion.

I. Returns and payment

Periodic returns. Every taxable person is required to account for tax by submitting an SST-02 return on a bimonthly basis (every two months). As of 1 January 2019, any nontaxable businesses that acquire services from overseas will also need to pay and file a separate SST-02A return.

The SST-02 return is required to be furnished to the DG not later than the last day of the month following the end of the taxable period. If a taxable person's taxable period does not end on the last day of the month, the SST-02 return should be furnished no later than the last day of the 30-day period from the end of the varied taxable period. On the other hand, SST-02A return is required to be furnished to the DG not later than the last day of the month following the end of the month in which the payment on the service has been made or invoice is received by the nontaxable person, whichever is earlier.

For FRPs, they are required to submit a DST-02 return on a quarterly basis (every three months), not later than the last day of the month following the end of the taxable period.

For RS, they are required to submit a LVG-02 return on a quarterly basis (every three months), not later than the last day of the month following the end of the taxable period.

The DG, upon receiving any application in writing, may reassign the taxable period other than the period previously assigned as it deems fit (i.e., vary the length of the taxable period or the date on which the taxable period begins or ends).

Periodic payments. The taxable person who is in a payable position must pay to the DG the amount of tax due and payable by it. Any tax due in respect of a taxable period becomes payable not later than the last day on which the taxable person is required to furnish the SST or DST returns, i.e., by no later than the last day of the 30-day period from the end of the varied taxable period. Payment must be made by way of electronic fund transfer, checks, bank draft, money order or postal order.

Electronic filing. Electronic filing is allowed in Malaysia, but not mandatory. For SST-02 and SST-02A returns, the taxable persons may submit the SST return in one of three ways:
- Electronically
- By posting to the Customs Processing Center
- By couriering it to the Customs Processing Center

Taxable persons can choose the method to submit the return. They would not be required to notify the tax authority formally in terms of the method they have elected in submitting such returns. For SToDS, an FSP needs to submit the DST-02 returns and make payments electronically via the SToDS portal.

Payments on account. Payments on account are not required in Malaysia.

Special schemes. *Approved Major Exporter Scheme.* With effect from 1 July 2020, the sales tax exemption facility, Approved Major Exporter Scheme (AMES) was introduced to relieve the challenges under the existing sales tax drawback mechanism for traders who re-export/export the tax-paid goods and specific exemption facilities for manufacturers of nontaxable goods for export. The benefits to AMES participants are as follows:

- AMES traders are exempted from payment of sales tax on importation/acquisition of the goods that are subsequently exported or transported to designated areas or special areas.
- AMES manufacturers of nontaxable goods are exempted from payment of sales tax on importation/acquisition of raw materials, components packing and packaging materials for use in manufacturing of sales tax-exempted goods that are subsequently exported or transported to designated areas or special areas.

Annual returns. Annual returns are not required in Malaysia.

Supplementary filings. No supplementary filings are required in Malaysia. However, taxable persons can submit supplementary SST returns, if they have additional tax amounts to be reported to RMCD, via the MySST portal.

Correcting errors in previous returns. If a taxable person makes an error in any return, or any person other than a taxable person makes an error in any declaration furnished to RMCD, they may correct the error voluntarily in Form SST-02, Form SST-02A or Form DST-02, in such manner and within such time as the senior officer of RMCD may determine. In respect of what possible penalties may apply for such errors, see the subsection *Penalties for errors* below. However, note that there is an avenue for penalty waiver in the event of a voluntary disclosure, subject to the discretion of RMCD on a case-by-case basis.

The RMCD relaunched its Voluntary Disclosure Program (VDP). Under the VDP, taxable persons will be granted full penalty relief for voluntary disclosures of taxes, such as SST (including SToDS), goods and services tax (GST) and tourism tax, which are liable up to 28 February 2023. The VDP is in effect from 6 June 2023 to 31 May 2024.

Digital tax administration. There are no transactional reporting requirements in Malaysia.

J. Penalties

Penalties for late registration. A taxable person that fails to apply for sales tax, service tax, SToDS or SToLVG registration, upon conviction is liable for a penalty, which may include imprisonment for a term not exceeding 24 months (i.e., two years), a fine not exceeding RM30,000 or both. Note that the DG also has the power to raise an assessment, upon conviction, of 10-20 times the amount of sales or service tax or up to five years' imprisonment or both for the first offense and from 20-40 times the amount of sales or service tax or up to seven years' imprisonment or both for the second offense.

GST closure audit. A mandatory GST closure audit will be performed on all taxable persons as a prerequisite for GST registrants to be deregistered. A GST closure audit is a historical audit to be performed by the RMCD to verify that GST has been properly accounted for in all applicable business transactions and to ensure that the relevant information has been correctly reported in the GST-03 returns. To date, RMCD still conducts GST closure audits, and this is expected to continue in 2024.

SST audit. In addition to the above, RMCD is conducting SST audits to verify that the relevant sales tax or service tax has been properly accounted for in all applicable business transactions and to ensure that the relevant information has been correctly reported in the SST returns.

In the event of discovering any unpaid or underpaid indirect taxes and/or erroneous indirect tax filings or submissions, taxable persons are encouraged to voluntarily disclose the same to RMCD.

Penalties for late payment and filings. Any person who fails to submit the return as required will commit an offense and may upon conviction be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding three years or to both.
The penalty for late payment is:
- For the first 30-day period that the tax is not paid, 10% of the SST amount due
- For the second 30-day period that the tax is not paid, an additional 15% of the SST amount due
- For the third 30-day period that the tax is not paid, an additional 15% of the SST amount due

After the expiry of the 90-day period, any person who fails to pay to the DG, may upon conviction, be subject to a maximum penalty of 40% or to imprisonment for a term not exceeding three years or to both.

Penalties for errors. Any person who makes an error in any return furnished, i.e., submits an incorrect return by omitting information, understating output tax or overstating input tax or giving any incorrect information commits an offense and shall, upon conviction, be subject to a fine not exceeding RM50,000, or imprisonment for up to three years or both; plus, a fine equal to the amount of tax that has been or would have been undercharged.

For failure to notify or late notification to tax authorities regarding changes to a taxable person's SST registration details, the RMCD could apply the general penalty upon conviction (RM30,000 or imprisonment up to two years or both). However, in practice, this would depend on specific circumstances. For further details, see the subsection *Changes to SST registration details* above.

Penalties for fraud. Any person who, with the intent to evade or assist any other person to evade sales and service tax by making, using or authorizing the use of any fraud, will be imposed penalties.

For the first offense, the person will be liable to a fine of not less than 10 times and not more than 20 times the amount of SST or to a term of five years or to both.

For the second or subsequent offense, the person will be liable to a fine of not less than 20 times and not more than 40 times the amount of SST or to imprisonment for a term not exceeding seven years or to both.

Personal liability for company officers. If there is service tax or sales tax due and payable, surcharge is accrued, or penalty, fee or other money is payable by any of the following persons:
- The directors of the company
- The compliance officer who is appointed among the partners of the limited liability partnership or if no compliance officer is appointed as such, any one or all of the partners of the limited liability partnership
- The partners of the firm
- The office bearers of the society
- The persons responsible for the management of the body of persons

Such persons, together with the company, limited liability partnership, firm, society or other body of persons, can be jointly and severally liable for the service tax, surcharge, penalty, fee or other money.

Statute of limitations. The statute of limitations in Malaysia is six years. Generally, the statute of limitations for SST is six years from the date of which the tax or duty is due or payable or the refund was made. However, note that in the case of fraud or willful default, such statute of limitation would not apply.

Taxable persons are not allowed to amend the SST returns submitted after the statutory due date. However, RMCD allows for a supplementary SST return to be submitted via the MySST portal, provided that they have additional taxes to be reported. If there is a reduction in taxes declared to RMCD, a refund application must be submitted to RMCD using a prescribed form (i.e., JKDM Form No. 2) within one year from the time overpayment or erroneous payment occurred, subject to certain conditions.

For SToDS returns, if a taxable person makes an error in any DST-02 return furnished to RMCD, it must correct it in such manner and within such time as the officer of Customs may require, as below:

- Before submission due date and payment not made, and the status of the return shown as "Draft," then there is no limitation for amendment.
- After submission of return, if the amendment results in an addition to the amount of service tax, then the service tax shall be paid accordingly. If the amendment results in a reduction to the amount of service tax, then a verification by the customs officer is required, and amendment is allowed up to three times only.

There is no time limit for taxable persons to amend the SToDS returns declared to RMCD.

For SToLVG returns, if the RS makes an error in any LVG-02 return furnished to RMCD, it must correct it in such manner and within such time as the officer of Customs may require, as below:

- Before the submission due date and payment are not made, and the status of the return is shown as "Draft," then there is no limitation for amendment.
- After the submission of the return, if the amendment results in an addition to the amount of sales tax, then the sales tax shall be paid accordingly. If the amendment results in a reduction to the amount of sales tax, then a verification by the customs officer is required, and the amendment is allowed but up to three times only.

There is no time limit for taxable persons to amend the SToLVG returns declared to RMCD.

Maldives

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A. At a glance

Names of the taxes	Goods and services tax (GST) Tourism goods and services tax (TGST)
Local names	Goods and services tax (GST) Tourism goods and services tax (TGST)
Date introduced	2 October 2011
Trading bloc membership	South Asian Free Trade Agreement (SAFTA)
Administered by	Maldives Inland Revenue Authority (MIRA)
GST and TGST rates	
Standard	GST: 8% TGST: 16%
Other	Zero-rated (0%) and exempt
GST and TGST number format	GST: XXXXXXXGST501 TGST: XXXXXXXGST001
GST and TGST return periods	Monthly if the taxable supply exceeds MVR1 million per month Quarterly if the taxable supply is less than MVR1 million per month
Thresholds	
Registration	GST: MVR1 million TGST: None
Recovery of GST and TGST by non-established businesses	No

B. Scope of the tax

GST applies to the supply of goods or services made in the Maldives by a taxable person.

TGST applies to the following:
- Goods and services supplied by tourist resorts, tourist hotels, guest houses, picnic islands, tourist vessels and yacht marinas authorized by the Tourism Ministry
- Goods and services supplied by shops, diving schools, spas, water sports facilities and other such places in establishments specified in the law (subsection (a)(1)), excluding shops operating exclusively for the employees of such establishments
- Goods and services supplied by travel agency service providers authorized by the tourism ministry
- Goods and services supplied to foreign tourist vessels entering the Maldives by their agents
- Goods and services provided by domestic air transportation service providers to persons other than Maldivian citizens

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in every jurisdiction where it has customers that are not taxable persons. In the Maldives, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a GST-registered or GST-registrable business will be subject to VAT/GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In the Maldives, a TOGC is treated as zero-rated where the following conditions are met:
- The assets must be sold as part of the TOGC
- The assets are to be used by the purchaser with the intention of carrying on the same kind of business as the seller (but not necessarily identical)
- Where only part of the business is sold, it must be capable of operating separately
- The purchaser is registered for GST at the time of transfer
- The purpose of the transaction is to transfer the ownership of a business owned by an individual or individuals to a company at least 99% of which is held by the same individual or individuals

Transactions between related parties. In the Maldives, for a transaction between related parties, the value for GST purposes is calculated at the open market value.

C. Who is liable

The following persons are required to register for GST if the value of their taxable supplies exceeds MVR1 million per year:
- Companies registered under the Companies Act of Maldives (Act Number 10/1996)
- Nonresident companies that operate and earn profits from sources inside the Maldives
- Partnerships registered under the Partnership Act (Act Number 9/1996)
- Cooperative societies and associations

The following persons are required to register for TGST irrespective of their taxable supplies:
- Tourist establishments (tourist resorts, tourist hotels, guesthouses, picnic islands, tourist vessels and yacht marinas authorized by the Tourism Ministry)

- Diving schools, shops, spas, water sports facilities and any other such facilities being operated within the tourist establishments specified above
- Travel agency service providers authorized by the Tourism Ministry
- Agents providing goods and services to foreign tourist vessels entering the Maldives

Persons carrying on taxable activities in the Maldives must register with the MIRA within 30 days from the date of commencement of the business activity if:

- The value of the person's taxable supplies during the past 12 months exceeded MVR1 million
- The value of the person's estimated taxable supplies for the following 12 months exceeds MVR1 million
- The person provides tourism goods and services

Persons that import goods into the Maldives must register for GST in the Maldives (it is mandatory) and must apply to register with the MIRA within 30 days from the date of commencement of import activity. Note that there is no separate import GST in the Maldives.

Persons who meet the above criteria shall submit a standard form (i.e., MIRA 105) to the MIRA, and the MIRA will confirm the registration by issuing a notification of GST registration.

Exemption from registration. Persons with annual turnover of less than MVR1 million are exempt from GST. There is no exemption from registration for TGST. Importers of goods to the Maldives and suppliers of tourism goods and services are required to register even if the value of their supplies do not exceed the MVR1 million threshold.

Voluntary registration and small businesses. A person conducting an authorized trade or providing an authorized service may request permission of the Commissioner General to register with the MIRA.

Group registration. Group GST registration is not allowed in the Maldives.

Fixed establishment. In the Maldives there is no legal definition of a fixed establishment for GST purposes. However, the definition of permanent establishment used for direct taxation is applicable for GST as well. "Permanent establishment" as defined in the law means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term "permanent establishment" includes especially:

- A place of management
- A branch
- An office
- A factory
- A workshop
- A mine, an oil or gas well, a quarry or any other place of extraction of natural resources, including vessels and ships used for the extraction of such resources

Non-established businesses. A foreign business with no establishment in the Maldives that supplies goods or services to customers in the Maldives is not required to register for GST. The rules are the same for supplies of goods and for supplies of services and are irrespective of whether supplies are made to business or private customers.

If the foreign business physically supplies goods or services via a branch or office, etc., or has the authority to conclude contracts in the Maldives, it will qualify as a permanent establishment in the Maldives. In this case if such permanent establishments meet the thresholds mentioned they will be obliged to register for GST.

There is no specific threshold for foreign businesses. The general threshold for GST registration applies, i.e., if the total taxable sales (including zero-rated goods and services) for the previous

12 months exceeded MVR1 million or expected taxable sales (including zero-rated goods and services) for the next 12 months is expected to exceed MVR1 million.

Tax representatives. A taxable person may choose to appoint a tax agent to act on its behalf in relation to tax matters; it is not compulsory to do so. The obligation of the tax agent is to review or file tax returns on behalf of the taxable person, but all payment obligations, fines and compliance obligations would still fall upon the taxable person.

If the taxable person wishes to appoint a licensed tax agent, it must submit a completed "appointment of tax agent" (i.e., MIRA 114 form) together with the information and documents specified therein, to the tax administration (MIRA). A tax agent cannot represent any taxable person prior to the submission of the necessary form to the MIRA. A taxable person may appoint only one licensed tax agent.

Reverse charge. There is no reverse-charge mechanism in the Maldives, except in one specific circumstance for the digital economy (*see below*). However, a foreign business with no establishment in the Maldives that supplies goods or services to customers in the Maldives is not required to register for GST. The rules are the same for supplies of goods and for supplies of services and are irrespective of whether supplies are made to business or private customers.

The only scenario where the reverse-charge mechanism would apply is for business-to-business (B2B) digital transactions, the customer is expected to self-assess GST and TGST on the payment to the nonresident business. See the *Digital economy* subsection below for more detail.

Domestic reverse charge. There are no domestic reverse charge in the Maldives.

Digital economy. For B2B supplies of e-commerce (i.e., electronically supplied services), the customer is expected to self-assess GST and TGST on the payment to the nonresident business. The self-assessed GST/TGST is eligible for an immediate credit to the extent that the customer's business allows the customer to take input tax credits.

For business-to-consumer (B2C) supplies of e-commerce, a nonresident business is required to register and account for GST in the Maldives where its income earned in the Maldives exceeds the registration threshold and the general GST rules and regulations apply.

There are no specific e-commerce GST rules for imported goods in the Maldives.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in the Maldives. If registration rules are met, the service provider must register and declare GST on services provided. Registration is only compulsory for local online marketplaces/platforms.

Registration procedures. To register for GST, the taxable person must submit the GST registration (MIRA 105 form) in person or by post to the tax authorities. Taxable persons must register before the end of the month following the month in which the threshold of MVR1 million was reached.

If registering for TGST, the taxable person must submit a copy of the relevant operating license or permit, together with the registration form.

Deregistration. Persons registered with the MIRA may apply for termination of registration under the following circumstances:

- The person's taxable supplies at the end of any 12-month period fell below MVR500,000.
- The person's taxable supplies at the beginning of any 12-month period are forecasted to fall below MVR500,000.
- The person has ceased taxable activities, with no intention to resume them during the following 12 months.

Registered persons are required to pay tax on goods in their possession at the time of termination of their registration if input tax on the goods has already been claimed.

A registered person who is an importer of goods into the Maldives whose registration is canceled or terminated must submit to the MIRA an account of the goods in their possession out of the goods imported by them. Goods specified in an invoice submitted after deregistration, accordingly, must be sold after the tax invoice is issued. Tax must be paid on the sale of such goods and a tax invoice must be issued accordingly.

Changes to GST registration details. A taxable person is required to inform the tax authority as soon as possible whenever its GST registration details change, either through email or in person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GST, including the zero rate.

The GST rates are:
- Standard GST rate: 8%
- Standard TGST rate: 16%
- Zero-rate: 0%

The standard rate of GST applies to all supplies of goods and services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

As of 1 January 2023, the standard GST rate increased from 6% to 8% and the standard TGST rate from 12% to 16%.

All services provided by a business registered with the tourism ministry of the Maldives (unless otherwise exempted) is subject to the standard rate of TGST. *At the time of preparing this chapter, the current TGST covers goods and services supplied by tourist resorts, tourist hotels, guesthouses, picnic islands, tourist vessels and yacht marinas. From 1 January 2023, TGST will include goods and services supplied by integrated tourist resorts, resort hotels, hotels, private islands and other such establishments authorized by the Ministry of Tourism. In addition, from 1 January 2023, if the whole or part of, or a specific room or rooms or a specific bungalow of a tourist resort, resort hotel, hotel, tourist guesthouse, picnic island or private island is supplied for a certain period, whether on strata basis or otherwise, GST shall be calculated based on the total value of the transaction.*

Examples of goods and services taxable at 0%

- Essential goods specified in the GST Act, such as:
  - Rice
  - Sugar
  - Flour

  Note: rice, sugar and flour refer to such goods imported by the State Trading Organization at any given time and sold at controlled prices.
- Salt
- Milk
- Cooking oil
- Eggs
- Tea leaves
- Deep sea fish, reef fish, all types of fish packed in the Maldives and rihaakuru (fish paste)
- Vegetables such as potatoes, onions, carrots, cabbage, beans and tomatoes

- Ingredients used in making curry paste (cumin, fennel, coriander, turmeric, garlic, ginger, chili, chili powder, cinnamon, cardamom, peppercorn, any other such ingredient)
- Dhiyaa hakuru (i.e., coconut honey), coconuts (kaashi, kurun'ba, kurolhi)
- Carrots, cabbage, beans and tomatoes among vegetables
- All kinds of fruits
- Bread, buns and faaroshi (rusk)
- Baby diapers
- Baby food
- Cooking gas
- Diesel
- Petrol
- Adult diapers
- Sanitary napkins, tampons, menstrual cups and other such products
- Goods and services exported from the Maldives, including goods exported by an export license holder or reexport license holder, goods supplied by duty free shops and services exported by a registered person; services exported are services provided by a person in the Maldives to a person outside the Maldives and consumed outside the Maldives
- Sale of a going concern: the disposal of a going concern shall be a zero-rated supply if the purchaser of the business is registered with the MIRA under the GST Act, or the purpose of the disposal transaction is to transfer ownership of a business owned by an individual or individuals to a company where at least 99% of share capital is held by the same individual or individuals

The term "exempt supplies" refers to supplies of goods and services that are not liable to GST and do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Electricity service
- Water facilities
- Postal service (not including courier services)
- Sewerage facilities
- Education
- Health services
- Medical devices and drugs
- Financial services
- Rent earned from lease of immovable property
- International transportation services
- Payments collected as fines
- Daycare services provided by daycare centers registered with the relevant Government authority or State institution
- Flats, land and buildings sold by the Government or by the Government through a third party under social housing schemes in which the Government has the discretion to control the price of the property being sold

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the Maldives.

E. Time of supply

The time of supply of goods or services is the time at which the tax invoice for such good or service is issued or the time at which the recipient of such good or service makes full or partial payment, whichever occurs earlier.

Where payment for supply of goods and services has been agreed to be made within a stipulated period under an installment agreement, payments made accordingly shall be regarded as separate taxable transactions. The time of supply of goods and services in relation to any such transaction shall be deemed as the date on which the installment payment was received or the date on which the installment payment would otherwise be due, whichever is earlier.

Deposits and prepayments. There are no special time of supply rules in the Maldives for deposits and pre-payments. As such, the general time of supply rules apply (as outlined above).

The tax declaration point will be identified based on the time-of-supply rules described above.

Continuous supplies of services. If services are supplied continuously and payment is made periodically, a tax point is created each time a payment is made or a tax invoice is issued, whichever occurs earlier in each designated period.

Goods sent on approval or for sale or return. There are no special time of supply rules in the Maldives for supplies of goods sent on approval or sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There is no reverse-charge mechanism in the Maldives.

Leased assets. There are no special time-of-supply rules in the Maldives for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. There are no special time of supply rules in the Maldives for supplies of imported goods. As such, the general time of supply rules apply (as outlined above).

F. Recovery of GST by taxable persons

A registered person supplying goods and services to another registered person shall charge tax on the value of such goods and services in accordance with the GST Act, and such tax shall be the input tax of the recipient of the good or service.

Input tax in relation to a good or service purchased by a registered person shall not be set-off against such person's output tax if:

- The recipient of the good or service does not possess a valid tax invoice issued by the supplier.
- 12 months have elapsed from the end of the taxable period under such person's accounting basis in which the input tax could have first been claimed.
  Or
- The good or service is not supplied in the Maldives.

For a company to claim GST, a tax invoice must be obtained for the purchases from a supplier registered for GST. If a supplier is not registered for GST in Maldives, or if it is an offshore supplier, GST input cannot be claimed for the purchases.

The time limit for a taxable person to reclaim input tax in the Maldives is 12 months. Any unclaimed input tax by the end of 12 months must be written off.

Nondeductible input tax. Expenses that are not related to the business or purchase of goods that are exempt from GST cannot be used to claim against output GST. A taxable person is only required to declare the purchases of goods and services subject to GST when filing the tax return.

Examples of items for which input tax is nondeductible

- All purchases relating to exempt supplies
- Private expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- Expenses relating to taxable supplies

Partial exemption. GST directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies cannot recover input tax in full.

GST that relates to making both taxable and exempt supplies must be apportioned using a method acceptable to the tax authorities to allocate the GST between taxable supplies and exempt supplies. Input tax related to taxable supplies may be deducted in full. GST related to exempt supplies may not be deducted.

Approval from the tax authorities is not required to use the partial exemption standard method in the Maldives. Special methods are not allowed in the Maldives.

Capital goods. If the capital expenditure incurred by a registered person for the supply of a good or service is directly attributable to such supply, input tax in relation to such expenditure shall be deducted from the output tax in the following manner based on the amount of gross capital expenditure:
- MVR500,000 or less: input tax deductible in full in the taxable period of supply
- If the gross capital expenditure incurred is less than MVR500,000, the GST input could be deducted within 12 months
- If the gross capital expenditure is more than MVR500,000, the GST could be deducted equally over 36 months

Due to COVID-19, MIRA has allowed excess GST input tax in relation to capital expenditure to be carried forward for more than 36 months.

Refunds. Excess payments made to the MIRA shall be refunded when the taxable person terminates all the taxable activities in the Maldives. A taxable person may submit an adjustment/refund request (MIRA 904 form) to request a refund. If the refund is granted, the amount due to the taxable person shall be deposited into the bank account, registered with MIRA.

Pre-registration costs. Input tax on pre-registration costs in the Maldives is not recoverable.

Bad debts. Irrecoverable GST on bad debts can be claimed as a deduction from output tax. The amount of tax paid on irrecoverable debts may be offset against the output tax of subsequent taxable periods with the authorization of the Commissioner General. In requesting the Commissioner General's authorization, the registered person shall submit the following documents:
- Copies of all tax invoices, receipts, credit notes and debit notes related to that supply
- Documents proving that the registered person has accounted for and paid tax on that supply
- Documents confirming consideration required to be paid for that supply has occurred

Noneconomic activities. Input tax on purchases that are used for noneconomic activities is not recoverable in the Maldives.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in the Maldives is not recoverable.

H. Invoicing

GST invoices. A registered person that supplies goods or services to another registered person shall at the request of the recipient provide that recipient with a tax invoice within 28 days of the request. Only one invoice shall be issued in relation to a given transaction.

Credit notes. If the value of a transaction for the supply of goods or services falls or is reduced for any reason after a tax invoice has been issued, the recipient of such goods or services shall be issued a credit note including the following:
- "Credit Note," written prominently

- Name, address and TIN of the supplier of goods or services
- Name, address and TIN of the recipient of goods or services
- Date of issue
- Credit note number
- Reason for issuing the credit note
- Original tax invoice number, date, amount of tax specified in that tax invoice, amount of tax calculated after the change in value and the difference between the two amounts

Electronic invoicing. Electronic invoicing is allowed in the Maldives, but not mandatory.

Scope of electronic invoicing. For B2B, B2C, and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the Maldives. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the Maldives. The requirements related to electronic invoicing are the same as those for paper invoicing.

An electronic invoice must contain all the details required when issuing a full tax invoice in accordance with the GST act. There are no other specific electronic invoicing conditions in the Maldives.

Simplified GST invoices. If the value of the goods or services supplied by a registered person is lower than MVR5,000 inclusive of tax, a registered person shall issue a tax invoice exclusive of the name, address and TIN of the recipient of goods or services.

Self-billing. Self-billing is not allowed in the Maldives.

Proof of exports. GST on exports is zero rated subject to following conditions:
- The service is supplied to a nonresident and the nonresident is outside the Maldives at the time that the service is performed.
- The actual physical flow of the service is not to a person in the Maldives that receives or benefits from that service.
- The services are not supplied directly in connection with any property in the Maldives at the time that the services are performed.

The export holder shall retain the following documents in relation to the export:
- Valid export/re-export license
- Proper tax invoice
- Documents supporting the export

Foreign currency invoices. Only taxable persons providing tourism goods and services may issue invoices in a foreign currency (such as USD) that is accepted by the Maldives Monetary Authority (MMA), as determined by the Commissioner General.

The rule for converting foreign currency on an invoice is that the rate used must be plus or minus 2% of the rate published by the MMA, at the time of supply.

All other supplies must be invoiced in the domestic currency, which is the Maldivian rufiyaa (MVR).

Supplies to nontaxable persons. A registered person may issue a receipt in relation to the supply of goods or services if the supply was made to a person other than a registered person. Such a receipt shall include the following:
- Name, address and TIN of the registered person
- Date of payment
- Receipt number
- Details of services provided, or quantity and details of goods sold

- Total value of goods or services supplied, excluding the tax charged on the value of goods or services
- Tax charged on the value of goods or services supplied
- Value of goods or services inclusive of tax, or, if the amount of tax has been included in the price of the good or service, a statement to such effect

Records. In the Maldives, examples of what records must be held for GST purposes include financial statements, ledgers, tax workings and supporting documents, such as invoices.

In the Maldives, GST books and records must be held within the country. Taxable persons are required to keep the accounting records in the principal place of business in the Maldives. If records are maintained online, they should be readily available for printing if and when required by MIRA.

Record retention period. Records should be kept for a minimum of five years in the Maldives.

Electronic archiving. Electronic archiving is allowed in the Maldives. Records can be kept archived electronically or by paper; there is no restriction on this matter.

I. Returns and payment

Periodic returns. Every registered person shall calculate the amount of tax payable for each taxable period in accordance with the GST Act and the regulations made pursuant to it and shall file a tax return to the MIRA in accordance with the regulation.

Taxable persons registered for general sector goods and services (GGST) are required to file a GST return (MIRA 205 form). Taxable persons registered for tourism sector goods and services (TGST) are required to file a TGST return (MIRA 206 form).

A tax return must be filed on or before the 28th day of the month following the end of the taxable period, or the date determined by the Commissioner General where the Commissioner General has decided to postpone the date for submission of tax returns due to any reasonable grounds.

The frequency of making payments and filing returns depends on the taxable person's taxable period. The taxable period is mentioned in the letter issued to the taxable person with the GST Registration Certificate. If the taxable person's average taxable sales exceed MVR1 million per month, the taxable period is a calendar month. If the taxable person's taxable sales do not exceed MVR1 million per month, the taxable period is quarterly (based on calendar quarters, i.e., January-March, April-June, July-September, October-December).

In the event a registered person is deceased or has ceased to carry out all taxable activities, the part of the tax return for the current taxable period up until the time of death or cessation of operations shall be filed by the legally obliged person on or before the 28th day of the month after the end of such taxable period.

Unless proven to the contrary, it shall be presumed that tax returns filed under the GST Act on behalf of a registered person have been prepared either by the principal or with the principal's authorization.

Periodic payments. Registered persons shall calculate tax payable in respect of each taxable period and pay such tax to the MIRA before the deadline for filing tax returns attributable to that taxable period in accordance with the provisions of the GST Act.

GST due can be paid in person at the MIRA counter, through MRTGS forms or directly online.

Electronic filing. Electronic filing is mandatory in the Maldives for certain taxable persons. The majority of GST-registered businesses (with some limited exceptions) are required to submit their GST returns online using the MIRA electronic GST service and pay any GST due electronically. Any business with an annual income of less than MVR5 million is allowed to file manual (i.e., paper) returns with the MIRA. Online and manual filing depends on the revenue of a company. There are no specific types of businesses that get such exemptions; it is on a case-by-case basis by MIRA.

Payments on account. Payments on account are not required in the Maldives.

Special schemes. No special schemes are available in the Maldives.

Annual returns. Annual returns are not required in the Maldives.

Supplementary filings. No supplementary filings are required in the Maldives.

Correcting errors in previous returns. If a taxable person wishes to correct an error in a previous month's return, it shall be required to amend the return online. If the amendment results in the tax liability being reduced, the amendment shall be accepted after a review by MIRA. If the tax liability increases, the amendment shall be accepted, and late payment fines shall be applicable on the additional liability from the original deadline for the taxable period (see the subsection *Penalties for late payment and filings* below).

Digital tax administration. There are no transactional reporting requirements in the Maldives.

J. Penalties

Penalties for late registration. The penalty for non-registration is MVR50 per day of delay, up to a maximum of MVR5,000.

Penalties for late payment and filings. Penalties for late payment and filings, apply as follows:
- Nonpayment of tax: 0.05% of amount outstanding per day
- Failure to file GST return by due date: if there is no tax liability, MVR50 per day of delay; if there is tax liability, both MVR50 per day of delay is due as well as 0.5% of the tax payable is due
- Failure to submit document or provide information to the MIRA by due date: if there is no tax liability, MVR50 per day of delay; if there is tax liability, both MVR50 per day of delay is due, as well as 0.5% of amount of the tax payable is due

Penalties for errors. If an error has been detected during a MIRA audit, fines will be applicable from the required date of filing on the excess amount of tax that has been assessed by MIRA. Any errors made with an intention to evade tax shall incur penalties as described above. Penalties may be reduced or eliminated if the business makes an unprompted disclosure to the MIRA. The degree of mitigation depends on the extent of the disclosure.

There are no specific penalties associated with the late notification or failure to notify of changes to a taxable person's GST registration details. For further details, see the subsection *Changes to GST registration details* above.

Penalties for fraud. Fines are applicable on filing and payment, calculated from the date of the filing requirement. If a company fails to file or pay as per the deadline, fines shall be applicable on an accumulating basis.

Personal liability for company officers. General rules of liability are applicable for company officers. If a taxable person is a limited liability company, any GST due shall be attributable to the company itself. Shareholders or directors will not be personally held accountable.

Statute of limitations. There is no specific statute of limitations in the Maldives. However, the Tax Administration Act (which governs all taxes in the Maldives) states that an audit notice may be issued by MIRA no later than the following dates:

- Return filing deadline (where the return is filed before the deadline)
  Or
- Actual filing date (where the return is filed after the due date or has been amended)
- If a tax return is not filed, MIRA shall serve the audit notice at any time

MIRA is required to commence the audit within two years of giving the above notice. However, an extension of up to three years maybe requested by MIRA where there is sufficient cause to believe an audit may not be completed.

Malta

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	It-taxxa fuq il-valur mizjud
Date introduced	1 January 1999
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.vat.gov.mt)
VAT rates	
Standard	18%
Reduced	5%, 7%, 12%
Other	Exempt with credit (0%) and exempt without credit
VAT number format	MT12345678
VAT return periods	Quarterly (the Commissioner for Revenue may prescribe longer or shorter periods)
Thresholds	
Registration	
Established	EUR30,000-EUR35,000 (certain conditions apply)
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied supplies	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and the rendering of services in Malta by a taxable person for consideration, in the course or furtherance of an economic activity

- Intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- Intra-Community acquisitions of new means of transport (*see the chapter on the EU*)
- Intra-Community acquisitions of excise goods
- The importation of goods into Malta (other than exempt importations)

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements see Section H. Invoicing,* subsection *Proof of exports and intra-Community supplies.*

The VAT Quick Fixes were transposed in the Maltese VAT legislation without any specific derogations with effect from 1 January 2020 mainly regulating four main aspects:
- Conditions for exempting intra-Community supplies
- Proof of transport
- Attribution of transport in chain transactions
- Call-off stock arrangements

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.*

In Malta, where a Maltese supplier supplies certain goods or services to a taxable person not established in Malta, generally, no VAT is due in Malta, and VAT should not be accounted for. However, to avoid double taxation, non-taxation or distortion of competition, the Director General of VAT may, with regard to the supply of the services referred to in Articles 44, 45, 56 and 59 of the EC Directive 2006/112/EC:
- Consider the place of supply of any service as being situated outside the EU, if the effective use and enjoyment of the services takes place outside the EU.
- Consider the place of supply of any service as being situated within Malta, if the effective use and enjoyment of the services takes place within Malta.

To date, the Maltese tax authorities restricted the application of the use and enjoyment provisions to the hiring of pleasure boats in line with a set of guidelines that are continuously updated and that explain the manner in which such use and enjoyment shall be calculated together with the applicable conditions.

Transfer of a going concern. For a supply to qualify as a transfer of a going concern (TOGC) for Maltese VAT purposes, the following conditions need to be satisfied:
- The assets are transferred to a person registered under Article 10 to whom it transfers its economic activity, or part of that economic activity that is capable of separate operation, as a going concern.
- The said assets are to be used by the transferee in carrying on the same kind of activity, whether or not as part of an existing economic activity, as that carried on by the transferor.
- The said transfer is recorded in the records of the transferor indicating the registration number of the transferee.

Subject to approval by the Commissioner for Revenue, a TOGC shall also apply where the transferee is not registered under Article 10, provided that the transferor did not qualify for a credit of the input tax attributable to the acquisition and the accumulation of the assets being transferred.

Transactions between related parties. In Malta, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is any person that carries on an economic activity, regardless of the purpose or result of that activity.

Exemption from registration. A Maltese established taxable person exclusively involved in exempt without credit supplies (or in supplies that take place outside Malta and are not subject to the reverse-charge mechanism in another EU Member State) as a general rule is not required to register for Maltese VAT purposes (save for any intra-Community acquisitions of goods in excess of EUR10,000 per annum or receipt of taxable services from a non-Maltese established services provider that both trigger a Maltese VAT registration obligation).

A non-Maltese established taxable person is not required to register for VAT purposes in Malta as long as no supplies are rendered/received in Malta upon which it is the person liable for the payment of VAT.

Such persons, even though not registered for Maltese VAT, would still be considered as taxable persons on the basis that they are carrying on an economic activity (excluding pure holding companies).

Voluntary registration and small businesses. A taxable person who is not required to register for VAT purposes in Malta may still apply for a Maltese VAT registration to claim back any Maltese input tax incurred on expenses on the basis that the supplies carried out to which such expenses relate (both within and outside of Malta) carry a right of refund, even though such supplies do not trigger a VAT registration obligation.

Group registration. Subject to certain conditions, a group of related entities may register for Maltese VAT purposes as a single taxable person. The main applicable conditions are the following:

- Country of establishment: All VAT group members must be established in Malta for VAT purposes.
- Regulated entity: At least one of the applicants must be a taxable person who is licensed or recognized in terms of the banking, financial institutions, gaming, insurance, investment services, lotteries and other games, retirement, pensions or securitization legislation.
- Links: Each of the applicants must be bound to each of the others by financial, organizational and economic links (as defined in the legal notice).
- Goods standing: At the time of application, all applicants must have filed all VAT and income tax returns due (to date) and settled all amounts due with the respective authorities (except for any valid objections/appeals).
- One VAT group: No person may be a member of more than one VAT group at the same time.
- Same VAT group: Persons bound to each other by financial links, organizational links and economic links may only form part of the same VAT group.

The minimum time period required for the duration of a VAT group is 24 full calendar months. A VAT group cannot be dissolved and canceled before 24 full calendar months from effective registration date and cannot be subsequently reconstituted before 24 full calendar months from effective cancellation date.

Where a member of a VAT group no longer satisfies all eligibility criteria, the group reporting entity shall inform the VAT department within 15 days for the membership to be terminated (self-supplies triggered as per Art 14.2 of the Second Schedule to the VAT Act).

All members of a VAT group in Malta are jointly and severally liable for VAT debts and penalties.

Holding companies. Holding companies can form part of a VAT group, subject to satisfying all applicable conditions outlined above.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)f) has been implemented in Malta. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Malta VAT Law – Item 7 of Part 2 of the Fifth Schedule to the Maltese VAT Act Cap. 406).

Fixed establishment. In Malta, there is no legal definition of a fixed establishment for VAT purposes. However, in practice, the Maltese VAT department applies the principles/conditions that emerge from Article 11 of Council Implementing Regulation (EU) No. 282/2011. It defines a fixed establishment as any establishment, other than the place of establishment of a business referred to in Article 10 of the Regulation, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use the services supplied to it for its own needs. In certain cases its application in practice might require clarifications from the tax authorities with respect to specific scenarios that might not be clear.

Non-established businesses. A "non-established business" may be any of the following persons:
- A taxable person that has not established its economic activity.
- A taxable person that has no fixed place of establishment in Malta.
- A physical person who has not established its economic activity in Malta.
- A physical person who does not have a fixed place of establishment in Malta, has no permanent address in Malta or does not usually reside in Malta.

A non-established business that makes supplies in Malta may appoint a tax representative or may be required by the Maltese tax authorities to do so. The Commissioner for Revenue may designate, by means of a written notice, a person resident in Malta with whom the non-established business has a business relationship to be the tax representative of the non-established business, unless the non-established business has already designated a representative. The representative must be nominated in writing to the VAT authorities. A tax representative is jointly and severally liable with the person represented.

Tax representatives. Persons who are not established in Malta and who are required to register for VAT purposes in Malta may nominate a person resident in Malta to act as their fiscal representative. This is to be made in writing to the Commissioner for Revenue and is subject to its approval. Such a request may also be made by the Commissioner for Revenue itself.

The representative is liable in the same manner and to the same extent as the person for whom it acts as representative, for all obligations imposed by the VAT Act.

Reverse charge. Under the VAT directive, certain supplies received as a customer from a supplier outside Malta are required to be treated in a different way to normal supplies. In such situations, rather than being charged VAT by the supplier, the customer will account for any VAT due. This is known as the "reverse-charge" mechanism.

The reverse-charge mechanism applies to services and for certain goods, too. For example, goods with installation supplied by someone not established and not VAT registered in Malta, to a Maltese established and VAT-registered business, would fall under the reverse-charge mechanism, too.

Where the reverse-charge mechanism applies, the Maltese recipient must act as both supplier and recipient of the services for VAT purposes. On the same VAT return, therefore, the Malta taxable person must account for output and input tax.

Domestic reverse charge. There is a domestic reverse charge in Malta for certain construction-related services. However, there are special rules in place for this domestic reverse charge. The use of the domestic reverse charge must be approved in writing by the Maltese VAT department on a case-by-case basis subject to the satisfaction of certain conditions upon a request to be submitted in writing.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (i.e., e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see the *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a B2B, where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Malta, the local VAT registration can be made online (https://cfr.gov.mt/en/eServices/Pages/Request-for-a-New-Vat-number.aspx).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop -Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

In Malta, the OSS registration can be made online (https://cfr.gov.mt/en/eServices/Pages/OSS.aspx).

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services.
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return.

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (i.e., for goods as well as services) that fall under the OSS.

For more details about the operation of the OSS, see the EU chapter.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (i.e., the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the EU chapter*.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In Malta, the IOSS registration can be made online (https://cfr.gov.mt/en/eServices/Pages/OSS.aspx).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Malta there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply); any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Malta there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the EU chapter.

Vouchers. The provisions of Council Directive (EU) 2016/1065 of 27 June 2016 amending Council Directive 2006/112/EC as regards the treatment of vouchers were transposed into local Maltese legislation as from 1 January 2019.

Single-purpose voucher (SPV) means a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue of the voucher. Multi-purpose voucher (MPV) means a voucher, other than a single-purpose voucher.

Each transfer of a SPV made by a taxable person acting in their own name shall be regarded as a supply of the goods or services to which the voucher relates. The actual handing over of the goods or the actual provision of the services in return for a SPV accepted as consideration or part consideration by the supplier shall not be regarded as an independent transaction.

The actual handing over of the goods or the actual provision of the services in return for a MPV accepted as consideration or part consideration by the supplier shall be subject to VAT pursuant to Article 4 of the VAT Act, whereas each preceding transfer of that MPV shall not be subject to VAT.

Registration procedures. A taxable person established in Malta who carries on an economic activity (or a non-Maltese established taxable person who is liable to charge Maltese output tax on its supplies) is liable to register for Maltese VAT under Article 10 of the VAT Act within 30 days of making a supply for consideration in Malta, other than an exempt-without-credit supply.

Maltese established taxable persons that qualify as a small undertaking may register under Article 10, but also may opt for a simpler VAT registration under Article 11, depending on the type of economic activity involved and the level of turnover, as follows:

- For new registrants who principally supply goods: those with an annual turnover lower than EUR35,000 (i.e., the "entrance threshold") may register as a small undertaking. Taxable persons currently registered under the normal regime may reregister as a small undertaking if their turnover falls below EUR28,000 (i.e., the "exit threshold").
- For new registrants who principally supply services, those with an annual turnover lower than EUR30,000 may register as a small undertaking. Taxable persons currently registered under the normal regime may reregister as a small undertaking if turnover falls below EUR24,000.

Moreover, anyone who carries on an economic activity is not registered under Article 10 and intends to make an intra-Community acquisition in Malta is liable to register for Maltese VAT under Article 12, by not later than the date of that acquisition if its total intra-Community acquisitions in Malta during that calendar year exceed EUR10,000.

A taxable person established in Malta who is not registered under Articles 10 or 11 and who supplies services within the territory of another Member State for which the tax is payable solely by the recipient shall apply to be registered under Article 10 by not later than 30 days from the date on which he makes a supply for consideration. Moreover, a taxable person established in Malta, other than a taxable person registered under Article 10, who receives services for which it is liable to pay the tax (reverse-charge mechanism) shall apply to be registered under Article 12 by not later than the date on which it receives a service.

An application for Maltese VAT registration should be filed online via the web portal of the Maltese VAT department. It must be accompanied by the necessary due diligence documentation (including passport copies, certificate of incorporation and memorandum and articles of association/statute) and is usually processed within five to 10 working days from when all information is made available to the Maltese VAT department.

Deregistration. An online VAT deregistration form needs to be filed whenever a VAT-registered person wants to deregister for VAT purposes. This includes listing among other things the reason for deregistration, whether the business will be transferred or not and details pertaining to any assets held.

Changes to VAT registration details. Every person registered under Articles 10, 11 or 12 shall, within 15 days from a change in circumstances that affects the particulars declared in the application for their registration under Articles 10, 11 or 12 (or otherwise furnished to the Commissioner for Revenue in connection with their registration or appearing in the registration certificate), notify that event in writing to the Commissioner for Revenue. Certain notifications (such as change in address, change in activities) can be affected online, whereas others are to be made via formal letter to the Maltese VAT department.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18%
- Reduced rates: 5%, 7%, 12% *(with effect from 1 January 2024)*
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides a reduced rate, the zero rate or an exemption.

Some supplies are classified as "exempt with credit," which means that no VAT is due, but the supplier may recover related input tax.

Examples of goods and services taxable at 0% (i.e., exempt with credit)

- Food, excluding catering
- Pharmaceutical goods
- International transport
- Exports of goods and related services (to territories outside the EU)
- Supplies to ships
- Supply of gold to the Central Bank of Malta

Examples of supplies of goods and services taxable at 5%

- Confectionery
- Medical equipment and accessories
- Printed matter (including e-books/audio books)
- Supply of electricity
- Items for the exclusive use of the disabled
- The importation of works of art, collectors' items and antiques

Examples of goods and services taxable at 7%

- Tourist accommodation
- Use of sporting facilities

Examples of goods and services taxable at 12%

- Custody and management of securities
- Management of credit and credit guarantees by a person or body other than those who granted the credit
- Hiring of pleasure boats for less than five weeks (subject to certain conditions)
- Specific health care services (subject to certain conditions)

The term "exempt supplies" refers to supplies of goods and services not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Letting and transfer of immovable property
- Health and welfare
- Education
- Postal services
- Banking and insurance
- Grant and negotiation of credit and the management of credit by the grantor
- Supply by nonprofit organizations of approved services related to sports or physical recreation
- Sports
- Lotteries
- Broadcasting
- Water

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Malta.

E. Time of supply

The time when VAT becomes due is referred to as the "date when tax on supplies becomes chargeable" or "tax point."

The basic tax point for a supply of goods is the earlier of the date on which the goods are delivered or otherwise made available to the recipient of the supply or the date on which payment is made. The basic tax point for a supply of services is the earlier of the date on which the services are performed or the date on which payment is made.

If a VAT invoice is issued before the basic tax point or by the 15th day of the month following the basic tax point, the date on which the VAT invoice is issued becomes the actual tax point. The actual tax point overrides the basic tax point.

Deposits and prepayments. The basic tax point for a supply of goods is the earlier of the date on which the goods are delivered or otherwise made available to the recipient of the supply or the date on which payment is made. The basic tax point for a supply of services is the earlier of the date on which the services are performed or the date on which payment is made.

Continuous supplies of services. When the supply of services gives rise to successive statements of account or payments they shall be treated as performed, up to the value covered by those statements, on the last day of each period to which such statements of account or payments refer (i.e., the basic tax point).

Provided that, when a continuous supply of services does not give rise to statements of account or payments during a year, it shall be regarded as being completed at least at intervals of one year.

Goods sent on approval for sale or return. There are no special time of supply rules in Malta for the supply of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The basic tax point for a supply of services is the earlier of the date on which the services are performed or the date on which payment is made.

If a VAT invoice is issued before the basic tax point or by the 15th day of the month following the basic tax point, the date on which the VAT invoice is issued becomes the actual tax point. The actual tax point overrides the basic tax point.

Leased assets. In cases of leased goods (where the delivery of goods pursuant to a contract for the hire of goods for a certain period or for the sale of goods on deferred terms, which provides that in the normal course of events ownership shall pass at the latest upon payment of the final installment) such supplies shall be treated as supplies of goods with the basic tax point being the earlier of the date on which the goods are delivered (or otherwise made available to the recipient) or the date on which payment is made.

Imported goods. When goods are, on importation, placed under a customs duty suspension regime, the chargeable event takes place and the tax becomes chargeable on the date when they cease to remain subject to that regime.

Intra-Community acquisitions. The tax on an intra-Community acquisition becomes chargeable on the earlier of the following two dates: (a) the 15th day of the month following the date of the acquisition; (b) the date on which a tax invoice is issued to the person making the acquisition for the supply of goods in question.

Intra-Community supplies of goods. The basic tax point for an intra-Community supply of goods is the earliest of the 15th day of the month following the date when the chargeable event takes place or the date on which a tax invoice is issued for that supply.

If a VAT invoice is issued before the basic tax point or by the 15th day of the month following the basic tax point, the date on which the VAT invoice is issued becomes the actual tax point. The actual tax point overrides the basic tax point.

Distance sales. There are no special time of supply rules in Malta for the supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

A VAT-registered person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is recovered by deducting the amount from output tax, which is VAT charged on supplies made in the same period.

The time limit for a taxable person to reclaim input tax is six months (i.e., two VAT return periods). Input tax pertaining to previous VAT periods can be claimed back in the following/subsequent two VAT returns, as long as the omitted invoices do not exceed 5% of the VAT paid/claimed in the original VAT return in which the invoices should have been declared. Each VAT return period is quarterly in Malta.

Input tax includes VAT charged on goods and services supplied in Malta, VAT paid on imports of goods and VAT self-assessed for reverse-charge services received from outside Malta.

For a claim for input tax to be valid, the following conditions must be met:
- The claim must be supported by a tax invoice.
- The person claiming the expense must have the document in its possession and provide it to the Director General of VAT if and when requested.
- The amount of tax claimed must be properly accounted for in the records held by the claimant.
- The VAT is recoverable to the extent allowable by the VAT Act.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Nonbusiness expenditure
- Purchase, repair and maintenance, lease, fuel and hire of vehicles (excluding commercial vehicles)

- Business and employee entertainment
- Tobacco and alcohol
- Works of art and antiques

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business expenditure (excluding blocked deductions)
- Mobile phones
- Hotel accommodation (purely for business purposes)

Partial exemption. Input tax directly related to the provision of exempt without credit supplies is generally not recoverable. If a registered person makes both exempt without credit supplies and taxable supplies, the person may not deduct input tax in full. This situation is referred to as "partial attribution" or "partial exemption." The amount of input tax that may be deducted from output tax by a taxable person making exempt without credit supplies is based on the percentage of taxable supplies made compared with total supplies made. Attribution is based on a provisional rate in the first year (Year 1) and is then adjusted to a definitive rate, which is based on the level of taxable supplies made compared with total supplies made on an annual basis. The definitive rate (as amended at the end of the first year) is used as the provisional rate in the second year (Year 2).

Approval from the tax authorities is not required to use the partial exemption standard method in Malta. However, if a taxable person wants to adopt an alternative basis for partial attribution (i.e., a special method) this would require the confirmation of the Maltese VAT authorities.

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

An adjustment may be necessary to the initial VAT deduction with respect to capital goods and immovable property, resulting from either a change in the circumstances of the business or a change in the proportion of use of the asset in the business. In the event of such change in circumstances, an adjustment to the initial deduction is made. The adjustment period is five years with respect to capital goods other than immovable property and 20 years with respect to immovable property.

In Malta, the capital goods adjustment also applies to certain services and circumstances. Input tax on capital goods includes input tax paid on operations related to the realization, the transformation or the improvement of capital goods, however, it does not include input tax paid on the repair or the maintenance of capital goods, as well as the purchase, the intra-Community acquisition or the importation of spare parts used for such operations. It also excludes input tax paid for the renting of capital goods, and more generally, input tax paid for the giving up or the granting of the use of such goods.

Refunds. If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that period, the taxable person ends up in an excess credit position. A taxable person is entitled to a refund of such excess credit if the excess credit is not set off against any VAT due in the subsequent tax period. The refund must be paid within five months after either the due date of the VAT return or the date on which the return is submitted, whichever is later.

The VAT authorities pay interest on VAT refunds that are paid late at a rate of 0.75% per month or part of a month. Interest is payable for the period beginning with the date on which the refund becomes payable and ending on the date on which the refund is paid.

Pre-registration costs. As a general rule, no amount shall be treated as input tax of a person unless it is supported by a tax invoice (including all necessary details such as VAT identification number) in respect of the tax relating to goods or services supplied to it. Hence, to ensure that the right of refund is not compromised, the VAT registration needs to be in effect prior to any expenses being incurred in such a way that the VAT number can be quoted on the invoices covering the costs incurred. Failure to do so will disqualify such invoices from being claimed back.

Bad debts. A claim for a deduction by way of a bad debt relief shall be subject to such directives as the Maltese VAT department may give as to the circumstances in which it may be made and the documents or other evidence that should be produced.

The conditions for claiming bad debt relief are as follows:
- Claim for bad debt relief may be made following a final court judgment showing beyond doubt and to the satisfaction of the Commissioner for Revenue that the debt can never be recouped.
- The claim must reach the Commissioner for Revenue by not later than 12 months from the date of delivery of the final judgment.
- VAT in connection with the claim must have already been accounted for and paid to the department.
- All VAT returns and payments due as at the date of the claim must have been submitted by that date.
- The debt must have been written off in the claimant's day-to-day VAT accounts and transferred to a separate bad debt account.
- The supply must have been made to the customer or to a third party through the customer.
- The value of the supply must not be more than the customary selling price.
- The debt must not have been paid, sold or factored under a valid legal assignment.

To claim a refund, an application to claim bad debt relief must be made by means of a registered letter addressed to the Commissioner for Revenue, providing:
- A copy of the relative final court judgment
- The date and number of any invoice issued for each supply to the customer, which is included in the claim
- For each relevant supply, the amount that has been written off as a bad debt
- The amount of the claim

The Commissioner for Revenue shall subsequently examine the case, accept or reject the claim and inform the claimant accordingly.

The claimant may deduct the tax relative to the bad debt relief claim in Box 41 of the VAT return for the tax period following that in which the Commissioner for Revenue has authorized the relief.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Malta.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Malta is recoverable. The Maltese VAT authorities refunds VAT incurred by businesses that are neither established nor registered for VAT in Malta. Non-established businesses may claim Maltese VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Malta during the refund period (excluding supplies covered by the reverse charge). *For full details, see the EU chapter.*

There are no specific refund rules in Malta, other than those established under the respective EU Directive.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the EU chapter*.

There are no reciprocity rules in place in Malta, as there are no particular/additional restrictions other than those that apply to Maltese established businesses (i.e., the normal input tax recovery rules). As such, businesses established in any country outside of the EU can apply for a refund for input tax incurred in Malta.

Find below specific rules for Malta:
- Claims must be made online (https://workflow.gov.mt/eservice/S10741).
- The refund application form must be filed within six months from the end of the calendar year in which the tax became chargeable.
- If the application relates to a period of less than one calendar year but not less than three months, the amount for which the application is made may not be less than EUR186.
- If the application relates to a period of one calendar year or the remainder of a calendar year, the amount may not be less than EUR23.

Late payment interest. In Malta, interest is not paid on late refunds to non-established businesses (for both EU and non-EU non-established businesses).

H. Invoicing

VAT invoices. Registered persons must generally provide tax invoices for all taxable supplies of goods and services made and for exports. Fiscal receipts must be issued for retail sales. A purchaser who receives a fiscal receipt for a supply must retain it for a period of at least 24 hours because the purchaser may be required to produce the receipt for inspection by the VAT authorities.

Credit notes. A credit note may be used to reduce VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original invoice.

Electronic invoicing. Electronic invoicing is allowed in Malta, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Malta. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Malta. The requirements related to electronic invoicing are the same as those for paper invoicing.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.

Simplified VAT invoices. For amounts not exceeding EUR100, a simplified invoice can be issued, which contains fewer details compared to a normal tax invoice.

Self-billing. Self-billing is allowed in Malta. Tax invoices may be drawn up by the customer in respect of supplies of goods or services made to them by a taxable person. A prior agreement between the two parties must be in place, along with an agreed procedure for the acceptance of each tax invoice by the taxable person supplying the goods or services. The Commissioner for Revenue may require that such invoices be issued in the name and on behalf of the taxable person.

Proof of exports and intra-Community supplies. VAT is not chargeable on exports and intra-Community supplies of goods dispatched to a destination outside of Malta. Both supplies must be

accompanied by evidence that confirms the goods have left Malta. Suitable evidence includes the stamped customs exportation documentation and other conditions as stipulated in the EU VAT Quick Fixes 2020 (*see the EU chapter* and the subsection *Quick Fixes* above).

No special documentation applies in Malta for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. Invoices may only be issued in the domestic currency, which is the euro (EUR). Foreign currency may only be quoted as a reference. The selling rate quoted by the European Central Bank on the date on which the supply takes place must be used.

Supplies to nontaxable persons. Special rules apply to the place of supply for supplies of telecommunications, broadcasting and electronic services to nontaxable customers. *For further details of the VAT rules on electronic services in the EU, refer to the EU chapter*.

Maltese suppliers of these services to nontaxable persons are not required to issue a tax invoice to nontaxable customers but are required to issue a fiscal receipt. Fiscal receipts may be issued in three different ways:
- Fiscal cash registers (physically sealed by approved sellers/manufacturers)
- Manual fiscal receipts books issued by the Maltese VAT department
- Accounting software/point-of-sale system certified by an approved IT auditor and ratified/authorized by the Maltese VAT department via the issuance of an EXO number

Moreover, the Maltese VAT Act states that persons supplying goods or services under the OSS or the IOSS, in terms of Chapter 6 of Title XII of Council Directive 2006/112/EC entering into force as from 1 July 2021, shall not be required to issue fiscal receipts for such supplies of goods and services.

Distance selling. For intra-Community distance sales made B2C, a fiscal receipt must be issued. However, if the supplier operates the OSS regime, then no fiscal receipt is required unless requested. Note that it is a fiscal receipt mentioned here rather than a full VAT invoice, as a fiscal receipt is the appropriate document to be issued for B2C supplies.

Records. Every registered taxable person established in Malta must keep full and proper records of all transactions carried out in the course or furtherance of their economic activity. Every person who is liable to tax on any transaction or who identifies as a person registered under the Maltese VAT Act for the purpose of any transaction shall keep full and proper records of any such transaction. In Malta, examples of what records must be held for VAT purposes include proper books and records, accounting data, invoice copies and VAT workings explaining how the figures declared in the VAT forms/returns have been calculated.

In Malta, VAT books and records can be held outside the country. Such records can be stored locally in Malta, or outside, but the records must be readily available to the Maltese VAT authorities if requested.

Record retention period. Generally, the records shall be kept and stored in a manner that contains details that can be supported by such information, documents and accounts as set out in the 11th Schedule to the Maltese VAT Act. Such records, information, documents and accounts shall be retained for a period of at least six years from the end of the year to which they relate, or such other period or periods as the Minister of Finance may, in special cases, by regulations, prescribe. Certain exceptions may apply in case of capital goods, adjustment forms, appeals, etc.

Electronic archiving. Electronic archiving is allowed in Malta. Invoices shall be stored in the original form in which they were sent or made available, whether paper or electronic. Additionally, in the case of invoices stored by electronic means, the Maltese VAT department may require the data guaranteeing the authenticity of the origin of the invoices and the integrity of their content shall also be stored by electronic means.

I. Returns and payment

Periodic returns. In most cases, registered persons file VAT returns quarterly. VAT returns must be filed within one-and-a-half months after the end of the tax period to which they relate.

Recently, Maltese VAT Law was amended to ensure that businesses sending their VAT declarations and making payments online are not charged interest and administrative fines if the declaration or payment is sent within seven days after the current deadline.

Periodic payments. Payment of the VAT due is required in full on the same date as the VAT return submission deadline, i.e., within one-and-a-half months after the end of the tax period to which they relate. Return liabilities must be paid in EUR. Payment of VAT can be made either manually at the approved cash collection points (currently, local postal offices) or online, when filing the VAT return online via the relevant link or online via a bank transfer to the Maltese VAT department's bank account.

Electronic filing. Electronic filing is mandatory in Malta for certain taxable persons. Electronic filing of VAT returns is mandatory for all taxable persons except for those who have less than 10 employees. There is a seven-day extension for the filing online of the VAT return and the payment of the respective VAT due, if any.

Payments on account. Payments on account are not required in Malta.

Special schemes. *Professional services.* A special scheme restricted for warrant holders whereby they can apply the cash accounting system for VAT accounting (as opposed to accrual accounting). Under this scheme, the warrant holder is entitled to delay the issuance of the tax invoice up until the payment is received in such a way that VAT is only to be forwarded to the VAT department once received.

Secondhand goods, works of art, collectors' items and antiques. A special scheme whereby VAT is mainly charged on the profit margin generated on the supply of such goods. (1) Secondhand goods dealers shall have the option to apply the provisions of this part, after having obtained the approval in writing of the Commissioner for Revenue, in respect of supplies of (a) works of art, collectors' items or antiques that they have imported themselves; (b) works of art supplied to them by their creators or their successors intitle. (2) Where a secondhand goods dealer exercises the option available under paragraph (1) of this item, such option shall cover at least two calendar years.

Supplies by retailers and by civil, mechanical and electrical engineering contractors. A special scheme whereby these contractors can apply the cash accounting system for VAT accounting (as opposed to accrual accounting). Unlike the professional services special scheme, in this case instead of delaying the issuance of a tax invoice, the tax invoice is issued immediately and on it the words "cash accounting must be inserted."

Travel agents. The tour operators/travel agents margin scheme is a special scheme whereby VAT is mainly charged on the profit margin generated on the supply of such services in order to avoid the need for multiple VAT registrations in different Member States.

Tax in danger. A scheme that allows the domestic reverse-charge mechanism only in connection to construction-related supplies and subject to approval by the Maltese VAT department that is usually restricted to construction-related contracts greater than EUR70,000 per contract.

Investment gold. A special scheme regarding the VAT accounting for investment gold where taxable persons who produce investment gold or transform any gold into investment gold have a right of option for taxation of supplies of investment gold to another taxable person that would otherwise be exempt in terms of Part One of the Fifth Schedule.

Telecommunications, broadcasting or electronically supplied services. This scheme utilizes the OSS for EU and non-EU established service providers of telecommunication, broadcasting and electronically supplied services. *For more details about the operation of the OSS, IOSS and online marketplace, see the EU chapter.*

Cash accounting. Professional service providers and retailers, as well as civil, mechanical and electrical engineering contractors, may use cash accounting if they have not exceeded the threshold of EUR2 million, subject to the condition that the right to deduct input tax shall be postponed until the tax on the goods or services supplied to them has been paid.

Annual returns. Annual returns are not required in Malta.

Supplementary filings. *Intrastat.* A taxable person that trades goods with other EU countries must complete statistical reports, known as Intrastat returns, which must be filed on a monthly basis by the 10th working day of the following month.

The thresholds for Intrastat Arrivals and Intrastat Dispatches are EUR700 per return.

Intrastat forms must be filed electronically and contain basic statistical data, including HS code, country of consignment/origin/destination, nature of transaction, mode of transport, term of delivery, invoice value, statistical value and weight. Intrastat returns must be filed in EUR.

EU Sales Lists. In general, EU Sales Lists (ESLs), known as recapitulative statements in Malta, must be prepared for each calendar month with respect to the following:
- Intra-Community supplies of goods
- Intra-Community supplies of services made to a customer that is liable to pay the tax on that service in the EU Member State in which it is established, except when such service is exempt in that Member State

Recapitulative statements must be submitted online to the VAT department by the 15th day of the month following the relevant calendar month.

However, recapitulative statements may be submitted online for each calendar quarter by the 15th day of the month following the end of the quarter if the total amount of the supplies of goods, excluding VAT, did not exceed in the relevant quarter or in any of the four preceding quarters EUR50,000. If the EUR50,000 threshold is exceeded, the recapitulative statements must be submitted by the 15th day of the month following the relevant month.

Notwithstanding the above, if a person provides only supplies of services, it may submit an online recapitulative statement for each calendar quarter regardless of the total value of services supplied.

The values of supplies of goods or services required to be reported in the recapitulative statement must be declared in the period of submission over which VAT was due.

Correcting errors in previous returns. Errors can be corrected in subsequent VAT returns without any negative implications, subject to the following conditions:
- The error must not exceed 5% of the respective total output/input tax declared in the original VAT return
- It is corrected in a subsequent VAT return that commences not later than six months from the expiration of the original VAT return in which the mistake was made

If any of these conditions are not satisfied, the errors would need to be corrected via the filing of an adjustment form, which will trigger penalties for incorrect declaration.

Digital tax administration. There are no transactional reporting requirements in Malta.

J. Penalties

Penalties for late registration. A penalty for late registration is assessed on an amount equal to the higher of the following:
- 1% of the excess, if any, of the output tax due over input tax (and any allowable deductions) for the first VAT period following registration
- EUR20 for every month or part of a month that the registration is late

The penalty is capped at a maximum of 20% of the output tax due over input tax (and any allowable deductions) for the first VAT period following registration.

Penalties for late payment and filings. A penalty for default in submitting a tax return equals the greater of the following two amounts:
- 1% of the excess, if any, of the output tax over input tax for the period (disregarding any excess credit brought forward from a previous tax period and any allowable deductions)
- EUR20 for every month or part of a month that the return is late
- Capped at EUR250

Interest is assessed on VAT paid late. The current rate (as from 1 September 2022) is 0.6% for each month or part of a month. The interest rate may change.

Penalties for errors. For the filing of a tax return containing errors that are discovered during a VAT inspection, a penalty equal to the sum of the following is imposed:
- 20% of the excess, if any, of the correct amount of output tax over the output tax declared in the return
- 20% of the excess, if any, of the deductions declared in the return over the correct amount of the deductions

If an error is voluntarily disclosed before it is discovered by the VAT department, the penalty is reduced to 10%. This reduction also applies if the person involved cooperates with the Commissioner for Revenue, accepts an agreement and pays the amounts due within one month after signing the agreement.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. On conviction of certain irregularities in records, e.g., fraud, false representations, a person shall be liable to the following penalties:
- To a fine of not less than EUR6,000 and not exceeding EUR10,000 for certain offenses committed
- To a fine of not less than EUR700 and not exceeding EUR3,500 for certain offenses committed

In addition, where tax amounting to more than EUR100 would be endangered, to a further fine equal to two times the endangered tax or to imprisonment of not more than six months or to both such fines and imprisonment:

Provided that, the two times fine for the endangered tax shall in no case be less than EUR1,000.

In addition, on a request by the prosecution, the court shall order the offender to comply with the law within a time sufficient for the purpose, but in any case, not exceeding one month, and, in default, the offender shall be liable to the payment of a further fine of EUR5 for every day on which the default continues after the lapse of the time fixed by the court.

Personal liability for company officers. Directors and other company officials qualify to be treated as representatives of the VAT-registered person for Maltese VAT purposes and shall be jointly and severally liable (with the person of whom they are representatives) for the tax due by that person.

The implications will depend on whether it is established that they acted in good faith (in which case liability is limited to the funds or to the value of any property under their management or control) or not and penalties/punitive measures depend on the actions committed ranging from daily fines to imprisonment.

Statute of limitations. The statute of limitations in Malta is six years. When the Commissioner for Revenue has reason to believe that a tax return furnished by a person registered under Article 10 for a tax period does not contain a full and correct statement of the matters required to be declared in that return, it may make a provisional assessment and serve that provisional assessment on that person by not later than six years from the end of the said tax period or from the date in which the tax return for that tax period is submitted, whichever date is the later.

Provided that where the provisional assessment refers to the adjustment relating to input tax on capital goods mentioned in the Tenth Schedule, it shall be served by not later than six years from the end of the adjustment period mentioned in the said schedule.

Provided further that, where a person makes a correction in terms of Article 28(1), the six-year period in which the Commissioner for Revenue may make a provisional assessment as provided for in this sub-article shall start to run from the date on which the Commissioner for Revenue receives the request for the correction.

Mauritania

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	1 January 1995
Trading bloc membership	Arab Maghreb Union (in French UMA)
Administered by	Mauritania Tax Authorities/Direction Générale des Impôts (DGI) (http://impots.gov.mr/DGI/index.html)
VAT rates	
Standard	16%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID number (in French NIF) – 8 digits
VAT return periods	Monthly
Thresholds	
Registration	MRU3 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods when the goods are deemed delivered in Mauritania
- The supply of services when the services are performed in Mauritania or are used therein
- The importation of goods in Mauritanian territory

In addition, taxable transactions carried out in Mauritania, even when the domicile or registered office of the actual taxable person is located outside Mauritania's territorial limits, are also subject to VAT.

However, it should be noted that the following transactions are outside the scope of VAT in Mauritania:
- Transactions performed by individuals or legal entities with a turnover below MRU3 million, unless otherwise provided

- Supply of services provided by nonresidents, on condition that they are subject to withholding tax on these services
- Operations subject to the tax on financial transactions or the special tax on insurance

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons.

In Mauritania, Art.219 provides for "use and enjoyment rules." When the service, although performed in another country, is used or exploited in Mauritania, the taxation is made in Mauritania. Note that there is no specific list of services to which these rules apply. Hence, it should be considered that all services, either business-to-business (B2B) or business-to-consumer (B2C), are subject to them.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from VAT under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as exempt from VAT. In Mauritania, a TOGC is treated as exempt from VAT insofar as they are subject to registration duties (i.e., transfer taxes). Registration duties mean transfer taxes and TOGC is subject to such taxes. Note that transfer taxes and VAT cannot be cumulatively applied on a transaction. Hence, a TOGC subject to transfer taxes cannot be subject to VAT. There are no other specific conditions for a TOGC to be exempt from VAT.

Transactions between related parties. In Mauritania, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the Mauritanian tax authorities (in French, *Direction Générale des Impôts [DGI]*) have required companies established in Mauritania to keep documentation justifying the pricing policy applied in transactions of any kind with affiliated entities.

C. Who is liable

A taxable person is any person who carries out an economic activity independently in Mauritania on a regular or occasional basis against payment.

The following persons are liable to VAT in Mauritania:

- Individuals or legal entities, including public authorities and bodies governed by public law, who carry out taxable transactions within the scope of the tax on a regular or occasional basis and independently. These persons are subject to VAT, regardless of their legal status, their position regarding other taxes or the form or nature of their activities, if they generated a turnover greater or equal to MRU3 million.
- Importers are liable, regardless the amount of their turnover.
- Taxable persons who have acquired goods free of VAT in cases where one of the conditions for benefiting from this tax-free status is no longer fulfilled.
- Taxable persons who sell products acquired free of tax due to their intended use, if the products acquired have not been put to the use justifying the tax-free status.
- Any person, whether considered as taxable or not, who mentions VAT on an invoice or an import declaration.

Exemption from registration. The VAT law in Mauritania does not contain any provision for exemption from registration. This covers all taxable persons, including those carrying out transactions

exempt from VAT. This is because there is no tax registration for a specific tax in Mauritania. Instead, there is a single register that allows a taxable person to pay all the taxes to which it is liable. As such, VAT registration is covered by the general tax registration and is mandatory for all taxable persons to register.

Voluntary registration and small businesses. There are no special VAT registration rules for small businesses in Mauritania. For voluntary registration, only taxable persons that have been exempted under a special regime of VAT can voluntarily opt to register for VAT. In this instance, the Mauritanian General Tax Code (MGTC) authorizes such taxable persons to give up their special VAT treatment and opt for taxation to the common VAT regime. The option exercised must be notified to the General Tax Director by letter. It takes effect from the first day of the month following the date of the acknowledgment of receipt. This option is irrevocable.

Group registration. Group VAT registration is not allowed in Mauritania.

Fixed establishment. In Mauritania the definition for permanent establishment applies for both direct taxation and VAT. The MGTC defines the term "fixed establishment" in the three following ways:

- A fixed establishment means a fixed place of business through which the nonresident company carried on all or part of its business.
- A fixed establishment includes, or may include, a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry or any other place of extraction of goods, etc.
- A fixed establishment may also include:
  - A construction site, assembly or installation project, but only if such construction site or project lasts more than 12 months for subcontractors and other oil operators or six months for others.
  - The supply by a nonresident business of services, including counseling services, through employees or other personnel hired by the business for this purpose, but only if activities of this nature continue (for the same or a related project) in Mauritania for a period exceeding 12 months for subcontractors and other oil operators or six months for others.

In addition to the above definitions, the below are also considered to have a fixed or permanent establishment in Mauritania:

- Businesses performing their activities through an agent, other than an agent with independent status, who has powers in Mauritania that it usually exercises there, and that enable it to conclude contracts on behalf of the nonresident company, provided that the activities performed by such agent are not limited to activities that, if carried on through a fixed establishment of business, would not enable that establishment to be considered a permanent establishment.
- Businesses performing their activity through a non-independent agent, who does not have the abovementioned powers, but usually operates a stock of goods or products in Mauritania on behalf of the nonresident business.
- A nonresident insurance business, except for reinsurance, if it collects premiums or insures against risks in Mauritania through a person other than an agent enjoying an independent status.

It is worth noting that the fact a business resident in Mauritania controls or is controlled by a nonresident business is not sufficient to make either of these businesses a permanent establishment of the other.

Non-established businesses. A "non-established business" is a business that does not have a permanent professional establishment (i.e., a permanent establishment) (see the *Fixed establishment* subsection above) in Mauritania through which it provides services or supplies goods. Such an establishment cannot be registered for VAT in Mauritania. However, when a non-established business conducts taxable operations in Mauritania, these are subject to VAT, and the non-established business must appoint a tax representative to carry out the formalities of declaration and

payment. However, in the case of B2B transactions, the reverse VAT mechanism will apply if no tax representative is appointed. See *Tax representatives* and *Reverse charge* subsections below.

Tax representatives. Non-established businesses must appoint a tax representative for VAT purposes in Mauritania. The tax representative must meet the following conditions:
- Be accredited with the relevant tax office
- Be a taxable person identified for VAT in Mauritania

To be valid, the appointment must meet the following conditions:
- Be notified to the General Tax Director by the foreign company not established in Mauritania
- Be accompanied by a mandate contract signed and dated by the foreign company and its local representative

This mandate contract must mention at least:
- The accurate identification information of the foreign company (name, address, capital and nature of the activity)
- The ID information of the manager if it is a company
- The tax representative's identification in Mauritania (name, address and tax ID number (called in French NIF))
- The scope of the mandate: the tax representative must, at least, prepare tax returns, declare and pay monthly VAT on behalf of the principal and be the local contact for the tax authorities
- The date of the beginning of the mandate and the mention that it remains valid as long as the end of the mandate has not been reported to the General Tax Directorate

The declaration of VAT due by the person domiciled outside Mauritania and carrying out taxable operations there must be established on a separate declaration from that of the person designated by the taxable person to pay the tax on its behalf in accordance with the VAT declaration conditions provided for by the General Tax Code.

This declaration must mention the VAT to be paid by the foreign supplier with the specific mention "on behalf of" the name of the foreign supplier and be accompanied by a copy of the accreditation.

However, if a tax representative is not appointed by the foreign company, the VAT and related penalties are payable by the beneficiary of the taxable transaction in the case of B2B transactions. See the *Reverse charge* subsection below.

Reverse charge. For services provided by non-established businesses to local businesses (B2B), and no tax representative is appointed, VAT is due to be paid through the reverse-charge mechanism. The reverse-charge mechanism is only used if the supplier has no permanent establishment in Mauritania. The nonresident service provider will issue its invoices, VAT excluded, and it will be up to the local customer to then calculate the corresponding VAT amount, declare and pay it on behalf of the service provider.

Domestic reverse charge. There are no domestic reverse charges in Mauritania.

Digital economy. Electronically supplied services will be subject to VAT in Mauritania if the services are enjoyed therein, whereas imported goods via e-commerce will be taxed if the goods are deemed delivered in Mauritania.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies would be required to register and account for VAT in Mauritania. This would be done by appointing a tax representative. See the subsection *Tax representatives* above.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT on supplies in Mauritania. Instead, the

customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in Mauritania.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Mauritania.

Registration procedures. There is no stand-alone VAT registration in Mauritania. Any natural or legal persons who wish to carry out income-generating activities in Mauritania must, within 20 days of the start of its activities or the opening of its business in Mauritania, file a declaration of existence with the tax department to which it belongs on a regulatory form, indicating its first and last names or company name, profession or activity, address, or registered office.

This formality may also be carried out by a duly authorized representative of the taxable person.

For legal entities, the information below must be mentioned into the declaration:
- The legal form, the duration, as well as the place of their head office
- The date of the instrument of incorporation (a copy of instrument act must be provided)
- The last names, first names and residence of the directors or managers and, for companies whose capital is not divided into shares, the last names, first names and residence of each partner
- The nature and the value of the movable and immovable goods constituting the capital contribution
- The number, form and amount of:
  - Negotiable securities issued, with a distinction between shares and bonds, and specifying, in the case of the former the amount to be paid up on each security and, in the case of the latter the depreciation period and the interest rate
  - Shares in the company (capital shares) not represented by negotiable securities
  - Other rights of any kind attributed to the associates in the sharing of the profits or of the company's assets, whether these rights are identified by securities
- A map showing the location of their business
- For legal entities whose head office is abroad, the detailed nature of their activities and operations in Mauritania, the place of their main office, as well as the full name and address of the manager in Mauritania, who undertakes to complete the formalities

For a nonresident foreign company, the instrument of designation of the manager must be notified to the tax authorities at the time of registration of the legal entity in the National Taxpayers Register.

Therefore, upon receipt of the declaration of existence, and after verification and certification of the taxable person's actual location, the tax authorities assign a tax identification number (called in French NIF) to the taxable person. It takes approximately two weeks to receive the VAT registration number from the tax authorities.

Deregistration. There is no specific VAT deregistration in Mauritania. However, if a taxable person is planning to cease operations in Mauritania, it can draft a letter and inform the tax authorities within 20 days to be deregistered from the National Taxpayers Register. See the *Changes to VAT registration details* subsection below.

Changes to VAT registration details. Any substantial modification affecting the taxable person's business must be notified to the tax authorities by letter addressed to the Tax General Director within 20 days following this modification. This formality may also be carried out by a duly authorized representative of the taxable person.

In particular, the following modifications must be declared:
- The change of the manager
- The transfer of the individual company or its management lease
- The modification of the company name, legal form, object or duration
- The transfer of shares or holdings, directly or indirectly, equal to or greater than 10% or more in a legal entity
- The cessation of activity or closure of an establishment
- The change of address

The 20-day period is deemed to begin:
- In the case of a change of manager, on the day the new manager effectively takes office
- In the case of a total or partial transfer of the company, shares or holdings, on the effective date of the transfer
- When it concerns the modification of the company's name, its legal form, its object, its address or its duration, on the date the decision is made
- In the case of the cessation of the business, on the date of the establishment's final closure

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 16%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and similar transactions and services directly related to these transactions

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Sales of petroleum oils or bituminous minerals, petroleum gas and other gaseous hydrocarbons except for those that have been imported and are subject to consumption under customs legislation
- Medical acts, hospitalization costs and hemodialysis materials and inputs
- Sales and services provided by the State, territorial collectivities and their public establishments without an industrial and commercial character
- Deliveries of goods and services to airlines or relating to sea shipping and navigation on international rivers
- Revenues from the composition and printing of newspapers and periodicals, excluding advertising revenues, and sales of those newspapers and periodicals
- The transactions involving the transfer of ownership or usufruct of businesses or customers, buildings, land or leasehold rights, subject to the registration formality
- Operations carried out by the banking, the financial and the credit organizations, subject to the tax on the financial operations
- International air transport and ticketing operations carried out by travel agencies regarding aerial transport
- Transport operations carried out by public transporters of passengers or goods registered in this quality and holding regulatory authorizations

- Any teaching activity carried out by public or private institutions approved by the competent public authority
- Purchases of goods and services related directly to mining operations
- Sale of food, seeds, plants, fruits and ice

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Mauritania.

E. Time of supply

In Mauritania, the time when VAT becomes due is called the "chargeable event" (i.e., time of supply), while the date on which the payment of VAT becomes compulsory for the supplier and deductible for the taxable person is called the "payability." The chargeable event for VAT is constituted by:

- Crossing the customs cordon for import operations
- Delivery of the goods for sales operations
- Performance of the services rendered for the supply of services

Deposits and prepayments. The time of supply rule for deposits and prepayments varies depending on whether they are related to supply of goods or services. The time of supply rule for deposits and prepayments is determined as follows:

- For supply of goods, deposits and prepayments do not affect the time of supply. The delivery of goods still constitutes the time of supply.
- For supply of services, time of supply is the date on which advance payments is received.

Continuous supplies of services. For supplies of goods giving rise to successive invoices or payments, the chargeable event occurs on expiry of the periods to which the invoices or payments relate. For supplies of services giving rise to successive invoices or payments the chargeable event occurs whenever an invoice is receive or payment is made.

Goods sent on approval for sale or return. There are no special time of supply rules in Mauritania for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. When a non-established business performs B2B services in Mauritania and has not appointed a tax representative, the recipient of the service must self-assess for the VAT due on the supply. As such, the time of supply for reverse-charge services provided by non-established business is the performance of the service or the payment of an invoice by the recipient of the service, whichever happens earlier.

Leased assets. The leasing of assets (in French, *credit-bail*) is treated as a continuous supply of services in Mauritania. Therefore, the chargeable event occurs each time a rent is paid.

Imported goods. The time of supply rule for the import of goods is, the moment when the goods cross the customs border. For goods placed under one of the temporary importation regimes, the time of supply is the moment when the goods are released into the Mauritanian market.

F. Recovery of VAT by taxable persons

In Mauritania, a taxable person may recover the VAT incurred (i.e., the input tax) on the acquisition of goods and services if they are performing taxable activities (i.e., those subject to VAT at the standard or zero rate).

To deduct input tax, the taxable person must ensure that the VAT incurred meets the following conditions:

- Appears on the declaration of release for consumption or any other equivalent document issued by the customs service, be paid and be made out in the name of the person claiming the deduction.

- Be mentioned distinctly by the seller or the service provider on the invoice or the import declaration duly established, in case of purchase of goods or provision of services.
- Appears in the declaration of the taxed operations for the same month, in the case of self-supply of goods or services.

In addition, a taxable person who is also subject to VAT can only deduct the VAT invoiced to it by a supplier or service provider if the latter also issues it with a certificate of VAT liability (i.e., a written statement that confirms that it is a taxable person for VAT purposes). This certificate of liability is issued upon request of the taxable person, by the Tax General Directorate in favor of taxable persons in compliance with the VAT.

The time limit for a taxable person to recover input tax is at the latest 15 April of the year following the year in which the tax became due. Otherwise, the right to deduct is definitively lost for the taxable person.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (e.g., goods acquired for private use or services used for making exempt supplies). In addition, certain transactions subject to VAT are expressly excluded from the right of deduction, which are sometimes considered personal (i.e., risk of abuse) and sumptuary or simple gifts *(see list below)*.

Examples of items for which input tax is nondeductible

- Goods or services used for the private needs of third parties, officers or employees of the company, such as private accommodations or lodging for the officer, receptions, catering, shows or any expense directly related to private trips or residence (excluding work or protective clothing, premises and equipment allocated for the collective satisfaction of employees' needs at the workplace, as well as free accommodation at the workplace for salaried staff specifically responsible for securing these premises)
- Goods transferred and services rendered freely or at a price significantly lower than the cost price, as commission, salary, gratuity, discount, bonus, gift, regardless of the status of the beneficiary (except for advertising objects having a unit value less than MRU750 excluding taxes)
- Goods or services provided between professionals (VAT-subject persons) and paid in cash for an amount exceeding MRU200,000
- Purchases of goods and/or services for which the invoice or document in lieu thereof does not include the supplier's tax identification number (TIN)
- Real estate other than those used for industrial, commercial, artisanal or professional purposes
- Export operations of nontaxable products within the country
- The acquisition price of petroleum products (petroleum oils or bituminous minerals, petroleum gas and other gaseous hydrocarbons) whose sale is exempt from VAT
- Goods and services liable to the special margin regime

Examples of items for which input tax is deductible (if related to taxable business use)

- Any item that is not specifically defined as nondeductible by the MGTC is deductible, if it is related to a transaction that meets the definition of a taxable transaction (as listed above)

Partial exemption. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." The MGTC provides one method to recover VAT where a taxable person makes both exempt and taxable supplies. According to this method, VAT is only deductible under a percentage.

The deductible VAT fraction is equal to the amount of the tax multiplied by the ratio between:

- In the numerator, the annual turnover relating to taxable operations, to exports relating to taxable operations in the domestic system and to exempt operations giving rise to the right to deduct
- In the denominator, the total annual turnover made by the entity

This ratio, called the "pro rata," is expressed as a percentage rounded up to the higher unit and the amounts mentioned therein include all costs, duties and taxes, excluding VAT itself. It is determined and temporarily applied for the current year based on the revenues of the previous year or, for new taxable persons, based on the projected revenues or income of the current year.

The tax is deducted from the tax payable by the company for the month in which the right to deduct arose. Adjustments to the deductions made must be exercised no later than 15 April of the year following the year in which the tax became due.

If the adjustment is not made within the time limit, the right to deduct is definitively lost for the taxable person.

Approval from the tax authorities is not required to use the partial exemption standard method in Mauritania. Special methods are not allowed in Mauritania.

Capital goods. VAT related to the purchase of capital goods can be recovered in the month in which the purchase took place by applying the same rules that would apply to the purchase of any other goods. In case where capital goods are used for both taxable and exempt activities, the partial exemption rules apply. See the *Partial exemption* subsection above.

However, regarding the adjustment of the VAT deducted with respect to a capital good, the regulations provide that an adjustment of the initial deduction is required in certain circumstances. Thus, when the final pro rata relating to each of the four years following the year of acquisition or first use of a capital good varies by more than 10 points compared to the final pro rata used to make the initial deduction, the taxable person must proceed either to the repayment or to the complementary deduction of a fraction of the tax having charged initially the capital good. This fraction is equal to one-fifth of the difference between the product of the tax charged on the goods by the final pro rata of the year of acquisition and the product of the same tax by the final pro rata of the year in question.

From the fifth year following its purchase, importation or first use of the capital good in question, there is no further annual adjustments required to be made by the taxable person in respect of this good.

Furthermore, when a capital good is transferred or destroyed before the beginning of the fourth year following its acquisition or first use, the taxable person must refund a fraction of the tax initially deducted, considering the annual adjustments already made. This fraction is equal to the amount of the tax deducted minus one-fifth per civil year or part of a civil year elapsed since the date of acquisition or first use of the asset in question.

The amount of VAT to be globally adjusted is equal to the sum of the annual adjustments that would be due for the remaining years of the adjustment period, by assuming for these years a deduction proportion of zero. However, if the transfer is itself subject to VAT, there is no need for an annual adjustment.

Refunds. The refund of VAT credit is only authorized by the Mauritanian tax authorities for the following taxable persons:
- Exporters
- Taxable persons who lose their status as taxable persons

The deductible tax credit held by these taxable persons shall be deducted in priority from the sums they owe with respect to other taxes and duties. The only way to recover the VAT credit is to offset it against the output tax due for the subsequent period(s). Regarding the time period, the VAT credit must be claimed within 15 days for taxable persons that lose their status as taxable person or within the month following the declaration indicating a tax credit for exporters.

The refund of the VAT credit can only be obtained under the following conditions:
- The taxable person submits a written request for refund to the General Tax Director. Request should be submitted within 15 days for companies that lose their status as taxable persons or within the month following the declaration indicating a tax credit for exporters.
- The amount of the credit for which it is claiming is greater than or equal to MRU100,000.
- The last three VAT returns are in credit, except for taxable persons who lose their status as a taxable person.
- The companies are not in the process of a tax audit.

If all required documentation is provided, the refund of the VAT credit should be executed within a period not exceeding three months.

Generally, other taxable persons are not allowed to carry forward a VAT credit to offset against any dues. However, it should be noted that the extension of VAT credit refunds to activities other than exports can be granted by order of the Finance Minister at the request of the applicant. The Finance Minister is free to accept or reject the request.

Pre-registration costs. Input tax incurred on pre-registration costs in Mauritania is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Mauritania.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Mauritania.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Mauritania, is not recoverable.

H. Invoicing

VAT invoices. A full VAT invoice is required to be issued by all taxable persons to all customers, regardless of their tax regime.

The invoice must clearly state, among other information, which items are taxed, the amount excluding VAT, the rate and amount of tax due or, if applicable, "Exempt," and the total amount including all taxes due by the customer.

Credit notes. The MGTC does not contain any specific rules on credit notes. However, in practice a supporting document must be provided to justify the change in VAT for canceled, terminated or unpaid supplies.

Electronic invoicing. Electronic invoicing is allowed in Mauritania, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory, in Mauritania. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Mauritania. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic documents are accepted for invoicing purposes in the same way as paper documents, provided that the authenticity of the origin of the data they contain and the integrity of their content are guaranteed. The electronic invoice must, for VAT compliance, comply with the conditions mentioned in the MGTC.

For invoices kept in electronic form, the data guaranteeing the authenticity of the origin and integrity of the content of each invoice must also be preserved.

Simplified VAT invoices. Simplified VAT invoicing is allowed in Mauritania for certain supplies. These include public road transportation, parking, access to cultural, sports and recreational activities, the sale of food and drink, the sale of consumer articles, repair of consumer articles and personal services. Although simplified VAT invoicing is not explicitly referred to in the applicable legislation, it is allowed given the common business practice.

Self-billing. Self-billing is not allowed in Mauritania.

Proof of exports. There are no special invoicing rules for exports in Mauritania. For exports to qualify as zero-rated, they must be supported by evidence that the goods have left Mauritania. Any documents issued by customs authorities relating to the export operation should be sufficient.

Foreign currency invoices. Invoices can be issued in a foreign currency. If done so, the countervalue in the domestic currency, which is the Mauritanian Ouguiya (MRU), must also be indicated for each taxable period, according to the latest exchange rate of the Central Bank of Mauritania. For domestic invoices, the domestic currency must appear on the invoice even if the quote is in foreign currency.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Mauritania. As such, full VAT invoices are required.

Records. In Mauritania, examples of records that must be kept for VAT purposes include the accounting documents and supporting documents, in particular the general ledger, the inventory book, the journal books, the purchase and sale invoices, the receipts and expenses documents, the fixed assets register, the customs declarations and generally any documents used or drawn up for the purpose of VAT reporting in Mauritania.

The documents must be kept in Arabic or French. Importers must also keep a special book showing for each operation, the quantity, the customs value, the number and the date of the declaration of release for consumption.

In Mauritania, VAT books and records must be held within the country. Such records must be made available upon request of the DGI and provided within a timely manner. There are no special rules for non-established businesses.

Record retention period. Accounting records and supporting documents must be kept for at least 10 years following the year during which the imports, purchases, sales or services were recorded in the accounting records.

Electronic archiving. Electronic archiving is allowed in Mauritania. Backup copies of invoices or equivalent documents may be archived in all support media (i.e., on paper and electronically). However, electronic accounting must be kept using media and software approved by the tax authorities and must meet the legal requirements for security, integrity and preservation as defined regarding evidence.

I. Returns and payment

Periodic returns. Any taxable person liable for VAT in Mauritania must file a monthly return on an official form (in accordance with the prescribed model) by the 15th day of the month following the end of the return period.

The return must indicate the total amount of transactions carried out, the details of the taxable transactions, the details of the tax giving right to deduction and total amount of the tax due.

Furthermore, a nil VAT return must be filed where the taxable person has not carried out any taxable transactions in a tax period.

Periodic payments. VAT is paid monthly. The tax due must be paid, without prior notice and simultaneously with the filing of the return, no later than the 15th day of the month following the end of the return period. For importers, the tax must be declared and paid before the collection of the goods or product.

However, the VAT due on operations carried out on behalf of the state, local authorities and public establishments may be subject to withholding at source.

Electronic filing. Electronic filing is allowed in Mauritania, but not mandatory. VAT returns and their appendices can be filed electronically on the "teleservice" platform (http://www.tele-services.gov.mr).www.tele-services.gov.mr The teleservice platform allows the taxable person to declare VAT online, to consult its tax file (registration form, tax obligations, follow-up of appeals, tax situation, installment payments), to exchange with the tax authorities in a secure space and to consult tax documents.

Payments on account. Payments on account are not required in Mauritania.

Special schemes. *Reselling business of telephone cards and audiovisual subscriptions*. Sales of access rights to a telephone network located in Mauritania are automatically subject to VAT on the basis of the margin system, whether or not the access right is represented by a physical card, provided that the seller of these access rights sets its price in accordance with the requirements imposed by the initial supplier (who operates the telephone network to which access is given). Also, subscription services to an audiovisual service broadcast in Mauritania are also subject to the margin system, provided that the seller sets its price in accordance with the requirements imposed by the initial supplier (who is the legal holder of the broadcasting rights in Mauritania of the audiovisual service to which the customer subscribes).

Therefore, for the margin scheme to apply to such sales and services, the seller must be legally distinct from the original supplier. It does not apply on sales of access rights to a telephone network or television subscriptions granted by the initial supplier itself, regardless of the identity and activity of its customer.

The taxable amount subject to VAT (i.e., "profit margin") results from the difference between the total price (including VAT) paid by the customer to the reseller and the price (including VAT) paid by the reseller of the distribution chain (i.e., the "cost-by-cost" system). If, during the same reporting period, the level of purchases exceeds the level of sales, the excess is added to the purchases of the following reporting period.

Travel agency services. A travel agency's services are considered as intermediary operations carried out by travel agencies and tourist circuit organizers in their own name (i.e., their "opaque intermediary"). When the travel agency carries out its activities in the name and on behalf of either its client or a service provider (i.e., its "transparent intermediary"), the services it provides are taxable according to the common law rules.

Accordingly, for the operations performed by travel agencies and tourist circuit organizers to be subject to VAT on the margin, the following conditions must be met simultaneously:
- Travel agencies and tourist circuit organizers must carry out these operations in their own name (i.e., the "opaque" intermediaries).
- The travel service must include at least transport and/or accommodation.
- The travel agency, acting in its own name, must use supplies of goods and services belonging to other taxable persons or nontaxable organizations to carry out the trip.

The taxable turnover is thus necessarily constituted by the difference between the total price (including tax) paid by the customer and the price (including tax) invoiced to the agency or the organizer by the transport contractors, hoteliers, restaurant owners, entertainment contractors and other taxable persons who materially perform the services used by the customer and who are aggregated by the travel agency to provide its own services.

Sales of secondhand goods acquired from nontaxable persons. Such supplies are considered secondhand goods, i.e., before the goods have been used and which are susceptible of being reused in the state or after repair. In contrast, operations that result in either a transformation of the original object before use, or a real renovation of the used goods, make the latter lose the qualification of secondhand goods, and therefore it will be taxable according to the common law regime.

In principle, secondhand goods resellers pay the tax on the difference between the sale price and the purchase price calculated on a transaction-by-transaction basis (in French, *système du coup par coup).* This means that taxable resellers cannot offset a beneficial transaction by the loss of value realized in another transaction.

However, taxable persons may, for all their transactions subject to the margin system, determine the taxable base each month by taking the difference between the amount of the global purchases and the global sales of secondhand goods delivered during the month in question (regardless of the date of payment).

Prior to applying the globalization system, taxable persons must inform their tax office where they are affiliated by any means that allows them to keep track of this information. This system is applicable from the first day of the month in which this information is given and must be applied by the taxable person for at least 12 consecutive months before deciding to change it.

In addition, secondhand goods resellers must keep all evidence proving the status of the transferor of the secondhand goods they resell under the margin scheme to justify that this scheme is effectively applicable.

Activities of workforce contractors. Activities of workforce contractors are activities consisting of the provision, to a customer legally distinct from the contractor, of personnel not employed as employees by the contractor, for an agreed period.

However, the provision of personnel employed by the contractor to a client legally distinct from the contractor is also subject to VAT according to the margin system if the hierarchical authority over this employee is transferred to the contractor's customer for the duration of the contract.

Their VAT taxable turnover results from the difference between the total price (including VAT) paid by the customer and the costs incurred by the contractor to provide its service.

However, to simplify the process, it is necessary to proceed to the globalization of revenues and costs incurred to determine the real base of a given period.

Annual returns. Annual returns are not required in Mauritania.

Supplementary filings. *Deductions statement.* A taxable person is required to enclose with the monthly VAT return a signed and sealed statement showing the details of the deductions made, emphasizing:

- Regarding purchases on site and supplies of services:
  - The name or company name and tax identification number (in French, *numéro d'identification fiscale [NIF]*)
  - The references and the amount of the invoice
  - The amount of the deductible tax paid by the customer
- In the case of imports, in addition to the above information:
  - The number of the declaration of release for consumption or exit from the warehouse
  - The references of the receipt issued by the customs services
  - The amount of VAT mentioned on this receipt

Failure to produce the abovementioned statement, or the production of an erroneous statement or one containing incorrect information, shall result in the loss of the right to deduct input tax.

Correcting errors in previous returns. Total or partial errors on the VAT return can be repaired spontaneously by the taxable person itself before the sending of an audit notice or before the sending of a request for information in the case of an audit on documents.

In addition, in case of filing of a mandatory document that does not comply with the models prescribed by the tax authorities before the end of the period concerned, the taxable person is invited by written reminder to refile the document in compliance with the model prescribed by the tax authorities within 15 days.

However, VAT deductions that have been accounted for cannot be subject to an amending declaration or be deducted in a subsequent declaration.

The amending documents are submitted in the same way as the initial return, with the reference "amending return."

There is no time limit for taxable persons to make corrections to VAT returns that have already been filed. However, no corrections can be made after an audit notice has been sent or a request for information has been sent in the case of a document audit.

Digital tax administration. There are no transactional reporting requirements in Mauritania.

J. Penalties

Penalties for late registration. The failure to register for VAT (and subsequently all other taxes in Mauritania) within the legal time limit may result in a fine from MRU50,000 to MRU500,000.

Penalties for late payment and filings. Any taxable person who fails to file a VAT return within the legal deadline is liable to a penalty equal to:
- 10% of the tax normally due when the delay is less than two months
- 25% when the delay exceeds two months

The delay in the filing of a "nil" or creditor VAT return is sanctioned by a fine of MRU2,000 per month. The amount of the fine is increased to MRU10,000 for companies whose turnover for the previous year exceeds MRU30 million.

Failure or delay in filing a mandatory document related to VAT is punishable by a fine of 1% of the turnover, including all taxes assessed, if necessary, by the tax authorities, amounting to not less than:
- MRU50,000 for taxable persons subject to the normal real profit scheme
- MRU35,000 for taxable persons under the intermediate real profit scheme
- MRU150,000 for taxable persons with an agreement or benefiting from a temporary exemption scheme under the normal real profit scheme
- MRU75,000 for taxable persons with an agreement or benefiting from a temporary exemption scheme under the intermediate real profit scheme

In case of a first offense, the fine cannot exceed MRU5 million.

Penalties for errors. Omissions and errors in VAT returns are punishable by a penalty equal to 40% of the compromised duties. The rate of this penalty is increased to 80% when, given the nature of the offense committed, the good faith of the taxable person cannot be admitted.

In case of failure to refile mandatory documents according to the model prescribed by the tax authorities within the 15 additional days granted by the tax authorities to the taxable person to comply with the law, the taxable person is liable to a fine of 1% of the turnover, including all taxes assessed by the tax authorities.

Omissions or errors in the documents (i.e., invoices) required to be kept or in the written information submitted with the return shall give rise to a fine of MRU1,000 for each omission or

inaccuracy. For imports, any omission or inaccuracy in the declaration is punishable by a fine of MRU20,000 to MRU100,000.

Failure to comply with the partial exemption obligations may result in a fine of MRU1,000, in addition to any VAT related penalties.

In the event of correcting errors in previous returns, the tax authorities may apply penalties corresponding to those they apply in cases where they detect themselves the errors or omissions committed by the taxable persons in their return before the latter had time to rectify them, without being able to invoke bad faith.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty ranging from MRU50,000 to MRU500,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Without prejudice to the tax penalties listed below, the following shall be subject to a fine of MRU50,000 to MRU1 million and an imprisonment from six months to two years, whoever has fraudulently evaded or attempted to evade the establishment or the total or partial payment of VAT either it has voluntarily omitted to make its declaration within the prescribed time, or that it has deliberately concealed a part of the sums subject to tax, or it has organized its insolvency or obstructed by other maneuvers the recovery of the tax, or by acting in any other fraudulent manner.

Any person who makes VAT deductions from customers and fails to refund these amounts to the Treasury within six months following the withholding or charging to customers is liable to a fine ranging from MRU50,000 to MRU100,000 and to imprisonment for a term of one year to five years, or to one of these two penalties only.

In the event of a recurrence, within a period of five years of one of the abovementioned offenses the offender is liable to four years' imprisonment and a fine of MRU2 million.

The penalties incurred in the event of a fictitious claim for refund of tax credits are equal to 100% of the amount of the credit wrongly claimed and 200% of the same amount if the credit has been effectively refunded, in addition to the restitution of the sums wrongly received.

For imports, any infraction that has the purpose or result of evading or compromising the recovery of any duty or tax and that is not specifically punished by the Customs Code (e.g., VAT) is punishable by a fine equal to three times the duties and taxes due, evaded or compromised.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT returns in Mauritania. However, they can be held complicit in errors and omissions in the returns. In this case, the penalties are a fine of MRU10,000 for each infraction.

In case of complicity for fraud by the company, the abovementioned prosecutions and penalties (see the *Penalties for fraud* subsection above) will be applied to its officers, directors, general or temporary administrators and managers, the company being civilly liable for the payment of costs and fines.

Statute of limitations. The statute of limitations in Mauritania is three or 10 years. For VAT, the right of recovery available to the tax authorities may be exercised until the end of the third year following the year in which the taxable transactions were carried out.

The period of recovery provided above is extended by 24 months in the event of implementation of exchange procedure provided for by the mutual assistance agreements in matters of tax base, control and recovery or by the bilateral or multilateral agreements exchange of information for tax purposes. In all cases, the taxable person must be notified in written form of any extension of the recovery period.

Any error made by the tax authorities when discharging a tax assessment may be rectified by the tax authorities until the end of the year following the year in which the decision to discharge the original tax assessment was made.

Any omission or insufficiency of taxation revealed either by a proceeding in front of the courts or by a contentious claim may, without prejudice to the general time limit for recovery set at three years, be rectified until the expiration of the year following the year in which the decision closing the proceeding was taken.

There is no time limit for taxable persons to voluntarily correct errors in their previous VAT returns. However, no correction can be made by the taxable person after receipt of a notice of adjustment, a notification of reassessment or automatic taxation.

Mauritius

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)/Taxe sur la valeur ajoutée (TVA)
Date introduced	7 September 1998
Trading bloc membership	Common Market for Eastern and Southern Africa (COMESA) Southern African Development Community (SADC)
Administered by	Mauritius Revenue Authority (MRA)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	VAT99999999
VAT return periods	
Monthly	Annual taxable supplies is greater than MUR10 million
Quarterly	Annual taxable supplies is MUR10 million or less
Thresholds	
Registration	MUR6 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Mauritius by taxable persons
- Reverse-charge services received by taxable persons in Mauritius
- The importation of goods from outside Mauritius

Certain persons, such as airlines and other organizations approved by the Director-General, Mauritius Revenue Authority (MRA), are exempt from VAT on specified supplies.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Mauritius, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Mauritius, a TOGC is treated as outside the scope of VAT where there is a sale or transfer of a whole business as a going concern. Note a proportion of the input tax incurred on any building or part of any building treated as allowable over the last 20 years is treated as a deemed output tax by the VAT registered person.

Transactions between related parties. In Mauritius, for a transaction between related parties, the value for VAT purposes is calculated at an arm's length. Furthermore, the MRA has the power to direct the taxable value of any supply for any transaction. In practice, such a power is applied in the context of abusive transactions.

C. Who is liable

A taxable person is any entity or person that is required to be registered for VAT.

VAT registration is compulsory if annual turnover from a trade or profession exceeds MUR6 million.

However, persons engaged in certain businesses or professions must register for VAT, regardless of their level of turnover. This rule applies to the following businesses or professions:
- Accountants
- Agents in the importation of secondhand motor vehicles
- Auditors
- Advertising agents
- Advisors
- Architects
- Attorneys
- Barristers with more than two years' standing at the Bar
- Clearing and forwarding agents
- Customs house brokers
- Engineers
- Estate agents
- Land surveyors
- Notaries
- Opticians
- Project managers
- Property valuers
- Quantity surveyors
- Sworn auctioneers
- Tour operators
- General sales agents of airlines

Exemption from registration. A taxable person whose turnover is exclusively zero-rated may choose not to apply for registration. A taxable person whose turnover is exclusively exempt from VAT may not apply for registration.

Voluntary registration and small businesses. A person may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A person may also register for VAT voluntarily in advance of making taxable supplies.

Group registration. Group VAT registration is not allowed in Mauritius.

Fixed establishment. In Mauritius there is no legal definition of a fixed establishment for VAT purposes. It is uncertain if the direct tax definition is used by the MRA. Note, the VAT law does not use the term "fixed establishment" but refers to "permanent establishment" instead.

Non-established businesses. In the context of services, a non-established business needs to have a permanent establishment in Mauritius to be able to register for VAT. This means that without being established, the reverse-charge mechanism always applies (and no VAT registration is required of the non-established businesses). If the recipient is not a taxable person, the reverse-charge mechanism does not apply, and no VAT is accounted for.

In the context of goods, a non-established business supplying goods within Mauritius must register for VAT in Mauritius if its yearly turnover of taxable supplies exceeds MUR6 million.

Currently, the law does not distinguish between supplies made to businesses (business-to-business [B2B]) and private consumers (business-to-consumer [B2C]). If VAT registration is compulsory, the non-established business is not allowed to avoid registration, even if the recipient of the service applies the reverse-charge mechanism. The same registration threshold applies to resident and nonresident businesses. A non-established business cannot register on a voluntary basis so that it can recover any VAT incurred in Mauritius.

Tax representatives. Tax representatives are not required in Mauritius.

Reverse charge. If a nonresident person supplies services that are performed or used in Mauritius to a customer that is a taxable person, the customer must account for the VAT due under "reverse-charge" accounting; that is, the taxable person must charge itself VAT. The self-assessed VAT may be deducted as input tax depending on the taxable person's partial exemption status. This measure does not apply to supplies that are exempt from VAT under the Mauritian VAT law.

Domestic reverse charge. There are no domestic reverse charges in Mauritius.

Digital economy. Nonresidents that provide electronically supplied services do not need to register for VAT in Mauritius, on the basis they do not have a permanent establishment in Mauritius. However, new regulations have been proposed that would mean a non-established business that does not have any permanent establishment in Mauritius and that supplies digital or electronic services to a person in Mauritius is required to charge VAT on the supply, subject to any conditions that may be prescribed. The conditions would be the subject matter of regulations that would provide the detailed requirements for the non-established business on the obligation to register for VAT, computation of the VAT and compliance requirements. *However, at the time of preparing this chapter, such regulations have not been issued.*

Generally, the Mauritian laws are supplemented by regulations that do not generally require the approval of Parliament. Whenever a piece of law is the subject matter of the regulations, the appropriate section would tend to refer to "such conditions as may be prescribed."

For such supplies, digital or electronic services are those prescribed services supplied by a non-established business over the internet, an electronic network that is reliant on the internet or such other means that are dependent on information technology for its supply. *At the time of preparing this chapter, the regulations on the prescribed digital or electronic services and the prescribed conditions on the charge to VAT have not been issued.*

There are no other specific e-commerce rules for imported goods in Mauritius.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Mauritius.

Registration procedures. An application form for registration should be submitted to the MRA. The form is submitted in hard copy (by post or deposited in person) and registration may be completed within a week. The MRA may request the person to produce such information or documents in support of the application. The MRA publishes a list of all the registered persons, including their name, trading name, BRN and VAT registration number. The list is updated on a quarterly basis.

Deregistration. A taxable person that ceases to be eligible for VAT registration must deregister. The person must write to the Director-General, MRA, who determines the effective date of deregistration.

Changes to VAT registration details. A taxable person is required to notify the MRA immediately in writing of the following changes:
- A change in name or trading name
- A change in address of any of their business
- The opening of any business premises
- The change in the nature of their business

At the same time, the taxable person should return their certificate of registration and all the relevant copies.

D. Rates

In Mauritius, the term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a zero rate or an exemption.

Examples of goods and services taxable at 0%

- Printed books and booklets
- Sugar
- Fertilizers
- Margarine
- Rice
- Yogurt
- Edible oils
- Transport of passengers and goods by sea or air
- Electricity and water
- Export of goods and services
- Chilled deep-sea water used for the provision of air conditioning services
- Photovoltaic systems
- Bread
- Toothpastes and toothbrushes
- Baby wipes, napkins and napkin liners for babies
- Musical instruments, parts and accessories
- Cooking gas in cylinders of up to 12kg for domestic use
- Transport of passengers by public services vehicles
- Medical, hospital and dental services
- Nursing care and residential care services

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

Examples of exempt supplies of goods and services

- Baby food
- Breakfast cereals
- Entrance to cinemas, concerts and shows
- Films, including royalties
- Educational services
- Certain financial services
- Insurance
- Land
- Training services approved by the Mauritius Qualifications Authority

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Mauritius.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The tax point under the Mauritian law is the earlier of the receipt of payment or the issuance of an invoice or VAT invoice.

Where services are provided to a ministry, government department, local authority or the Rodrigues Regional Assembly under a construction works contract over the period starting from 1 October 2020 to 30 September 2022, the supply is deemed to take place at the time of payment. For this purpose, construction works means civil construction, including construction or repair of any building, road or other structure, or execution of any works contract and includes any mechanical or electrical works.

Deposits and prepayments. The receipt of a deposit or prepayment normally creates an actual tax point if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

Continuous supplies of services. If services are supplied continuously, a tax point is created each time a payment is made or an invoice or VAT invoice is issued, whichever occurs earlier.

Goods sent on approval or for sale or return. The tax point for goods sent on approval or for sale or return is the earlier of the issuance of an invoice or VAT invoice or when payment is received.

Reverse-charge services. The tax point for reverse-charge services is when the consideration for the services is paid. If the consideration for the services is not in money, the tax point is the last day of the VAT period during which the services are performed.

Leased assets. The time of supply for the supply of leased assets is the earlier of the issue of an invoice or receipt of payment. For hire-purchase agreements, the tax point arises when the agreement is made.

Imported goods. The time of supply for imported goods is the time when the goods are removed from customs.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to claim input tax not reported in the correct taxable period in Mauritius is three years.

A valid VAT invoice or customs import declaration must generally support a claim for input tax.

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

Examples of items for which input tax is nondeductible

- Purchase of a car
- Accommodation
- Assets transferred as part of a going concern
- Business entertainment and hospitality

Examples of items for which input tax is deductible (if related to a taxable business use)

- Conferences, exhibitions and seminars
- Staff welfare
- Certain motor vehicles, that are used for the transport of goods

Partial exemption. Input tax related to making exempt supplies is not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

A taxable person that makes exempt supplies may calculate the recoverable amount of VAT by an alternative method if approved by the MRA. The standard partial exemption calculation method is a two-stage calculation. The following are the two stages for this calculation:

- The first stage identifies the input tax that may be directly allocated to taxable and exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation of recoverable VAT may be performed using the proportion of the value of taxable supplies to total turnover in the preceding year. An adjustment is made after the year so that the proportion is based on actual figures.

If the standard calculation provides an unfair result, the taxable person may agree on a special calculation method with the MRA.

Where a taxable person is engaged in a project spanning over several years and the MRA is of the opinion that the standard calculation is not appropriate, the MRA may, by notice, require the taxable person to apply an alternative basis of apportionment, i.e., a special method.

Approval from the tax authorities is not required to use the partial exemption standard method in Mauritius. However, approval is required to use any special methods.

Capital goods. Capital goods for VAT purposes in Mauritius are any building or structure, plant, machinery or equipment. The qualifying input tax is determined in accordance with the tax point: the input tax is apportioned where the person has mixed supplies. No subsequent adjustment is made where the proportion of the recoverable VAT changes, except for the yearly adjustment that applies to any input tax used to make taxable and exempt supplies.

Refunds. If the amount of input tax (VAT on purchases) recoverable in a period is greater than the amount of output tax due (VAT on sales), the excess may be refunded in certain circumstances. A taxable person may make a claim for repayment of the amount of input tax allowable with respect to capital goods amounting to MUR100,000 or more if it has excess input tax in the relevant tax period. The MRA may refund all or part of the claim.

In addition to any amount repayable relating to capital goods and certain intangible assets of a capital nature, a registered person may also make a claim to the MRA for a repayment of that part of the excess amount that corresponds to the proportion of the total value of zero-rated supplies made compared to the total value of taxable supplies made in that tax period.

The recoverable input tax may be deferred if all the following conditions are met:
- The duty-paid value of the capital goods is MUR1 million or more
- The capital goods are to be used in the course of, or for the furtherance of, the taxable person's business
- The taxable person is compliant with the obligations under the revenue laws
- A security is furnished to cover the deferred VAT
- Proper records are kept

A VAT refund scheme exists for selected industries and does not have any time limit. The relief applies to specified equipment and services to the following persons:
- Bakers
- Planters or horticulturists
- Livestock breeders (including pig breeders)
- Apiculturists
- Fishermen
- Tea cultivators

Pre-registration costs. Input tax on trading stocks and capital goods acquired within three months immediately preceding the date of registration can be recovered provided that the VAT is substantiated by receipts or invoices, or customs import declaration. The input tax should be certified by a qualified auditor.

Bad debts. Relief is available for any output tax accounted on any supplies that is subsequently written off. The debt should be written off for accounting purposes. No detailed guidance is provided on the conditions that should be satisfied for the output tax to be deductible.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Mauritius.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Mauritius is not recoverable.

H. Invoicing

VAT invoices. Taxable persons must provide VAT invoices for all taxable supplies made to other taxable persons in Mauritius. A VAT invoice is necessary to support a claim for input tax deduction or a refund.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply.

Electronic invoicing. Electronic invoicing is mandatory in Mauritius for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Mauritius.

Electronic invoicing is being introduced through a phased approach and is expected to be effective in 2024 for persons with a minimum yearly turnover of MUR100 million. *At the time of preparing this chapter, the introduction of electronic invoicing is expected to be from January 2024.*

This will also apply to nontaxable persons. However, the regulations on the scope of this measure have not been prescribed, though it will first apply to businesses with an annual turnover of at least MUR100 million.

In June 2023, the MRA issued the functional specifications of the Electronic Billing System (EBS). The standard electronic invoicing template, debit notes and credit notes were the subject matter of the guidance issued by the MRA in June 2023. The legal mechanism of the electronic invoicing system is provided in the Value-Added Tax (E-invoicing) Regulations 2023, effective as from 2 October 2023 and specifically addressed the following:
- The electronic invoicing system
- The features of the EBS, together with its registration and non-registration
- The invoice fiscalization platform
- Transaction data
- EBS solution providers
- The particulars of the fiscal invoices

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Mauritius. Simplified invoicing rules do, however, apply for supplies made by non-VAT registered persons (where no VAT is charged), and a receipt can be issued.

Self-billing. Self-billing is not allowed in Mauritius.

Proof of exports. In connection with the export of goods, documentary evidence regarding customs control should be kept. Such documents include the export bill, bill of lading and invoices issued to the foreign party

Foreign currency invoices. If an invoice or a VAT invoice is issued in a foreign currency, the VAT due must be converted into the domestic currency, which is the Mauritian rupee (MUR), using the prevailing exchange rate at the time of the issuance of the invoice.

Supplies to nontaxable persons. Full VAT invoices must be issued to any person, such that the same invoicing requirements apply for supplies to taxable and nontaxable persons.

Records. Every taxable person is required by the VAT law to keep in the course or furtherance of their business a full and true written record in English or French language of every transaction made.

In Mauritius, examples of what records that must be held for VAT purposes include basic accounting records. There is no precise guidance in the regulations for what records must be kept, and in practice, the MRA is flexible and considers basic accounting records.

In Mauritius, VAT books and records can be held outside of the country. Though there is nothing in the VAT law on the place of the records, the corporate laws require the approval of the Registrar of Companies if the accounting records are kept outside of Mauritius.

Record retention period. A taxable person is not allowed to furnish any information and/or produce any books and records after five years immediately following the last day of the taxable period in which the transaction occurs. The time limit of five years does not apply in the case of willful neglect, evasion or fraud.

Electronic archiving. Electronic archiving is allowed in Mauritius. Records may be kept electronically in Mauritius, but it is not mandatory, and therefore physical records (i.e., paper) can also be used. The manner the electronic records should be kept is not specified in the law.

I. Returns and payment

Periodic returns. VAT returns are submitted either quarterly or monthly. The quarterly return periods end in March, June, September and December. Returns must be submitted within 20 days

after the tax period. The time limit of 20 days does not apply to a person that is required to submit its VAT return electronically. In such a case, the time limit is the end of the month following the tax period. If the statutory date is the end of December, the due date for the submission of the return is two days, excluding Saturdays and public holidays, before the end of December. A list of taxable supplies to any person, other than retail supplies, showing the invoice number and value of supply is required to be submitted every month at the time the VAT return is submitted.

Periodic payments. VAT payments must also be made within 20 days after the tax period. Like the return date, the time limit of 20 days does not apply to a person that is required to submit its VAT return electronically. In such a case, the time limit is the end of the month following the taxable month. The last date to pay the tax for the month of November is two days, excluding Saturdays and public holidays, before the end of December. Where the VAT return is not submitted electronically, a check is required. Otherwise, the payment is made electronically, whereby the taxable person provides their bank details on the VAT return.

Electronic filing. Electronic filing is mandatory in Mauritius for all taxable persons.

Payments on account. Payments on account are not required in Mauritius.

Special schemes. *Annual accounting.* VAT annual accounting scheme is allowed for small enterprises. A small enterprise is defined as a person with an annual turnover that does not exceed MUR10 million. The scheme only applies if the person is also taxed under a cash basis for income tax purposes. To date the way the cash basis applies has not been determined.

Annual returns. Annual returns are not required in Mauritius.

Supplementary filings. No supplementary filings are required in Mauritius.

Correcting errors in previous returns. An error may only be corrected through an adjustment in the VAT return. A schedule on the nature of the adjustment should be submitted with the VAT return.

Digital tax administration. *Electronic invoices.* The MRA may require any person to set up an e-invoicing system to (a) connecting electronically to the system to register all invoices, including debit notes and credit notes, generated in the furtherance of the business, and (b) issue fiscal invoices to customers. For this purpose, a fiscal invoice is defined as a receipt or invoice that is issued by a business to acknowledge that a transaction has been occurred between the business and a customer and that bears such data or mark to confirm that the invoice has been duly registered on the e-invoicing system. For further details, see the subsection *Electronic invoicing* above.

J. Penalties

Penalties for late registration. A penalty applies to late registration. The penalty is 5% of the unpaid tax plus interest at a rate of 1% of the unpaid tax per month. The penalty is reduced to 2% of the unpaid tax in the case of a small enterprise (for this purpose a small enterprise means a person with an annual turnover of less than MUR10 million). The penalty for failure to apply for compulsory registration is MUR2,000 per month and is restricted to MUR20,000. In the case of a small enterprise, the maximum penalty is MUR5,000.

Penalties for late payment and filings. A penalty applies for the late submission of a VAT return. It equals MUR2,000 per month, up to a maximum of MUR20,000. For a small enterprise, the maximum penalty is reduced to MUR5,000.

For late payment of VAT, the penalty is 5% of the unpaid tax; the penalty is reduced to 2% in the case of a small enterprise (for this purpose a small enterprise means a person with an annual turnover of less than MUR10 million). Interest is computed at a rate of 1% per month. The Director-General, MRA may waive the penalty and interest if the Director-General is satisfied

that the error was attributable to a just or reasonable cause. Where an assessment is raised, a penalty not exceeding 50% of the tax claimed shall apply. The MRA is empowered to issue an additional assessment.

Penalties for errors. A penalty of 20% applies to any excess claim for repayment. The penalty is limited to MUR200,000. Otherwise, there is no specific penalty for errors made by a taxable person.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any person who commits an offense for the purposes of the VAT law may be liable to a fine not exceeding MUR50,000 and to imprisonment for a term not exceeding three years.

Personal liability for company officers. A principal officer of a private company may be personally liable for the VAT liability of a company. A principal officer for this purpose means an executive director or any other person who exercises control or who is entitled to exercise control of powers that would fail to be exercised by the board of directors.

This is only possible on conviction and the period of imprisonment varies from a term not exceeding three, five or eight years. The penalty also varies and depends on the nature of the noncompliance with the law. For example, the failure to notify the MRA to change the taxable period from a quarter to a month gives rise to a maximum fine of MUR50,000. On the other hand, a person who makes a false return is liable to a fine not exceeding three times the amount of the tax.

Statute of limitations. The statute of limitations in Mauritius is four years. The MRA is not allowed to issue an assessment before four years immediately preceding the last day of the taxable period in which the liability to tax arose. The time limit of four years does not apply if the MRA is of the opinion that the person has (a) demonstrated fraudulent conduct; (b) willfully neglected to comply with the law; (c) not submitted a return; or (d) not submitted a statement on its tax liability prior to the date of registration.

Mexico

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	1 January 1980
Trading bloc membership	United States-Mexico-Canada Agreement (USMCA)
Administered by	Mexican Administration Tax Service (Servicio de Administración Tributaria, or SAT) Ministry of Finance and Public Credit (http://www.sat.gob.mx)
VAT rates	
Standard	16%
Reduced	8%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID (RFC) number for a company is 12 alphanumerical characters, XXX-######-XXX RFC number for an individual is 13 alphanumerical characters, XXX-#######-XXX or (X=letters; #=numbers)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supply of goods and independent services provided in Mexico
- Importation of services (subject to the reverse charge, see Section C)
- Grant of temporary use or exploitation of goods
- Importations of goods, regardless of the status of the importer
- Supply of digital services provided by foreign residents

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Mexico, the "use and enjoyment" provisions only applies to services exported to be taxed at 0%, with the requirement to evidence effective use of the service, provided by Mexican tax residents. In addition, the temporary use of goods must occur within Mexican territory to be taxable.

Transfer of a going concern. Transfer of going concern rules do not apply in Mexico. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets.

Transactions between related parties. In Mexico, for a transaction between related parties the value for VAT purposes is calculated on an arm's-length basis. There is no difference between supplies of goods and services.

C. Who is liable

Any business entity or individual that carries out, in Mexican territory, any of the taxable transactions described above, as provided in the VAT law.

A taxable person that receives a supply must withhold the VAT due from the supplier and must pay the corresponding VAT. It applies to a variety of transactions, including the following:
- Fees paid by companies to individuals
- Acquisitions of scrap material
- Ground transportation (freights) of goods
- Commissions paid by companies to individuals
- Lease or acquisition of tangible goods from residents abroad
- Companies that receive outsourcing services

Digital service intermediaries that collect the price and the VAT on behalf of digital service providers, that are foreign residents without a permanent establishment in Mexico, will be required to withhold 100% of the VAT collected from Mexican users (individuals or legal entities).

Exemption from registration. The VAT law in Mexico does not contain any provision for exemption from registration.

Note that a VAT registration on its own would not be possible in Mexico. In case an entity would start taxable activities in Mexico, it would need to establish a local entity or a permanent establishment, which would be subject to all the different taxes in Mexico.

The only exception for creating a permanent establishment is for provision of digital services. If foreign companies carry out other business activities in Mexico, such as selling goods on an ordinary basis, they may create a permanent establishment and as such be subject to complying to the VAT rules in the same way as any other Mexican company.

Voluntary registration and small businesses. The VAT law in Mexico does not contain any provision for voluntary VAT registration, nor special VAT registration rules for small business. This is because there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Group registration. Group VAT registration is not allowed in Mexico.

Fixed establishment. In Mexico, there is no legal definition of a fixed establishment for VAT purposes. However, the Federal Tax Code article 16 sets forth that establishment will be understood to refer to any place of business where the activities are carried out in whole or in part.

Non-established businesses. VAT registration is only required for non-established businesses that carry out taxable activities in Mexico.

A foreign legal entity with an establishment in Mexico is subject to all federal taxes such as corporate income tax and VAT, for the income and activities attributable to such establishment. For VAT purposes, it must file monthly VAT returns and issue electronic invoices and file electronic accounting like any other Mexican resident. In addition, when applicable, income tax obligations must be fulfilled.

Tax representatives. Powers of attorney can be granted by the taxable person, and they must be for general administrative purposes.

A tax registration applies for all taxes. To incorporate a company in Mexico or in the case of the creation of a permanent establishment it is necessary to appoint a legal representative. VAT registration alone is only allowed for foreign residents providing digital services in Mexico, and it is the only case when a foreign entity without a permanent establishment needs to appoint a legal representative. See the *Digital economy* subsection below.

Reverse charge. Taxable persons who import intangible goods or services are subject to VAT at 16% rate, which can be credited in the same monthly return pursuant to the VAT law.

It is important to point out that although the invoice issued by the nonresident business would not include the VAT amount, the customer (business) has to reflect it in its accounting records and in the VAT returns submitted, otherwise tax authorities may challenge the VAT credit and request the tax.

Domestic reverse charge. There are no domestic reverse charges in Mexico.

Digital economy. The supply of certain digital services are taxable at the 16% VAT rate, when they are provided by foreign residents to Mexican users. The rules entered into force on 1 June 2020. The tax reform does not distinguish between business-to-business (B2B) and business-to-consumer (B2C) transactions. Therefore, the rule would technically apply to all suppliers. However, the provisions appear to focus on B2C transactions. Outlined below are the categories of taxable persons the rules apply to:

- Category 1: Those that provide for the download/access to images, movies, music, text, information, video, gaming, ring tones, news online, traffic, weather, online clubs, dating sites and other multimedia content, online learning, tests and exercises
- Category 2: Those that perform intermediation services between potential sellers and buyers of products and services that collect payments on behalf of suppliers

Providers of financial services, payment services, data storage and the use or sale of certain standardized software are not be subject to the new requirements.

The tax authorities publish a list of the VAT registered foreign digital service providers. *At the time of preparing this chapter, the last updated list of foreign digital service companies registered for VAT purposes was as of 31 August 2023 and published 11 September 2023, with 196 entities.*

Nonresidents providing electronically supplied services for both B2B and B2C supplies, need to register for VAT.

Nonresidents proving intermediary services through an online platform for e-commerce to Mexican sellers should comply with the rules of digital service providers.

Importers of goods will continue paying VAT upon importation, which needs to be carried out by an authorized Mexican importer (IOR).

Digital services are deemed to be rendered in Mexico when the recipient of the services:
- Has declared a domicile in Mexico
- The consideration of the digital services is paid through an intermediary (for instance, a financial institution) located in Mexico
- The IP address used corresponds to Mexico
  Or
- Has provided a phone number with a Mexican country code

Obligations of foreign entities providing digital services in Mexico are as follows:
- Register in the Mexican Federal Taxpayers Registry (RFC)
- Break down VAT from the prices of digital services offered
- Keep records of digital services provided monthly and report them to the MTA on a monthly basis, through the VAT return
- Compute monthly VAT collected for digital services and submit the VAT return through the MTA's website
- Issue and deliver the corresponding invoices (simplified invoices)
- Appoint a legal representative and provide a tax domicile in Mexico
- Obtain the electronic signature from the MTA

The fulfillment of these requirements does not constitute the creation of a permanent establishment (PE) in Mexico. The recipients of services will be entitled to credit the VAT paid in terms of the VAT law.

Noncompliance with obligations to register, appointment of a legal representative and tax domiciles, or else failure to file three returns will grant the tax authorities the right to block the internet webpage.

Non-Mexican residents acting as intermediaries will be also obliged to:
1. Publish on their website, application, platform or in any other similar media the applicable VAT on goods and services offered by them as intermediaries
2. When the intermediary makes collections on behalf of third parties, they should:
   (i) Withhold from individuals 50% of the VAT collected (100% if no RFC is provided)
   ii) Withhold from foreign individuals or entities without a permanent establishment in Mexico, 100% of the VAT collected
   iii) Issue and deliver the corresponding invoices (simplified invoices) on the name of the foreign resident
   (iv) Pay withholding by the 17th day of the following month
   (v) Issue formal withholding VAT e-invoices within the following five days
   (iv) Register in the RFC as a withholding agent
3. Report to the MTA information about clients, no later than on the 10th day of the following month. This obligation will be removed just for the services provided to foreign residents for which the VAT withholding were performed in terms of subsection (ii).

Online marketplaces and platforms. See detail above under the *Digital economy* subsection.

Registration procedures. The taxable person must request a tax identification number (federal taxable persons registry) from the tax authorities (SAT). The registration is done electronically, through the SAT's website (www.sat.gob.mx). In addition, the taxable person must visit in person

to the SAT office to complete the registration with the following information (originals accepted only):
- Bylaws of the entity
- Proof of the tax address in Mexico
- Notarized power of attorney granted to the legal representative
- Identification card of the legal representative

The entity is also obligated to obtain the Mexican electronic signature for tax purposes (known as e.firma) through its legal representative. This procedure takes place in the SAT's office.

In Mexico, tax ID (known as RFC) number is the same for all tax purposes for Mexican residents. This tax identification type can be applied to companies and to individuals. An RFC number for a company is 12 characters, while an RFC number for an individual is 13 characters.

For foreign residents who provide digital services, an RFC is assigned just for VAT purposes. For such purposes the foreign service provider must perform the following registration process:
- Appoint a legal representative in Mexico. The legal representative should have their own RFC, electronic signature and a tax domicile in Mexico.
- Fill out the pre-registration form through the Mexican tax authorities' website (www.sat.gob.mx).
- Register and obtain the electronic signature at the tax authorities offices. This should be personally carried out by the legal representative in Mexico by obtaining an appointment at the tax authorities' facilities

The list of necessary documentation to complete the registration process described in 1/Plataformas Tecnológicas (PLT) and 2/PLT (PLT refers to digital platforms, and the code is the procedure number listed in the tax authorities' guide on tax procedures, specifically for digital platforms) are as follows:
- Power of attorney (POA) duly apostilled, translated into Spanish by an official translator and notarized in Mexico
- Pre-registration form completed on the tax authorities' website
- Bylaws of incorporation duly apostilled and notarized in the country of origin and in Mexico; such document should be translated into Spanish by an authorized translator
- Taxable persons' registration number granted by the foreign tax authority duly apostilled and notarized in the country of origin and in Mexico; this document should be translated into Spanish by an authorized translator
- Original proof of tax domicile in Mexico; in general, a lease or service agreement or bills for public services such as water, electricity, gas, among others would be acceptable proof of address
- Official identification of the appointed legal representative
- Official form (FE) – "Request of the certificate of e-firma" (this is for the process required in Form 2/PLT)

Deregistration. Through a liquidation process, the taxable persons can cancel the tax identification provided by the tax authorities.

Changes to VAT registration details. Taxable persons are obliged to submit notices to the Federal Tax Registry when there is a change in its tax domicile, tax obligations (additions or removals), openings or closing of offices, warehouses, plants or branches. Notifications must be filed via the tax authorities' website with the electronic signature.

Some notifications must be performed by the individual or legal representative physically in person at the tax authorities' offices. This would be required for such changes as name denomination change, cancelation of the tax registry, change in the equity legal regime, change of tax residency.

Taxable persons must notify such changes during the following month the change took place.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 16%
- Reduced rate: 8%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

All temporary importations made by companies who operate under the IMMEX program are subject to VAT at the standard rate. However, a 100% credit of VAT is applicable over the temporary importations for those entities that obtain a certification for VAT/excise tax purposes. "IMMEX" is a Spanish acronym for Manufacturing, Maquiladora and Export Services Industry *(Industria Manufacturera, Maquiladora y de Servicios de Exportación).* The IMMEX program allows foreign manufacturers to import raw materials and components into Mexico, tax and duty free, under the condition that 100% of all finished goods will be exported out of Mexico within a government mandated time frame and several conditions are fulfilled.

Examples of goods and services taxable at 0%

- Exported goods
- Certain exported services
- Unprocessed food and milk
- Patented medicines
- Feminine hygiene products

Examples of goods and services taxable at 8%

- Supply of goods and services, use or enjoyment of goods in locals or establishments located in the cross-border zones, both in the Northern and Southern regions.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT. Exempt supplies do not give rise to a right of input tax deduction.

Examples of exempt supplies of goods and services

- Books, newspapers and magazines
- Constructions used for residential purposes
- Transfer of copyright by authors
- Education
- Public transport of passengers by land
- Transport of goods by sea for nonresidents
- Local and foreign currency and credit instruments (including shares)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Mexico.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic tax point for supplies of goods and services is when the customer effectively pays the consideration. As a result, VAT is determined on a cash-flow basis.

The cash-flow mechanism applies in Mexico, and therefore VAT is triggered when the payment of taxable activities is received, or in the specific case of importation of tangible goods, when those goods are imported within Mexican territory, even when it is a temporary importation.

On the other hand, if a taxable person receives the return of transferred goods, grants discounts or rebates or refunds the advance payments or deposits previously received, for the purpose of

engaging in activities taxed under this law, the taxable person will deduct the amount of said items from the value of the activities for which the tax is payable, in the tax returns or returns following the corresponding calendar month, provided that it is expressly stated that the charged value added tax was refunded.

In addition, tax provisions set forth that in case of returns, discounts and rebates, taxable persons shall issue a digital tax invoice, which must fulfill the same requirements as invoices in accordance with federal tax code and its regulations.

Deposits and prepayments. There are no special time of supply rules in Mexico for deposits and prepayments. This is because the cash-flow mechanism applies in Mexico, and therefore VAT is triggered when a payment (i.e., deposit or prepayment) is received.

Continuous supplies of services. There are no special time of supply rules for continuous sup plies. This is because the cash-flow mechanism applies in Mexico, and therefore the VAT is triggered when payment is received (i.e., the service is paid for by the customer).

Goods sent on approval for sale or return. There are no special time of supply rules in Mexico for supplies of goods sent on approval or for sale or return. This is because the cash-flow mechanism applies in Mexico, and therefore VAT is triggered when a payment is received.

Reverse-charge services. The reverse-charge mechanism in Mexico only applies in cases of:
- Purchasing of services from a supplier in another country
- Importation of intangible assets

Only in these two scenarios the reverse charge would apply and be subject to the fulfillment of tax requirements. The reverse charge must be recognized at the time that the consideration is effectively paid (cash-flow basis).

Leased assets. There are no special time of supply rules in Mexico for supplies of leased assets. This is because the cash-flow mechanism applies in Mexico, and therefore VAT is triggered when the service is (periodically) paid for.

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

F. Recovery of VAT by taxable persons

A taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services acquired for business purposes. A taxable person generally recovers input tax by deducting it from output tax (also known as debit VAT), which is VAT charged to customers. Input tax includes VAT charged on goods and services supplied in Mexico, granting of temporary use of goods, VAT paid on imports of goods and VAT withheld on reverse-charge goods and services.

To be deductible, input tax must relate to the acquisition of goods and services that qualify as deductible expenses for income tax purposes. If an item of expenditure is only partly deductible for income tax purposes, input tax may be credited only with respect to the deductible portion of the expense.

A valid digital tax invoice and the valid digital tax payment invoice (received at the time payment is made to the supplier) or customs document must generally support a claim for input tax.

The VAT credit on importation of goods only applies if the import documentation (*pedimento*) is issued in the name of the taxable person claiming the credit.

The time limit for a taxable person to reclaim input tax in Mexico is five years. Input tax should be offset the same month it is incurred. However, where input tax is higher than output tax, the

result is a positive VAT balance for refund. This balance can be credited against the payable VAT or claimed in refund for a period of five years.

Nondeductible input tax. When taxable persons carry out activities and obtain income not related to their business or from activities not subject to VAT (exempt activities), the input tax generated for those transactions will not be recoverable.

Likewise, when the transaction does not comply with the crediting requirements set forth in the VAT law, the input tax will not be recoverable. In general terms, such requirements are the following:

- Strictly indispensable expenses for engaging taxable activities
- VAT has been expressly disclosed in tax receipts
- VAT charged to the taxable person has to be effectively paid in the month in question
- In case of charged VAT, withheld pursuant to article 1-A of this law, such withholding must be paid over on the terms and within the periods established therein

For purposes of calculating the amount of credits that may be taken for input tax recovery, taxable persons are required to allocate it between taxable and nontaxable activities, including activities performed outside of Mexico, eliminating the ability of taxable persons to credit any VAT paid on the acquisition of goods, services, imports, etc., related to those activities.

VAT paid on the acquisition of goods and services to carry out out-of-scope activities for VAT purposes is not creditable. Out-of-scope activities are those that taxable persons execute out of the territory of Mexico, as well as activities that are not taxable for VAT purposes per the Mexican VAT law, whenever taxable persons earn income therefrom and for which expenses and investments were made in which VAT was charged or paid upon importation thereof.

Examples of items for which input tax is nondeductible

- Business gifts
- Entertainment of employees

Examples of items for which input tax is deductible (if fully related to a taxable business use)

- Business entertainment
- Accommodation
- Purchase of a vehicle, up to MXN175,000
- Lodging, up to MXN3,850 per day
- Meals, disbursed in Mexico, up to MXN750 per day, and disbursed in foreign countries, up to MXN1,500 per day
- Lease of a vehicle, up to MXN850 per day
- Mobile phones
- Travel expenses

Partial exemption. Input tax directly related to carrying out exempt or out-of-scope activities not recoverable. If a taxable person carries out exempt or out-of-scope activities, as well as makes taxable supplies, it may not recover input tax in full.

A taxable person must calculate its input tax credit based on a "credit factor." The credit factor is determined based on the percentage of taxable turnover compared with total turnover (including taxable, exempt and out-of-scope activities) in the month of the payment.

Approval from the tax authorities is not required to use the partial exemption standard method (i.e., the credit factor) in Mexico. Special methods are not allowed in Mexico.

Capital goods. There are no special rules for the recovery of input tax incurred on the acquisition of capital goods.

Refunds. If the amount of input tax (credit VAT) in a month exceeds the amount of output tax (debit VAT), the excess credit may be carried forward to crediting output tax in the following tax periods, or it may be refunded upon request. The tax authorities refund a VAT credit by depositing the refundable amount into the taxable person's bank account. By law, refunds must be made within 40 business days after the date on which the refund request is filed. In addition, there are special VAT recovery schemes for certain sectors, speeding up the refund process (see *Special schemes* subsection under *Section I* below).

Mexican taxable persons who want to deduct or credit taxes based on the receipt issued by non-established businesses can use such receipts, as long as the receipts contain the following pieces of information:

- Name or business name, address of the issuer
- City, country and date in which it is issued
- Tax registration key of the issuer
- RFC (tax ID number of the recipient)
- Price or value of the consideration for each service
- Concept or description of the service
- Regarding sale of goods or the granting of their temporary use or enjoyment, the amount of the taxes withheld, as well as the taxes transferred, split down by each one of the corresponding tax rates

Alternatively to the list of requisites stated above, a taxable person may attach to the receipt issued by the foreign resident without permanent establishment in Mexico the e-invoice issued by the taxable person for the withholdings performed to mentioned foreign residents.

Pre-registration costs. Input tax incurred on pre-registration costs in Mexico is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Mexico. This is because the cash-flow mechanism applies in Mexico, and therefore VAT is triggered when the service is (periodically) paid for.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Mexico.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Mexico is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide an electronic tax invoice for all taxable supplies made and for all collections regarding such supplies made at the time of the deposit, including exports. The VAT must be expressly notified to the taxable person and verified separately in the digital tax invoice.

Valid digital tax invoices are required to support a claim for input tax deduction. Such invoices are the valid digital tax invoice of the purchase or goods and services, and the valid digital payment tax invoice received at the time payment is made to the supplier.

Credit notes. A VAT credit note may be used to reduce VAT charged and claimed on the supply of goods and services through an expense invoice, which must contain the same information and fulfill the same requirements as a VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Mexico for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Mexico. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Mexico.

The use of electronic invoicing is subject to registration before the tax authorities. It is mandatory to issue digital tax invoices regarding taxable persons' activities or income, or payments made, or the tax withholdings they carry out, and those invoices must be issued through the tax administration service's webpage. Invoices must be kept for at least five years.

To increase visibility on payments performed for the delivery of goods/provision of services when consideration is not paid in a lump sum, a digital tax invoice shall be issued through the internet for the full amount of the relevant transaction at the time in which it is executed; and a digital tax invoice shall be issued through the internet for each payment received thereafter (payment complements/*complementos de pago*). This is particularly relevant, as the VAT system in Mexico is based on a cash-flow basis, meaning that VAT only becomes due when payment is performed.

All mandatory complements to invoices should be issued as applicable, such as payments complements (*complementos de pago*) and transportation complements (*carta porte*).

In all cases, an electronic invoice must include the following requirements:
- Federal taxpayer registry key of the issuer (RFC)
- Name or corporate name of the issuer
- Number of the folio
- Digital seal from the tax authorities
- Place and date of issuance
- Federal taxpayer registry key of the recipient (RFC) – when the RFC is not available, a generic RFC will be used, XAXX010101000 for Mexican residents and XEXX010101000 for foreign residents
- Postal code of the fiscal address of the person in whose favor it is issued
- Price or value of the consideration for the service, excluding VAT
- VAT charged
- Concept or description of the service – as established in the official catalog of the authority (https://www.sat.gob.mx/consultas/53693/catalogo-de-productos-y-servicios)
- Unit price stated in numbers
- Total amount specified in numbers or in words
- Explicit indication when the consideration is paid in single or multiple installments
- When applicable, the amount of transferred taxes shall be indicated, broken down by tax rate, and if applicable, the amount of taxes withheld
- Method of payment

Simplified VAT invoices. Simplified invoicing is permitted by the VAT law for those issued by foreign entities with non-established businesses. Non-established digital service providers can issue invoices in PDF format instead of standard electronic invoices, the minimal requirements for those invoices are:
- Name or corporate name of the issuer
- City and country in which it is issued
- Tax ID registration number of the issuer
- Price or value of the consideration for the service, excluding VAT
- VAT charged
- Concept or description of the service
- Date of issuance and period that covers the consideration
- Tax ID of the recipient

Self-billing. Self-billing is not allowed in Mexico.

Proof of exports. Mexican VAT is charged at the 0% rate on exported goods. However, to qualify, exports must be supported by evidence that proves that the goods have left Mexico. Suitable proof includes customs export documentation for the transaction.

Foreign currency invoices. If a VAT invoice is issued in foreign currency, the values for VAT purposes must be converted into the domestic currency, which is the Mexican peso (MXN). This should be calculated using the exchange rate that the Central Bank publishes in the Federal Register on the day before the contributions are incurred (date of payment).

Supplies to nontaxable persons. There are no special invoicing rules for supplies from taxable persons to private consumers. Full VAT invoices are required to be issued for all supplies.

Records. Accounting records for VAT purposes must comply with the requirements set forth in the Federal Tax Code (FTC). In Mexico, examples of what records must be held for VAT purposes include the books, accounting systems and records, working papers, account statements, special accounts, company books and records, inventory control and valuation methods, disks and ribbons or any other processable data storage medium, electronic tax registration equipment or systems and their respective records (in addition to the supporting documentation of the respective seats), as well as all documentation and information relating to compliance with the provisions of tax law that demonstrate income and deductions and compliance with other laws.

In Mexico, VAT books and records can be held outside the country. This is as long as taxable persons keep accounting records at the disposal of the tax authorities and comply with general requirements of registry. Entries that comprise the accounting records shall be kept in electronic means, should be registered during the following five days of the transactions and must allow the identification of each transaction. Documentation supporting such entries shall be available at the taxable person's tax domicile.

Record retention period. Accounting records and supporting documentation must be kept for a period of five years.

Electronic archiving. Electronic archiving is allowed in Mexico. Physical archiving (i.e., paper) is also allowed. Electronic invoices issued and received must be archived in electronical media in format (XML). There is not a mandatory system that should be utilized for such archiving.

I. Returns and payment

Periodic returns. VAT returns are filed electronically via the tax authority's website and must be submitted monthly. VAT returns are due no later than the 17th day of the following month. After filing the return, the tax authorities provide to the taxable person a reference (*Linea de Captura*) to proceed with the payment in the financial institutions.

In addition, monthly information of transactions with suppliers must be submitted electronically during the following month through an informative tax return known as a DIOT (*declaración informativa de operaciones con terceros*).

Non-established businesses providing digital services in Mexico must submit monthly informative returns regarding the services provided in Mexico.

Periodic payments. Returns must be paid in Mexican pesos, through a wire transfer. Only non-established businesses providing digital services in Mexico can pay in a foreign currency from foreign bank accounts.

Electronic filing. Electronic filing is mandatory in Mexico for all taxable persons. VAT returns and all other tax returns must be filed electronically. VAT credits may be refunded on request

through the SAT's website (www.sat.gob.mx). The usual documentation necessary for filing with the tax authorities is a formal letter explaining the taxable person's motives for the return, along with the electronic format filed in the application FED (*Formato Electrónico de Devoluciones*) (including appendix A, 7 and 7-A, according to the type of VAT return), the corresponding paperwork that shows the summary of the VAT transactions, the corresponding bank account of the person or entity (that does not exceed two months from the moment the return is requested), among others.

Taxable persons are obliged to file electronic accounting that includes a chart of accounts and trial balance. Journal entries are filed only upon the tax authorities request

Payments on account. Payments on account are not required in Mexico.

Special schemes. *VAT recovery.* The Mexican tax authorities issue special schemes for VAT recovery for certain sectors, such as taxable persons engaged in the production and distribution of food products, medicines and fixed asset investment projects. In these cases, taxable persons may obtain their refund claims within a maximum of 20 business days, pursuant to the fulfillment of certain requirements.

In addition, high exporters or importers taxable persons certified for VAT purposes may obtain their refund claims in the same period of 20 days as maximum.

Tax authorities provide administrative facilities to agricultural, farming, fishing and forestry sector to automatically recover favorable VAT for a maximum amount of MXN1 million. Some compliance requirements must be filled to access this benefit.

Annual returns. Annual returns are not required in Mexico.

Supplementary filings. *Third-party transactions.* Monthly returns of transactions with third parties must be filed. Such returns must include information regarding the supplies and suppliers.

Correcting errors in previous returns. Taxable persons can voluntarily correct any errors or omissions from previous periods with an amended return that is submitted via the same platform of the regular returns through the website of the tax authorities. Where such a correction results in a payable return, the electronic amended return will compute recharges and interest and will issue the reference of payment (*Linea de Captura*) to be paid in the taxable person's financial institution website.

Digital tax administration. Mexico has an almost 100% electronic tax compliance environment that includes electronic filing of returns and tax payments. Taxable persons must issue their invoices electronically. These invoices must include a specific code provided by certain suppliers who are authorized by the Mexican tax authorities. Accounting records (e.g., journal entries, trial balance, accounting records) must be generated in an xml format and be submitted to the Mexican tax authorities' website.

J. Penalties

Penalties for late registration. The penalties related to late or extemporary registration include the following:

- Not submitting registration when it is obligatory and/or failure to submit a registration application in the name of a third party when legally bound or doing so extemporary – from MXN4,480 to MXN 13,430
- Not submitting notices or extemporary – from MXN4,800 to MXN9,590
- In case of digital services, noncompliance with obligations to register grants the authorities the right to block the internet webpage

Penalties for late payment and filings. Any amount of tax that is not paid by the due date must be adjusted for inflation. A monthly surcharge is also applied to the amount of tax owed at a rate of 1.47% per month. If the taxable person corrects the error voluntarily or if the late payment is due to factors beyond the taxable person's control, no fines are imposed. However, the surcharge and inflation restatement apply. Interest is assessed on late payments of tax at a monthly rate of 1.47%.

Penalties for errors. There are penalties imposed on taxable persons if they do not submit returns on time or if submitted returns contain errors. Examples of errors include following:
- In VAT return, incorrect tax domicile, a penalty – from MXN1,340 to MXN4,480, per error
- In summary of clients and suppliers return, missing data or incorrect data, a penalty – from MXN30 to MXN120, per each one
- When taxable persons do not pay their taxes within the specified time frame – from MXN1,810 to MXN44,790, per omission

Failure to issue transportation complements could lead to deeming the merchandise being transported as illegal, subject to criminal sanctions.

The late notification or failure to notify tax authorities of changes to a taxable person's VAT registration details may result in penalties from MXN1,810 to MXN44,790, unless notifications are filed voluntarily. For further details, see the subsection *Changes to VAT registration details* above.

Digital service providers. Access to digital telecommunication services will be blocked to a non-established digital service provider where it fails to comply with the following tax obligations:
- Registration in the federal taxable person registry, designation of a legal representative and tax address
- Processing of electronic signature, VAT payment, remittance of withholdings or filing of monthly and/or quarterly information returns

The non-established digital service provider has the right to a hearing prior to the blocking of the digital services through which it may prove that it has fulfilled its tax obligations.

Concessionaires who fail to comply with the blocking instruction will be subject to a fine ranging from MXN578,700 to MXN1,157,400 million for each month it fails to comply with the instruction.

Penalties for fraud. Criminal offenses are punishable by fines, which may be a percentage of the tax lost or a specified amount. Tax crimes may also be penalized with a term of imprisonment of three months to nine years or longer, depending on the circumstances.

The purpose of the Federal Law against Organized Crime is to establish rules for the investigation, prosecution, punishment and penalties for crimes committed by a person who is part of organized crime. Its provisions are public order and applicable throughout the national territory.

The reform to the federal law against organized crime includes, as part of the activities considered as a crime, the following:
- Contraband
- Tax fraud
- When figures, quantity or value of the tax receipts that cover nonexistent operations, false or simulated legal acts exceed three times the amount established in the federal Tax Code, which is approximately MXN7.8 million

Personal liability for company officers. The person or persons, regardless of their title, who hold the position of general director, general manager or sole administrator of a legal entity can be held personally jointly and severally liable for contributions due or not withheld by said legal

entity during their tenure, as well as for those contributions that should have been paid during said period. This shall apply to the portion of the fiscal debts not guaranteed by the assets of the legal entity that they manage.

Statute of limitations. The statute of limitations in Mexico is five years. The statute of limitations can be extended from five to 10 years to review any pending tax credits. The time limit the tax authorities can go back to review returns and identify errors is five years after the VAT return was filed. There is no time limit for taxable persons to voluntarily correct errors in previous returns. There is a limit of three amended returns to be filed if the tax is reduced or the favorable VAT balance is increased. There is no limit of amended returns to increase payable tax amount or reduce favorable VAT balances.

Moldova

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxa pe valoarea adaugata (TVA)
Date introduced	1 July 1998
Trading bloc membership	Moldova – European Union Association Agreement
Administered by	State Tax Service (www.sfs.md)
VAT rates	
Standard	20%
Reduced	8%
Other	Zero-rated (0%) and exempt
VAT number format	1234567
VAT return period	Monthly
Thresholds	
Registration	MDL1.2 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Moldova by a taxable person in the course of a business
- Importation of services received in Moldova by a taxable person (using the "reverse-charge" mechanism)
- Importation of goods
- Services provided through electronic networks (i.e., digital services) by nonresidents to Moldovan resident individuals
- Procurement of property of taxable person, declared in the insolvency process (some exceptions) by using the "reverse-charge" mechanism
- Procurement of pledged property, mortgaged property, forfeit property from the taxable persons by using the "reverse-charge" mechanism

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Moldova, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Moldova. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Moldova, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is any person or legal entity that is registered for VAT in Moldova. An entity that has a fixed place of business or carries out commercial or professional operations on a regular basis in Moldova must register for VAT.

The mandatory VAT registration threshold is turnover or imported services of MDL1.2 million in a period of 12 consecutive months.

Exemption from registration. The VAT law in Moldova does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Voluntary VAT registration is allowed for persons planning to perform taxable supplies of goods and services, irrespective of their turnover value.

Group registration. Group VAT registration is not allowed in Moldova.

Fixed establishment. In Moldova there is no legal definition of a fixed establishment for VAT purposes. However, the direct tax rules for a permanent establishment (PE) also apply for VAT. A PE, according to the Moldovan Tax Code provisions, is defined as a fixed place of business through which a nonresident carries out all or a part of its business activity in Moldova, either directly or through an agent with dependent status, including:

a) A place of management, a subsidiary, an office, a factory, a store, a workshop and a mine, an oil or gas well, a quarry or any other place natural resource extraction or cultivation of agricultural crops
b) A building site, a construction, assembly or installation project or technical supervisory activities, maintenance and operation of the related equipment, only if such site, project or activities continue for a period longer than six months
c) Sale of goods from warehouses in Moldova that belong to the nonresidents or are rented by it
d) Provision of other services, other activities, over a period longer than three months, except for preparatory, auxiliary or of other character activities that do no suppose creation of a PE (i.e., as defined in the list of exceptions mentioned in points (i) to (vii) below), as well as the work performed under an employment agreement and independent professional activity, if the tax legislation does not provide for other rules
e) Carrying out in Moldova of any of the activities listed in points a) to d) above, by an agent with dependent status or maintenance by this agent in Moldova of a stock of goods or products that are delivered in the name of a nonresident

By exception, a PE is not deemed to be created where a nonresident carries out in Moldova preparatory, auxiliary or of other character activities in the absence of the PE criteria listed above. Particularly, the following activities should be treated as preparatory, auxiliary or of other nature:

(i) The use of facilities solely for the purpose of storage or display of products or goods belonging to the nonresident
(ii) The maintenance of a stock of goods or merchandise belonging to the nonresident solely for the purpose of storage or display
(iii) The maintenance of a stock of goods or merchandise belonging to the nonresident solely for the purpose of processing by another enterprise
(iv) The maintenance of a fixed place of business solely for the purpose of purchasing of merchandise by the nonresident
(v) The maintenance of a fixed place of business solely for the purpose of collecting and/or distributing of information, marketing, advertising, or market research of goods (services) performed by the nonresident, if such an activity does not represent a core (ordinary) activity of the nonresident
(vi) The maintenance of a fixed place of business for the purpose of signing by a person of contracts on behalf of a nonresident, if the contracts are signed in accordance with the detailed written instructions of the nonresident
(vii) Carrying out the building site related activities we specified in points b) above which do not exceed six months

A PE has no legal person status. From tax point of view the nonresidents that have a PE in Moldova should apply the same VAT rules as a local business entity.

Non-established businesses. Foreign traders are not allowed to have a VAT registration number in Moldova. If a foreign entity undertakes entrepreneurial activity in Moldova that results in a permanent establishment (PE), it must register for VAT locally. It is then treated in the same way as a resident entity. In addition, foreign entities that provide services through electronic networks (i.e., digital services) to Moldovan resident individuals, as well as foreign intermediaries who receive payments from Moldovan resident individuals for the services provided through electronic networks, must register for VAT in Moldova (see the *Digital economy* below).

Tax representatives. Tax representatives are not required in Moldova.

Reverse charge. The reverse charge is a form of self-assessment for VAT, under which the recipient of a supply of goods or services accounts for the tax. Services rendered by nonresidents to entities that carry on business in Moldova are regarded as imported if the place of supply is deemed to be Moldova.

The recipient of the service is required to account for the VAT due in Moldova at the time when the service is imported or paid, whichever is the earlier (with certain exceptions provided by the law).

The VAT on imported services calculated under the reverse-charge mechanism is declared to the tax authorities in the monthly VAT return required to be submitted by 25th of the month following the reporting month.

Domestic reverse charge. The domestic reverse-charge mechanism is applicable to business entities that procure on Moldovan territory the property of other business entities registered for VAT, declared in the insolvency process (according to the provisions of the Insolvency Law). In the case of goods sold by the insolvent business entity (seller) to another business entity (buyer), the latter calculates and pays the VAT amount to the budget, subsequently having the right to deduction. The taxable object constitutes the value of the acquired property of the insolvent entity. Additionally, the domestic reverse-charge mechanism is applicable to business entities that procure on Moldovan territory the pledged property, mortgaged property, forfeit property of other business entities registered for VAT.

Digital economy. The place of supply of digital services (i.e., electronic communication services, broadcasting and television services, services provided by radio-electronic means) is the place/residence of the customer. This means that nonresident providers of electronically supplied services for both business-to-business (B2B) and business-to-consumer (B2C) supplies are not required to register and account for VAT on supplies in Moldova. Instead, the customer is required to pay VAT on the imported services under the reverse-charge mechanism. For B2C supplies, the individual should pay the VAT simultaneously with the payment for the imported digital services and declare the related VAT until the 25th of the month following the reporting month by filing a VAT return. However, in practice this is not commonly carried out.

There are no other specific e-commerce rules for imported goods in Moldova.

Online marketplaces and platforms. From 1 April 2020, nonresidents that provide services through electronic networks (i.e., digital services through online marketplaces and platforms) to Moldovan resident individuals, as well as nonresident intermediaries who receive payments from Moldovan resident individuals for the services provided through electronic networks, for which the place of supply is considered in Moldova, are subject to VAT and should register for VAT in Moldova under a specific procedure (see the *Special schemes, Digital services* subsection below, under *Section I. Records and payment*). The respective mechanism applies to B2C supplies only. In case of B2B supply of digital services, no VAT registration is required for the nonresident, since the customer should pay VAT on the imported services under the reverse-charge mechanism.

Registration procedures. To register as a taxable person, the local entity should file a VAT registration application form before the last day of the month during which the VAT registration conditions are met. The application form shall be filed in a hard copy format or electronically by online registration, together with a list of supporting documents (including the list of sales invoices and invoices for acquired goods and services, contracts concluded with the suppliers and clients, bank statements, breakdowns from the statutory books of payables and receivable accounts, expenses and income accounts, as well as other additional information) required by the local tax authorities to establish the correctness of the data submitted by the applicant. A tax audit is usually performed for VAT registration purposes, where additional documentation and information can be asked by the tax authorities.

The taxable person is considered to be VAT registered starting the first day of the month following the month during which it filed the application form and with the condition that the VAT registration requirements are met. Although the local legislation does not provide for a specific deadline during which the tax authorities should finalize the tax audit and confirm the VAT registration, in practice this process can take up to 30 days after filing of the registration application form.

Referring to the nonresidents that provide services through electronic networks (i.e., digital services) to Moldovan resident individuals, as well as to the nonresident intermediaries who receive payments from Moldovan resident individuals for the services provided through electronic networks, for which the place of supply is considered Moldova, they are not required to register for VAT in Moldova under the general registration procedure. They are subject to a simplified registration scheme to be performed via an online platform provided by the tax authorities.

Deregistration. Deregistration as a taxable person is subject to a tax audit to be performed by the tax authority. The date of deregistration is considered the date of issuance of the tax audit report based on which the tax authority decided to perform the respective deregistration.

In case of suspension of the VAT taxable supplies, the taxable person is obliged to inform the tax authority. Deregistration is performed according to the procedure provided by the state fiscal inspectorate.

Additionally, the tax authority has the right to deregister the taxable person if:
- The taxable person has failed to file the VAT tax return for a certain amount of tax periods (arguably for at least 12 months)
- The taxable person has presented untruthful information with regard to its headquarter registration address

Changes to VAT registration details. There is no specific procedure in relation to notifying the tax authorities for changes in a taxable persons' VAT registration details. In case any changes occur (such as the company name, address, administrator, etc.), this is done automatically through the Public Services Agency (Trade Register), which exchanges information with the tax authorities, so VAT records are also updated.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a VAT rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rates: 8%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides a reduced rate, the zero-rate or an exemption.

Some supplies are classified as exempt from VAT with the right to deduction, known as exempt with credit (i.e., zero-rated), which means that no VAT is chargeable, but the supplier may recover the related input tax.

Examples of goods and services taxable at 0% (i.e., exempt with credit)

- Exports of goods and related services
- International transport of persons and freight
- Electric and thermal power
- Supplies of water to the public

Examples of goods and services taxable at 8%

- Bakery products
- Dairy products
- Agricultural products
- Drugs
- Natural and liquefied gas produced and imported in Moldova
- Phytotechnics and horticulture products in natural form, zootechnical products in natural form, live and slaughtered produced and/or delivered within the territory of Moldova
- Beet sugar produced, imported and/or delivered within the territory of Moldova
- HORECA industry supplies (hotel, restaurants and café services). Such supplies were reduced from 12% to 8% with effect from 10 August 2023. However, such supplies can be reduced to 6% during a state of emergency period declared on the entire territory of Moldova by the Parliament or by the National Extraordinary Public Health Com-mission. This reduced VAT rate applies to food and/or beverages (excluding the alcoholic products), prepared or unprepared, for human consumption, together with the related services allowing their immediate consumption, provided as part of activities included in Section I of the Moldovan Classifier of Economic Activities, as well as to accommodation services, regardless of the level of comfort (e.g., hotel, apartment-hotel, motel, tourist villa, bungalow, tourist boarding house, rural boarding house, camping, holiday village or holiday camp) that are included in Section I of the Moldovan Classifier of Economic Activities.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Dwellings
- Land
- Cars *(until 31 December 2025)*
- Long-term tangible assets contributed into share capital under the special rules approved by the government
- Tractors and other agricultural machineries
- Food for children
- Financial services
- Educational services
- Insurance
- Betting and gaming
- Books and periodicals

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Moldova.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In general, a taxable person becomes liable to account for VAT at the time of the earliest of the following events:

- The receipt of partial or total payment from the customer
- The performance of the supply
- The issuance of the fiscal invoice

Taxable persons must make payments for every tax period. The standard tax period is a calendar month.

Deposits and prepayments. There are no special time of supply rules in Moldova for deposits and prepayments (refundable or nonrefundable). As such, the general time of supply rules apply (as outlined above).

Generally, a taxable person becomes liable to account for VAT if it receives (or received) a partial or total prepayment from the customer in relation to a supply of goods or a supply of services. If no supply is performed and the prepayment is returned to the customer, the taxable person should be able to adjust/claim back VAT it accounted before on the received prepayment.

Continuous supplies of services. If the goods and services are supplied regularly (continuously) during a certain period of time stipulated in the contract, the time of supply is considered the date of the performance of the supply or the receipt date of each regular payment, whichever is the earlier.

Goods sent on approval for sale or return. There are no special time of supply rules in Moldova for supplies of goods sent on approval for sale or return. As such, general time of supply rules apply (as outlined above).

Reverse-charge services. For B2B services supplied by nonresidents, the tax is payable on reverse-charge services by 25th of the month following the month in which the service was imported or paid, whichever is the earlier.

Leased assets. If the assets are supplied under a leasing contract (financial or operational), time of supply is considered the date of the lease payment specified in the contract. In cases of receiving the lease payment in advance, time of supply is considered the date of this advance payment.

Imported goods. The time of supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Moldova, VAT paid on imports of goods and VAT self-assessed on reverse-charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax. The right of deduction may be exercised in the tax period in which the purchase documents are entered into the recipient's books of account.

There is no set time limit for a taxable person to reclaim input tax in Moldova. This mean that, effectively, the input tax may be carried forward indefinitely until its complete recovery. However, a six-year time limit applies for certain cases of VAT refunds.

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

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

Examples of items for which input tax is nondeductible

- Private expenditure
- Cost of goods that are lost, stolen or destroyed
- Expenditure that is not allowable for income and corporate tax purposes
- Business gifts
- Bad debts (a purchaser acquired goods and services but never paid the supplier)
- Repair, maintenance and operating expenses of cars used by company management above the specific limits provided by the legislation

Examples of items for which input tax is deductible (if related to a taxable business use)

- Hire, lease, maintenance and fuel for cars used by the company management, subject to certain limits
- Purchase, hire, lease, maintenance and fuel for vans and trucks
- Parking
- Books
- Attendance at conferences, seminars and training courses
- Mobile phones
- Advertising
- Transport
- Hotel accommodation

Partial exemption. Input tax deduction is not available when it relates to supplies that are exempt from VAT without the right to deduction. If a taxable person makes supplies that are both taxable and exempt from VAT without the right to deduction, it may recover only input tax related to supplies that are taxable. Supplies that are exempt from VAT with the right to deduction are treated as taxable supplies for these purposes.

Taxable persons who make supplies that are taxable and exempt from VAT without the right to deduction may deduct VAT on purchases by the application of the pro rata method to the amount of VAT related both to supplies that are taxable and exempt without the right to deduction.

Approval from the tax authorities is not required to use the partial exemption standard method in Moldova. Special methods are not allowed in Moldova.

Capital goods. Capital goods are items of capital expenditure related to fixed tangible and intangible assets subject to depreciation. Input tax incurred on capital goods used wholly for taxable supplies can be recovered in line with normal input tax recovery rules. Input tax is deducted in the month in which the goods are acquired.

If the capital goods are used for both taxable and exempt supplies, the partial exemption rules described above shall apply. Where the use of the capital good changes from taxable to exempt, the input tax related to the net book value of the capital good is not allowed for deduction and is reported to costs or expenses.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person may request a refund of VAT if the excess VAT results from any of the following:
- Supplies performed from 1 January 2023 by using e-invoicing and/or tax receipts issued by equipment connected to the tax authorities' electronic sales monitoring system
- Supplies that are exempt from VAT with the right to deduction
- Supplies made by companies that produce and sell bread and dairy products
- Capital investments by business entities registered as taxable persons, except for investments made in certain types of buildings and means of transport
- Capital investments in motor vehicles for passenger transportation
- Overpaid tax

The following special procedure applies if a taxable person requests a VAT refund:
- The taxable person must submit a request to the tax authorities
- Before the repayment is made, the tax authorities perform a special tax audit to ensure that the amount claimed is accurate

In practice, it may be difficult to receive a refund in these circumstances and substantial delays may be experienced.

Pre-registration costs. Input tax incurred on pre-registration costs in Moldova is not recoverable.

Bad debts. If the output tax related to a supply in the VAT return is all or part of it considered, according to the legislation, as a bad debt, the taxable person has the right to adjust the amount of VAT calculated starting with the fiscal period in which the bad debt was detected.

The tax code allows the recovery of VAT on bad debts, subject to the following conditions:
- The liquidated entity has no successor of rights
- The business entity declared insolvent does not have any goods
- The individual who does not perform any business activity, and the farmer or individual entrepreneur does not have, within two years from the day of the appearance of the debt, goods or is insufficient of goods that could be collected in order to extinguish this debt
- The individual has died and there are no more persons obliged by law to honor its obligations
- The individual, including the farmer's household members or the individual entrepreneur who left its residence, cannot be found during the limitation period established by the civil legislation
- There is a respective act of the court or of the executor (e.g., decision, conclusion or other document provided by the legislation in force) according to which debt collection is not possible
- The debt is up to MDL1,000 with an expired limitation period

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Moldova.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Moldova is not recoverable.

H. Invoicing

VAT invoices. In general, a taxable person must provide a fiscal invoice for all taxable supplies, except in several circumstances provided for by the Moldovan law. A fiscal invoice is necessary to support a claim for an input tax deduction.

Credit notes. No laws exist with respect to credit notes. The taxable amount of the taxable supply of goods and services, after their supply or payment, can be adjusted if there are supporting documents providing the following conditions are met:
- The amount of the taxable supply, agreed initially, has changed as a result of changing prices
- The taxable supply was returned to the seller, either partially or in the full amount
- The taxable amount of the taxable supply was reduced due to a discount provided

Electronic invoicing. Electronic invoicing is mandatory in Moldova for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Moldova. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Moldova. The requirements related to electronic invoicing are the same as those for paper invoicing.

It is mandatory for taxable persons that perform supplies under public procurements, i.e., B2G (except for electricity, heat, natural gas, electronic communications services and communal services supplies), supplies of gasoline and diesel (both B2B and B2C), as well as for the taxable persons who are included by the authorities in the mandatory list of taxable persons required to use e-invoicing (both B2B and B2C). Other taxable persons can use electronic invoicing voluntarily.

Taxable persons who use electronic invoicing should be registered as users of electronic tax services and have digital or electronic signatures issued in accordance with local legislation. An e-invoice must be issued via a specific online platform provided by the tax authorities. The purpose is to streamline the collection of taxes and duties to improve the collection rate of VAT, thus leading to the prevention of tax evasion.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Moldova. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Moldova.

Proof of exports. VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence confirming that the goods have left Moldova. The law provides for a specific list of supporting documents proving the exportation, which vary according to the type of exported goods or services (e.g., customs declarations, invoices, sales agreements).

Foreign currency invoices. Fiscal invoices cannot be issued in a foreign currency in Moldova. All fiscal invoices must be issued in the domestic currency, which is the Moldovan leu (MDL).

Supplies to nontaxable persons. Generally, in case of retail supplies made by taxable persons to private consumers, no fiscal invoice is required to be issued, unless it is requested by the purchaser.

Records. Each taxable person is obliged to keep track of the entire volume of goods and services delivered, as well as all the goods and services purchased.

In Moldova, examples of what records must be held for VAT purposes include the fiscal invoices related to purchases/deliveries and the generalized record (see below). The fiscal invoices must be recorded in the respective ledgers in the order of their receipt/release. Damaged or canceled fiscal invoices shall be also kept by the business entity. The purchases and sales ledgers shall be prepared and filled by the 25th of the month from the end of the reporting month. The accounting documents are kept by the entity on paper or in electronic form.

For each reporting month, a generalized record must be kept that includes the following:
- Input tax amount on acquired goods and services
- Output tax amount on delivered goods and services
- Adjustments that impact the VAT amount
- The VAT amount to be paid to the budget or the input tax amount to be carried forward
- VAT amount paid to the budget
- The VAT amount to be carried forward to the next fiscal period
- VAT amount subject to be refunded from the budget

In Moldova, VAT books and records must be held within the country. Generally, the taxable person should hold the records at their registered office.

Record retention period. According to the local legislation, the fiscal invoices, as well as the accounting ledgers must be kept for six years.

Electronic archiving. Electronic archiving is not allowed in Moldova. Archiving must be made in paper form only. VAT returns, as well as other related registers and supporting documentation, should be printed and kept in hard copy by the taxable persons.

I. Returns and payment

Periodic returns. VAT return periods are generally monthly. The VAT return periods for the provision of digital services by nonresidents to Moldovan individuals are quarterly.

Returns must be filed by the 25th day of the month following the end of the return period.

Periodic payments. Payment in full must be made by the same date as the VAT return deadline, i.e., by the 25th of the month following the end of the return period. The VAT must be paid to the tax authority through bank transfer.

Electronic filing. Electronic filing is mandatory in Moldova for all taxable persons. Taxable persons are obliged to file VAT returns by using a specific online electronic program provided by the local tax authority. The service "*Declarație electronică*" is the tool for creating, verifying and filing tax returns by taxable persons online (via servicii.fisc.md platform). The tool can only be used with electronic signatures issued by accredited centers. The tool also offers the option to upload pre-prepared returns into taxable persons' accounting programs.

Payments on account. Payments on account are not required in Moldova.

Special schemes. *Digital services.* A special scheme applies to nonresidents who provide services through electronic networks (i.e., digital services through online marketplaces and platforms) to Moldovan resident individuals, as well as nonresident intermediaries who receive payments from Moldovan resident individuals for the services provided through electronic networks, for which the place of supply is considered Moldova. The respective mechanism applies to B2C supplies only. The nonresident should register in its own name with the local tax authority, under a simplified online procedure, within the first fiscal period (i.e., quarter) in which the obligation to calculate and pay the VAT arises, before the return filing. The VAT due for digital services should be declared and paid quarterly by the respective nonresidents.

Annual returns. Annual returns are not required in Moldova.

Supplementary filings. No supplementary filings are required in Moldova.

Correcting errors in previous returns. A voluntary disclosure is required to be submitted to the tax authority for the underpayment of VAT, and the taxable person should file an amended VAT return for the respective period. In case the taxable person finds that the previously filed tax return contains an error or omission, it has the right to submit a corrected tax return, according to the form and completion method in force for the tax return to be corrected. The corrected tax returns are filed by using the same specific online electronic platform of the tax authorities that is used for filing the regular VAT returns.

Digital tax administration. *Electronic invoicing.* A taxable supply performed under the public procurements should be documented with an electronic invoice (e-invoice) by using a specific online platform provided by the tax authorities. Also, there is a list of taxable persons approved by the tax authorities for which the use of electronic invoice is mandatory. For further details, see the subsection *Electronic invoicing* above.

J. Penalties

Penalties for late registration. Failure to register or late registration for VAT is penalized with a fine from 7% to 10% of the amount of taxable supplies, excluding supplies exempted from VAT with the right to deduction.

Penalties for late payment and filings. Failure to comply with the tax reports preparation and filing rules (including non-filing, late filing or filing of untruthful information) will be penalized with a fine, from MDL500 to MDL1,000 for each tax report, but no more than MDL10,000 for all tax reports subject of tax infringement, applied to business entities.

Interest for delay in payment of the understated taxes is calculated for the period starting with the due date until the day (including) of effective transfer to the budget (the rate varies from year to year based on the refinancing basic rate, provided by the National Bank of Moldova plus five points). For example, the annual interest rate for 2023 year is equal to 27%. *At the time of preparing this chapter, the interest rate for delay in payment is not known, as the refinancing basic rate has not been published by the National Bank of Moldova.*

Penalties for errors. The understatement of VAT by submitting to the tax authorities a VAT return with invalid information or data is sanctioned with a fine from 20% to 30% of the understated VAT amount.

Failure to issue in time the tax invoice, as well as failure to register the tax invoice in the general electronic register of the fiscal invoices, will be penalized with a fine from MDL3,000 to MDL3,600 per each fiscal invoice but not more than MDL72,000.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Evasion from calculation and payment of VAT will be penalized with a fine from 80% to 100% of the respective VAT amount.

If the infringement is qualified as a tax evasion and the income tax exceeds in total 50 average forecast salaries (approximately MDL585,000), criminal investigations could be initiated (both for the company and its responsible person), subject to a list of financial and other type of sanctions to be imposed based on the decision taken by the court. *At the time of preparing this chapter, the average forecasted salary for 2024 has not been published.*

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Moldova. Filing of tax returns with untruthful and/or incomplete information will be penalized with a fine from MDL450 to MDL1,500

applied to responsible person. Failure to file the tax return within the term established by the legislation will be penalized with a fine from MDL300 to MDL600 applied to responsible person. In case of infringements qualified as a tax evasion, there can be initiated criminal investigations with regard to company responsible person.

Statute of limitations. The statute of limitations in Moldova is four years. Generally, under the current law, the tax authorities may normally audit tax-related matters retroactively for four years. However, no statute of limitation is applied if the filed tax return contains misleading data or if it reflects facts representing tax infringements or if the tax return is not filed to the tax authority.

An amended tax return can be filed to voluntarily correct errors contained in the original tax return if no tax audit was announced or performed by the tax authorities for the respective fiscal period.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Нэмэгдсэн өртгийн албан татвар (НӨАТ)
Date introduced	1 July 1998
Trading bloc membership	Mongolia and Japan economic partnership agreement (EPA)
Administered by	Ministry of Finance of Mongolia (https://www.mof.gov.mn/) Mongolian Tax Authority (http://www.mta.mn) (MTA)
VAT rates	
Standard	10%
Other	0-10%, zero-rated (0%) and exempt
VAT number format	Tax identification number (TIN) with 7 digits
VAT return periods	Monthly
Thresholds	
Registration	MNT50 million
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following types of transactions of individuals and legal entities:
- All types of goods sold in Mongolia
- All types of works and services provided in Mongolia
- All types of goods, works and services provided to customers in another country
- All types of goods, works and services received from suppliers in another country

The term "sale" refers to a transfer of the ownership of goods to another person or the performance of services. The term "goods" includes all types of property other than money capital, and the term "services" includes any activity.

The provision of services includes but is not limited to the following:
- Providing electricity, heat, gas, water, sewers, postal services, communication and other utilities
- Leasing, possessing or using goods
- Renting immovable and movable property (other than rental of houses for residential purposes) or allowing possession or use of them in other forms
- Selling, transferring or leasing new inventions, new product designs, patents, copyright-protected work, trademarks, know-how, software and other proprietary information
- Performing work and services provided for repayment of debts owed to other entities
- Sale of goods and provision of works and services by a nonresident person to a resident
- Organization of lottery, paid quiz or gambling games
- Providing intermediary services (intermediary of special rights, trade representation, commission and similar services)
- Receiving interest, fines and penalties arising from misconduct or noncompliance
- Offsetting of any debts through the transfer of goods, performance of works or provision of services

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Mongolia, no services are subject to the "use and enjoyment" provisions.

While the Mongolian VAT law does not contain explicit "effective use and enjoyment" rules, the location of a purchase determines whether it is subject to VAT. Any goods, works or services imported to Mongolia, exported from Mongolia or sold within the territory of Mongolia are subject to VAT. This rule applies regardless of whether the transaction is business-to-business (B2B) or business-to-consumer (B2C). Mongolian VAT is not applicable to a transaction involving Mongolian VAT agents that takes place outside of Mongolian legal jurisdiction.

Transfer of a going concern. Transfer of going concern rules do not apply in Mongolia. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

However, issuing, selling, transferring or accepting stocks is exempt from VAT. In certain cases, this would allow ownership of a business to be transferred without incurring VAT. For example, if a business is transferred from one entity to another through the transfer/sale of stocks, VAT will not be applicable to this transaction.

Transactions between related parties. In Mongolia, for a transaction between related parties, the value for VAT purposes is calculated on an arm's-length basis. This is in the context of transfer pricing rules for VAT purposes in Mongolia. In addition, there is a specific VAT valuation rule that applies for transactions between related parties if the prices are not arm's length, which the VAT law stipulates that when the prices of goods and services exchanged between related parties are either higher or lower than the market value, then tax authorities would apply the market value on such transaction when determining the tax liability. This provision is complimentary to the general arm's length principle.

C. Who is liable

In general, a taxable person (or VAT agent) is any individual or legal entity (including a foreign legal entity and individual) that is engaged in the import and export of goods, as well as the sale and manufacturing of any goods, performance of work and rendering of services in the territory of Mongolia. Any individual permanently or temporarily employed under a labor contract is deemed not to be a VAT-taxable person.

Taxable persons must be registered for VAT when taxable turnover exceeds MNT50 million in a given financial year (subject to certain anti-avoidance measures).

Exemption from registration. If a taxable person has not reached the registration threshold of MNT50 million within a given financial year, the taxable person is exempted from VAT.

Individuals and entities engaged exclusively in VAT-exempt goods, works and services specified in VAT law may not be registered as a VAT agent.

Individuals and entities whose business activity is exclusively VAT exempt, shall submit the following evidence in online and paper form to the MTA annually by the 10th of January: the application for exemption from registration as an agent; proof of exemption for goods, works and services; business license, electronic payment receipt, contract and source documents, etc.

Voluntary registration and small businesses. Taxable persons can voluntarily register for VAT when taxable turnover reaches MNT10 million. Supporting documents are required to prove the expected sales reach MNT50 million in the next 12 months, such as contracts and sales orders, etc.

Group registration. Group VAT registration is not allowed in Mongolia.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Mongolia, where a business may instead register a permanent establishment (PE) or representative office of a foreign corporation in Mongolia. In terms of comparability, the PE is closest in function and form to a fixed establishment. The PE rules described in the CIT law also apply to the VAT law, as Mongolian tax legislation uses the definition of PE found in the CIT law in all contexts relating to PEs. A PE is defined to be at least one of the following:

- Places of management, e.g., branches or offices
- Workshops
- Warehouses
- Mine, oil or gas wells, or other places where mineral natural resources are extracted
- Factories
- Construction sites, buildings, assembly or installation sites that last for a total of 90 days or more during a consecutive 12-month period, as well as units for construction, and management activities related to such activities
- Business activities providing technical consulting, management and other services to taxpayers located in Mongolia, through their own employees or contractors for a total of 183 days or more during a continuous 12-month period

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Mongolia.

Foreign legal entities or individuals that sell goods, perform work or render services in the territory of Mongolia will be subject to VAT. As such, the recipient of the services or goods must act as a tax agent and withhold the VAT under the Mongolian reverse-charge VAT system. Foreign legal entities and individuals are not entitled to recover any input tax (VAT on purchase) unless they have a permanent establishment that is registered for Mongolian VAT purposes.

If a non-established business that does not make supplies incurs input tax and wishes to recover input tax, they may register as a VAT agent by establishing a PE or representative office. See the subsection *G. Recovery of VAT by non-established businesses* below.

Tax representatives. VAT agents are allowed for non-established businesses to enable them to recover input. See the subsection *G. Recovery of VAT by non-established businesses* below.

Reverse charge. Reverse-charge VAT is applied to payments for works and services supplied by foreign legal entities and individuals not registered as taxable persons in Mongolia to Mongolian

legal entities or individual entrepreneurs. Under the reverse-charge mechanism, the liability to impose, pay and report VAT rests with the recipient of the supply that acts as a tax agent.

However, input tax incurred on reverse-charge VAT paid on services provided by nonresidents is non-recoverable in Mongolia. See *Section F. Recovery of VAT by taxable persons* for more detail.

Domestic reverse charge. There are no domestic reverse charges in Mongolia.

Digital economy. There are no specific rules relating to the taxation of the digital economy. Normal VAT rules apply. Nonresidents that provide electronically supplied services are not required to register and account for VAT in Mongolia. The local customer self-accounts for the VAT via the reverse-charge mechanism. This applies for both B2B and B2C. The customer must act as a tax agent and withhold the VAT under the reverse-charge mechanism. See the *Non-established businesses* subsection above.

There are no other specific e-commerce rules for imported goods in Mongolia.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Mongolia.

Registration procedures. Individuals and legal entities shall submit a request letter to register and application form ТТБ-01-А for VAT registration to the relevant tax office within 10 business days from the date the documents proving the threshold has been met. Non-exhaustive proof of documents includes bank statements, cash receipt orders, sales contracts, company certificates and electronic invoices.

The registration application for VAT agent is filled in and submitted to the tax authority within 10 working days after the threshold is met by either online or by paper. Log into online portal (https://e-tax.mta.mn) where individuals and companies can apply online for the registration of VAT and upload the following documents: sales agreement, bank account statement, invoices and state registration certificate to prove sales revenue. The application is subject to verification from the tax administration who may request additional supporting documents to verify sales. The MTA shall register a taxable person as a VAT agent within three working days after receiving the application of the person specified in VAT law and issue a certificate.

Deregistration. An individual or legal person registered for VAT shall be excluded from the taxable persons' registry and their certificate shall be canceled if it has been proven by financial statements for a business entity or organization or by income and tax sheet for an individual taxable income amount for the subsequent 12 months after being registered for VAT is less than MNT50 million.

Changes to VAT registration details. A VAT agent should keep their VAT registration details up to date. Taxable persons may change their information details in the tax online portal. The taxable person is obliged to notify the MTA about any changes on the taxable person's registration certificate within seven days. Details that the taxable person must update for its tax registration are business structure, information of the business owner, amount of owner's equity, licenses issued to taxable persons and transferred to ownership, name of company, type of business, etc.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 10%
- Special rates: 0-10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods (works and services) unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Goods exported from the territory of Mongolia and declared with the customs organization
- Passenger and cargo transportation services rendered from the territory of Mongolia to foreign countries, from foreign countries to the territory of Mongolia, as well as from foreign countries to third countries transiting through the territory of Mongolia, pursuant to the international treaties to which Mongolia is a signatory
- Services provided in a foreign country (including tax-exempt services)
- Any rendering of services (including "nontaxable services") to a nonresident person
- Any services of air navigation management, technical and fuel services, and cleaning that shall be provided for both foreign and domestic airplanes conducting international flight and sale, food and drink services provided for air crew members or passengers during flight
- State medals and coins manufactured domestically on the order of the Government or the Bank of Mongolia
- Mining finished products that are exported (the government approves list of final mining products)

Examples of goods and services taxable at special rates 0%-10%

- Imported and manufactured gasoline and diesel fuel only; the government shall set the exact rate considering the specifics of the sector.

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Passengers' personal use goods (subject to permitted amounts and approval by customs authority)
- Goods received through humanitarian and grant aid from foreign governments, NGOs and international or humanitarian organizations
- Special purpose appliances, equipment and machinery designed for physically challenged persons
- Civil passenger airplanes and spare parts thereof
- Revenues from the sale of establishments used for housing or portions thereof
- Blood, blood products and organs to be used for purposes of specified treatment
- Gas fuel, gas fuel containers, equipment, special purpose machineries, mechanisms and related mechanics
- Sale of gold
- Experimental products related to research and scientific work
- Mining products other than mining finished product that was exported
- Cereal, potatoes, seeds, vegetables and fruits domestically grown and sold by farmers and domestically produced flour
- Asset-backed loan portfolio or claiming rights derived from financial leasing arrangements transferred by banks, nonbanking financial institutions (NBFI) or other legal entities to other banks, special purpose companies or mortgage corporations
- Imported woods, timbers, cut materials, planks, wooden pieces and semi-processed wooden materials
- Exported cashmere and leather that has been raw processed (cleaned and brushed)
- Import of special purpose machinery, equipment, parts, raw materials, and chemical or explosive substances imported by contractors and subcontractors to be used for crude oil and nontraditional crude oil industry for the first five years of an exploration period or for exploration periods of less than five years
- Import of equipment, tools and accessories for renewable energy production and research
- Currency exchange

- Banking services, such as the receipt or transfer of money, or any dealing with money, any security for money or any note or order for the payment of money and the operation of any savings account
- Services of insurance, reinsurance and registration of property
- The issuance, transfer or receipt of any securities and shares, and underwriting of such securities
- The issuance of loans
- The provision or transfer of an interest related to a social and health insurance fund
- Loan interest, financial lease interest, dividends, loan guarantee fees or insurance premiums by banks, NBFIs or saving and loan cooperatives
- Rental of residential houses and apartments
- Medical services
- Services of religious organizations
- Services provided by a government organization; this shall include public services provided by the government, its agencies and budgetary organizations
- Public transportation services
- Tour operating services
- Weapons and special equipment imported for the needs of the armed forces, police, state security, enforcement of court decisions, state special protection organizations and the anti-corruption agency
- Notary services
- Goods imported for the use of diagnosis and treatment of COVID-19 such as diagnostic tests, medicine, medical equipment and disinfectants

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Mongolia.

E. Time of supply

The moment when VAT becomes due is called the "time of tax imposition," also known as the time of supply.

For taxable persons, the time of tax imposition is the earliest of the following dates:
- The date when the seller receives the payment for goods, works or services
- The date when a payment receipt and an invoice is issued for sales of products and services
- The date when the purchase of goods, works or services is exercised

Deposits and prepayments. The time of supply for a deposit, prepayment and advance payment is the end of the calendar month (VAT return period) in which the prepayment is received, even if the supply has not been made. This treatment applies to both supply of services and goods.

Continuous supplies of services. There are no special time of supply rules in Mongolia for continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval or for sale or return. There are no special time of supply rules in Mongolia for supplies of goods sent on "approval" or for "sale or return" conditions. As such, therefore the general time of supply rules apply (as outlined above), and when the goods are sold, and it can be reversed with approval of the buyer. Mongolia employs an electronic VAT system where all supplies of goods and services are recorded. The seller can request a return of the goods to the buyer through the electronic VAT system.

Reverse-charge services. There are no special time of supply rules in Mongolia for the supply of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Leased assets are subject to VAT. The time of supply rule for the supply of leased assets that results in a transfer in ownership shall be in accordance with the agreed schedule for the finance lease payment.

Imported goods. Imported goods are subject to customs VAT at the time of customs clearance. Payment of import VAT is required for imported goods to enter Mongolian territory. The time of supply for imported goods shall be at the earliest date of the following operation:
- The day when the vendor receives a sales revenue
- The day when the payment receipt is invoiced for goods and services sold
- The day when goods and services are purchased

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods (works and services) supplied for carrying out activities within the scope of VAT. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods (works and services) in Mongolia, VAT paid on the import of goods and VAT paid to the Mongolia budget by a buyer acting as a tax agent with respect to the acquisition of goods (works and services) from a foreign legal entity.

The time limit for a taxable person to reclaim input tax in Mongolia is one month. The claim for input tax credit must be made in the monthly VAT return on self-assessment basis, provided the supporting documents are maintained.

If the amount of input deduction for a given month exceeds the amount of tax payable in the same period, the tax administration shall apply the following methods:
- Offset against the potential tax payable in the subsequent periods if any
- Offset against the other types of tax payable
- Refund in cash

Nondeductible input tax. Input tax cannot be recovered on purchases of goods (works and services) and property rights that are not used for making supplies within the scope of VAT (for example, goods purchased for private use by an entrepreneur).

Examples of items for which input tax is nondeductible

- Personal expenses
- VAT paid for the spare parts of auto vehicles
- Reverse-charge VAT paid on services provided by nonresidents
- VAT incurred on mineral exploration and pre-mining operations
- VAT incurred for the purpose of tax-exempt supplies

Examples of items for which input tax is deductible (if related to a taxable business use)

- Inventory
- Utility bills

Partial exemption. If a Mongolian taxable person makes both exempt supplies and taxable supplies, the taxable person must account for them separately. Input tax directly related to taxable supplies is recoverable in full, while input tax directly related to exempt supplies is not recoverable and must be expensed for Mongolian profit tax purposes. Input tax that may not be directly attributed to taxable or exempt supplies (such as VAT on business overhead costs) must be apportioned. The statutory method of apportionment is a pro rata calculation, based on the value of taxable supplies made compared with the total turnover of the business.

Approval from the tax authorities is not required to use the partial exemption standard method in Mongolia. Special methods are not allowed in Mongolia.

Capital goods. Input tax incurred on capital goods of businesses is allowed for input credit for taxable supplies (excluding tax-exempt supplies). The input tax shall be claimed on a straight-line basis with following periods:
- Building and construction: 10 years
- Plant and equipment: 5 years
- Mineral exploration assets: 5 years
- All other non-current assets: input tax is claimed in the period in which it incurs

Refunds. The VAT refund application must be sent to the appropriate tax authority. The appropriate tax authority will review, confirm the ending balance, and submit its proposal to the MTA within 15 working days. The MTA will review the application and proposal within seven working days and submit its opinion including name of the taxable person, registration number, bank account, refundable amount within two working days to the Ministry of Finance who will refund the amount within 45 days after the receipt of opinion. However, a refund of VAT shall not exceed 30% of the total VAT revenue to be paid into the state budget in a given month, quarter or year. Thus, a refund may take some time if the amount is sizable.

The VAT law requires the tax authorities to pay a refund no later than 45 days following the positive decision regarding the VAT refund claim of a taxable person. In practice, however, refund payments are often delayed.

Pre-registration costs. Input tax incurred on pre-registration costs in Mongolia is not recoverable.

Bad debts. Output tax accounted for supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Mongolia.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities, is not recoverable in Mongolia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Mongolia is not recoverable.

To recover input tax, a non-established business must register as a VAT agent. The primary requirement for a business to register as a VAT agent is income. If the business only conducts transactions where they are the buyer of a product or service, they do not have the opportunity to register as a VAT agent. A business must produce supplies and become an established business to recover input tax.

When a business generates MNT10 million or more in annual income, they qualify for optional registration as a VAT agent. If a business earns MNT50 million or more in annual income, however, registration as a VAT agent becomes mandatory. Foreign legal entities have the additional requirement of registering a PE to qualify for registration as a VAT agent. It should also be noted that the implications of registering as a VAT agent are not limited to recovering input tax, and the business will be responsible for all the legal obligations of a VAT agent, such as tax compliance and reporting.

H. Invoicing

VAT invoices. In general, a taxable person must provide a VAT invoice. Invoices must be issued in Mongolian, but bilingual invoices may also be issued in Mongolian and any other language.

Credit notes. Credit notes are not allowed in Mongolia. A separate document is not issued for discounts, refunds and agreed price changes, etc. In practice, taxable persons must cancel the

previous VAT invoice issued, and then reissue it with the different (agreed) amount. Also, if necessary, the submitted VAT return must also be amended.

Electronic invoicing. Electronic invoicing in Mongolia is mandatory for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Mongolia. It is mandatory for all resident taxable persons for all supplies (B2B, B2C, B2G). For nonresident taxable persons, it is allowed but not mandatory in Mongolia.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Mongolia. The re-quirements related to electronic invoicing are the same as those for paper invoicing. Input tax can only be claimed when an electronic invoice is present.

Mongolia uses an electronic VAT system to reduce noncompliance. The invoice does not need to be verified by the tax authority before issuing. Where electronic invoicing is mandatory, it is also mandatory for all businesses, includ-ing individuals and legal entities (providing services or goods) to enter sales information into the system, regardless of their VAT status or type of services, goods and work.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Mongolia. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Mongolia.

Proof of exports. Goods exported from Mongolia as well as some types of work and services related to exports are subject to a 0% VAT rate in Mongolia. To confirm the applicability of the 0% rate, the supplier must attach a customs declaration as supporting documentation. For works and services, a written agreement, invoice and bank statement should be attached as supporting documentation.

Foreign currency invoices. Invoices cannot be issued in a foreign currency in Mongolia. All invoices must be issued in the domestic currency, which is the Mongolian tughrik (MNT).

Supplies to nontaxable persons. For supplies from VAT-registered businesses to private consumers, a "payment receipt" must be issued by the seller for B2C transactions each time when goods or services are supplied. The payment receipt is generated from the designated equipment with unique payment number, date of payment, name and address of the seller and description, code and quantity, and price and amount of the payment.

Records. In Mongolia, examples of what records must be held for VAT purposes include all the primary supporting documents related to tax returns such as invoices, remittance and sales receipts, and other relevant accounting details.

In Mongolia, VAT books and records can be held outside of the country. There is no specific requirement regarding whether taxable persons can keep records locally in Mongolia or outside Mongolia. However, records can be held in or outside of Mongolia, if upon a tax inspection, hard and original copies of the accounting records can be provided to the tax authorities.

Record retention period. All tax records must be held for a maximum of four years (tax statute of limitation period) in Mongolian territory. In addition, any financial supporting documents should be held no less than 10 years.

Electronic archiving. Electronic archiving is not allowed in Mongolia. Archiving must be made in paper form only. While in practice, taxable persons aren't required to keep their VAT receipts in paper form because they are already in the VAT system, it is recommended to keep paper copies, because electronic archiving is not legally accepted in Mongolia.

I. Returns and payment

Periodic returns. Taxable persons must file VAT returns on a monthly basis. Taxable persons must submit a monthly VAT return by the 10th of the following month. The submission process is online. Taxable persons fill in lines with the amount of sales and expenses. The purchases and sales must match the electronic invoice system for the taxable person to be able to submit.

Periodic payments. The VAT amount per VAT return must be paid within the 10th day of the following month. VAT payable under the reverse-charge mechanism is accounted in the same VAT return. Online portals automatically issue unique numbers assigned to each tax invoice. With the tax invoice number, taxable persons make payments via online banking or at any local bank branch. Tax invoices with special numbers and barcodes can be downloaded from the tax department portal.

Electronic filing. Electronic filing is mandatory in Mongolia for all taxable persons. There is no requirement to transmit a hard copy of a VAT return to the MTA, but the taxable person shall keep a copy for further reference. Taxable persons need an online account on the e-filing system to submit their VAT return. They must log on to the tax department portal (https://etax.mta.mn) for filing VAT returns online. Compute tax payable by uploading VAT purchases and sales from the E-barimt system (online receipt registration system of VAT). The taxable person will need to authorize it before they submit a VAT return and can digitally sign the file. The filing process is completed and verified (by the MTA), and the status of the tax return is "Verified."

Payments on account. Payments on account are not required in Mongolia.

Special schemes. No special schemes are available in Mongolia.

Annual return. Annual returns are not required in Mongolia.

Supplementary filings. No supplementary filings are required in Mongolia.

Correcting errors in previous returns. The taxable person (or agent) can make a self-amendment to information in the VAT return submitted to the e-filing system, by sending an online request to the MTA to correct any errors or omissions from prior filings. Once permission is granted by the MTA, the taxable person resubmits the return online.

Digital tax administration. There are no transactional reporting requirements in Mongolia.

J. Penalties

Penalties for late registration. If an individual or legal entity that has exceeded the threshold for registration has not registered with the respective tax authority, then a competent state inspector shall assess and impose the VAT due and additionally impose an administrative penalty equal to the assessed VAT due.

Penalties for late payment and filings. Failure to remit tax to the MTA is subject to a daily late payment penalty of 0.1% of the due tax. Late payment shall start from due date of 10th of the following month.

Penalties for errors. Failure to charge tax on taxable goods and service is subject to a penalty equal to 30% of the due tax. Errors include the failure to register as a VAT agent when the threshold is met and failing to impose VAT on supplies, when registered for VAT.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details shall be subject to a penalty of MNT100,000 for an individual and MNT1 million for an entity. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A penalty for tax evasion is due tax and an additional 30% of due tax as penalty. Types of tax evasion are concealed taxable income, understated taxable income or overstated expenses in the accounting records and destroyed/omitted accounting records on purpose. The penalty for a tax advisor is USD150 (approx. MNT418,000) for an individual, USD1,500 (approx. MNT4,178,000) for an entity, if guilty for assisting any fraudulent activity.

Personal liability for company officers. Company directors can be held personally liable for errors and omissions in VAT declarations and reporting in Mongolia. The penalty for a company officer is MNT100,000-500,000 for an individual.

Statute of limitations. The statute of limitations in Mongolia is four years. This covers tax reimposition, imposing of penalties and fines, tax credit and exemptions. Any voluntary correction or adjustment to VAT returns can be made for the periods including the current and preceding tax year only but it is not allowed for amendments beyond such periods.

Montenegro, Republic of

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Porez na dodatu vrijednost (PDV)
Date introduced	1 January 2002
Trading bloc membership	Central European Free Trade Agreement (CEFTA)
Administered by	Revenue and Customs Administration (https://upravaprihoda.gov.me/en/administration)
VAT rates	
Standard	21%
Reduced	7%
Other	Zero-rated (0%) and exempt
VAT number format	11/11-11111-1
VAT return periods	Monthly
Thresholds	
Registration	EUR30,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services deemed to take place in the Republic of Montenegro (referred to as "Montenegro" in this chapter) performed by taxable persons in Montenegro against consideration while performing their regular business activity

- Importation of goods into Montenegro, regardless of the status of the importer
- Services purchased by taxable person in Montenegro from a service provider whose place of business is outside Montenegro, with Montenegro regarded as the place of supply (subject to the reverse-charge mechanism)

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Montenegro, all services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Montenegro, a TOGC is treated as outside the scope of VAT where the purchaser is a taxable person (i.e., registered for VAT, or becomes one at the time of the transfer. In addition, the acquirer must also continue to perform the same business activities as the original business that is being transferred.

Transactions between related parties. In Montenegro, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person (or "taxpayer" as referred to in the VAT law) is defined as any person who permanently and independently performs business activities.

Any person (entity or individual) who supplies goods and/or services, in the course of its independent business activity is liable for VAT.

The obligation to register for VAT purposes and to calculate VAT is triggered when total turnover, except for the supply of exempt services, in the previous 12 months exceeds EUR30,000. A taxable person whose turnover exceeds EUR30,000 in the previous 12 months is obliged to submit a registration form for VAT to the tax authorities within 20 days from the end of the month in which the prescribed threshold was exceeded.

Exemption from registration. The VAT law in Montenegro does not contain any provision for exemption from registration.

Voluntary registration and small businesses. An option is available for small taxable persons (annual turnover below EUR30,000) to register for VAT by submitting a registration VAT form to the tax authorities, thereby acquiring the rights and obligations to compute and deduct VAT. The minimum obligation to be VAT registered from voluntarily registering, to account and pay VAT is for three years. For further information see the *Small taxable persons* subsection below, under *Special schemes* and *Section I. Returns and payment.*

Group registration. Group VAT registration is not allowed in Montenegro.

Fixed establishment. In Montenegro there is no legal definition of a fixed establishment for VAT purposes. However, a fixed establishment is recognized to the extent of also being legally registered in a form of a branch or a representative office.

Non-established businesses. A "non-established business" is a business that does not have a registered establishment in Montenegro. A foreign entity that supplies goods or services in Montenegro may appoint a tax representative and register as a taxable person (only one tax representative can be appointed, either an individual or a legal entity).

A non-established business that does not make any supplies of goods or services in Montenegro may claim a VAT refund, under prescribed conditions.

Tax representatives. Tax representatives are allowed in Montenegro, but not mandatory. Tax representatives appointed in Montenegro by a non-established business that does not have a legal presence in Montenegro is considered to be a tax debtor for VAT purposes. A non-established business may appoint a legal entity or individual who has a registered office in Montenegro as a tax representative and is a registered VAT taxpayer in accordance with provision of Montenegrin VAT law. The tax representative is jointly and severally liable for all liabilities of a foreign entity. A VAT representative must be resident in Montenegro and have been registered for at least 12 months before applying to be a tax representative. Where a non-established business does not appoint a tax representative in Montenegro, the recipient of goods/services will be considered as a tax debtor for VAT purposes.

Reverse charge. According to Montenegrin tax legislation, the reverse-charge mechanism is applied for goods and services supplied by a non-established business to a business that is established and registered for VAT in Montenegro, i.e., a business-to-business (B2B) supply, for which the place of supply is Montenegro, if the foreign supplier does not appoint a tax representative in Montenegro.

Domestic reverse charge. Domestic reverse-charge rules apply on the acquisition of natural gas, electricity and energy for heating or cooling, where the buyer is registered for VAT (i.e., B2B supplies) and has acquired these supplies for further sale or internal use.

Digital economy. In general, the place of supply of electronically provided services by an overseas business to both business and private individuals in Montenegro is deemed to be the place where the recipient of services has its seat or a permanent branch office, i.e., Montenegro.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies would be required to register and account for VAT in Montenegro.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT on supplies in Montenegro. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in Montenegro.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Montenegro

Vouchers. No special rules exist for vouchers in Montenegro.

Registration procedures. A registration form (PR PDV-1) is filed by the taxable person. After conducting the appropriate procedure, the tax authorities will issue a decision on the VAT registration. A taxable person whose taxable turnover exceeds EUR30,000 in the previous 12 months is obliged to submit a registration form for VAT to the tax authorities within 20 days after the end of a month in which the prescribed turnover was exceeded.

Additionally, if the above-mentioned taxable person does not submit the application for registration within the prescribed period, the tax authorities shall perform the registration ex officio.

Deregistration. A VAT taxable person whose taxable turnover is below EUR30,000 in the previous 12 months may submit a request for VAT deregistration. This request is submitted to the tax authorities. If a taxable person ceases to engage in the relevant business activity, the tax authority may initiate the process of terminating the VAT registration

Changes to VAT registration details. Taxable persons are obliged to notify the tax authorities on any changes that occur during the course of business, and which are related to the data entered in the register, within 15 days from the day when the change of data occurred (it applies to basic information such as company name, registered address, change in bank account, etc.).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are subject to VAT at the following rates:

The VAT rates are:
- Standard rate: 21%
- Reduced rate: 7%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- International transportation services and related supplies
- Supplies of goods and services relating to aircraft and ships used in international traffic
- Services of enabling access and use of the system performed by an intermediary for the account of the operator of the system for the transmission of natural gas, electricity and energy for heating or cooling

Examples of goods and services taxable at 7%

- Supply of medicines and medical care devices (e.g., prosthesis)
- Supply of baby diapers and feminine hygiene products
- Supply of a wide range of food products
- Solar panels *(with effect from 1 January 2023)*

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Properties (except for first-time transfer of ownership)
- Land
- Supply of goods for which acquirer did not have the right to deduct input tax
- Rental of flats if used for housing (for a period which exceeds 60 days)
- Financial services
- Insurance services
- Postal services
- Education services
- Religious services
- Printing and sale of publications
- Public broadcasting services (except those with commercial character)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Montenegro.

E. Time of supply

The time when VAT becomes due is called the "time of supply." In general, the time of supply for goods and services is the date of issuance of the invoice.

If the invoice is not issued, the time of supply rule changes to the eighth day that follows the date of supply of goods or services. Further, if an invoice is issued, the obligation to calculate VAT arises regardless of whether the supply of goods or services was performed.

Deposits and prepayments. In case of advance payments, the time of supply is at the time of receipt of the advance payment, regardless of whether the supply of goods or services has been made. However, deposits do not trigger a VAT liability if they serve only as a guarantee.

Continuous supplies of services. For a continuous supply of services, (i.e., successive supplies which are performed through multiple tax periods) the time of supply is at the end of each tax period (i.e., end of the month), regardless of whether these services were performed or whether the invoice was issued.

Goods sent on approval for sale or return. There are no special time of supply rules in Montenegro for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. For reverse-charge services, the time of supply is the time of supply of the goods or services. It is considered that the goods or services are provided when the recipient of goods or services receives an invoice. If the recipient of goods or services does not receive an invoice, VAT should be calculated on the eighth day that follows the day of supply of goods and services.

Leased assets. The Montenegrin VAT law provides separate guidelines that sets out the conditions that must be met for a lease to be regarded as a sale of goods. If a lease is regarded as a sale of goods, the time of supply is when the goods are supplied (i.e., handed over). If a lease is regarded as a service, the time of supply is when the leasing provider issues an invoice for each individual lease installment in which the amount of the lease installment and the amount of VAT (calculated on the lease installment) is disclosed. In case the invoice was not issued, the rules for continuous supply of services, as described above, would apply.

Imported goods. For imported goods, the time of supply is the same time when the customs duties are due. Customs duties are due at the time of acceptance of the customs declaration. For goods that are not subject to customs and other import duties, VAT is calculated upon import.

F. Recovery of VAT by taxable persons

A taxable person may deduct input tax, which is VAT charged on goods and services supplied to the taxable person for business purposes, provided formal requirements are met. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supply made.

The time limit for a taxable person to reclaim input tax in Montenegro is five years. A taxable person may exercise the right to recover input tax within five years from the day when the statute of limitations began to run, i.e., from the first day of the year following the year in which taxable person acquired the right for reclaiming input tax.

Nondeductible input tax. Effectively, any expenditure that is not business related is nondeductible from an input tax perspective.

Examples of items for which input tax is nondeductible

- Vessels intended for sports and recreation, passenger cars and motorcycles, fuels and lubricants and spare parts and services closely related to them, except for vessels or vehicles intended for resale, rental (rent-a-car), transport of persons and goods (taxi) and training of drivers to operate the said means of transportation
- Expenditures for the business entertainment (e.g., catering, sporting events, recreation and other costs incurred in favor of business partners)

Examples of items for which input tax is deductible (if related to taxable business use)

- Accommodation
- Employee expenses
- Car hire (e.g., by a rent-a-car or taxi agency)
- Business maintenance costs

Partial exemption. If acquired goods or services are used partly for purposes of taxable supplies and partly for exempt supplies, the taxable person may not deduct input tax totally. This situation is known as "partial exemption." If the taxable person cannot divide the input tax into the part that can be deducted and the part that cannot be deducted, the calculation of the amount of input tax that may be recovered is made on a pro rata basis by using the following formula:

$$\frac{\text{Annual taxable turnover (without VAT)}}{\text{Total annual turnover including exempt supplies and subsidies (without VAT)}}$$

Subsidies are defined as any financial support received by the taxable person. Approval from the tax authorities is not required to use the partial exemption standard method in Montenegro. Special methods are not allowed in Montenegro.

Capital goods. Capital goods are defined in Montenegrin VAT law as fixed assets and real estate used in a business over several years. Input tax is generally deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted if the taxable person's partial exemption recovery percentage changes in the period of five years from the first usage of the fixed assets and 10 years for real estate.

Refunds. If the input tax is higher than the output tax, a taxable person has the right to obtain a refund or to use this amount as a tax credit. To claim the input tax refund, the taxable person must tick the box in its VAT return or by submitting a subsequent request to the tax authorities for the input tax refund.

The refund should be performed, at the latest, 60 days after the deadline for submission of the tax return for the current period (or 30 days after the deadline for the taxable persons who mostly perform supply of goods abroad).

The tax administration is liable to pay interest on delayed tax reimbursements at the same rate of penalty interest that applies to taxable persons for late payments of VAT (this is a daily interest rate of 0.03%).

Pre-registration costs. A taxable person may deduct a proportion of the input tax incurred on goods purchased prior to VAT registration. The taxable person must be carrying out taxable activities and is in possession of the goods at the time of VAT registration. Input tax cannot be deducted on services purchased prior to VAT registration.

The proportional deduction of input tax is determined by the tax authorities, based on taxable person's accounting information and information on comparative stocks of goods for performing the same activity by other taxable persons.

Bad debts. Output tax accounted on supplies that do not get paid by the recipient (i.e., a bad debt) can be recovered in Montenegro. The taxable person may adjust its VAT base and the amount of VAT where the price has not been paid by the customer. This is only allowed if they have received a final binding court decision on the completed bankruptcy proceedings, compulsory settlement with debtors or closing of enforcement proceedings.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Montenegro.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Montenegro is recoverable. Non-established businesses that do not make supplies in Montenegro may recover input tax incurred via a refund claim (subject to the normal input tax recovery rules). However, this is not allowed for input tax incurred on services related to imports and for those services for which the reverse-charge mechanism applies (see the subsection *Reverse charge* above).

Montenegro legislation does not provide details on any reciprocity rules for the refund scheme for non-established businesses.

The refund request must be submitted for the minimum period of six months, while the maximum period covered by the request is a calendar year. The refund request may be submitted only for the amounts exceeding EUR300.

Non-established businesses that do make supplies in Montenegro can only recover input tax incurred by registering for VAT and recovering the VAT via the normal process.

H. Invoicing

VAT invoices. A taxable person must provide a VAT invoice for all taxable supplies made, including exports. The invoice must comply with the requirements set out in the VAT law.

Credit notes. A VAT credit note may be used to reduce the VAT charged on a supply of goods or services – provided the customer is a taxable person and has confirmed that the input tax has been corrected; a debit note may be used to increase the amount of VAT. Tax credit and debit notes must be cross-referenced to the original invoice.

Electronic invoicing. Electronic invoicing is allowed in Montenegro, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Montenegro. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Montenegro. The requirements related to electronic invoicing are the same as those for paper invoicing. A taxable person may issue an invoice in an electronic form with the prior consent of the recipient of the invoice, in line with the law on electronic documents.

Simplified VAT invoices. For supplies to nontaxable persons, a VAT registered supplier is not required to issue a full VAT invoice. A simplified invoice can be issued, which is not required to contain information on the customer (name and address), and it also is not required to include the VAT base amount. However, the simplified invoice must include the value of goods or services with VAT included, as well as the amount of computed VAT.

Self-billing. Self-billing is allowed in Montenegro. In general, a taxable person who makes taxable supplies of goods and services is obligated to issue an invoice. However, under certain conditions, the invoice may also be issued by the recipient of the goods and services. Specifically, self-billing is allowed if both parties agree. As such, a document in which the supply of goods or services is calculated by their recipient is also deemed as VAT invoice. The supplier of goods or services is jointly liable for issuing the invoice in this case.

Proof of exports. VAT is not charged on exports. To qualify for zero-rated, exports must be accompanied by evidence that the goods have left Montenegro. Such goods must leave Montenegro within the same tax period as the supply being made, otherwise VAT must be accounted on the supply (and paid to the tax authorities) and later reversed when the goods actually leave the country. Suitable documentary evidence includes the customs declaration.

Foreign currency invoices. Invoices may be issued in a foreign currency. However, the amounts must be converted into the domestic currency, which is the euro (EUR). The exchange rate used for imports is determined by the customs authority, while the exchange rate for domestic VAT supplies is the middle exchange rate published by the Central Bank of Montenegro (CBCG) at the time when VAT liability arises. The exchange rate can be found on the CBCG's website (https://cbcg.me/en).

Supplies to nontaxable persons. For supplies to nontaxable persons, a VAT registered supplier is not required to issue a full VAT invoice. A simplified invoice can be issued, which is not required to contain information on the customer (name and address), and it also is not required to include the VAT base amount. However, the simplified invoice must include the value of goods or services with VAT included, as well as the amount of computed VAT.

Records. Taxable persons are required to keep accounts and records necessary for accurate, correct and timely calculations and the payment of VAT due. In Montenegro, examples of what records must be held for VAT purposes include issued and received invoices, documents on import and export, documents on payments, documents on invoice amendments, financial documentation, documents evidencing the taxable person's obtained exemption from VAT, all other accounting documents related to the supply of goods and services, as well as all other documents of importance for the calculation and payment of VAT and deduction of input tax.

In Montenegro, VAT books and records can be held outside of the country. However, while there is no provision in the Montenegrin VAT law on where the records should be held; in practice, records can be held in or outside of Montenegro. If the records are held outside of Montenegro, they must be easily accessible upon request by the tax authorities.

Record retention period. Registered taxable persons must keep books and records (examples listed above) for at least five years from the end of the year to which they relate. Additionally, the documentation related to real estate taxation should be kept for at least 20 years after the end of the year to which that document refers.

Electronic archiving. Electronic archiving is allowed in Montenegro. Books and records (examples listed above) can be kept in an electronic format, as long as they are retrievable when requested by the tax authorities. They must be held for at least five years from the end of the year to which they relate. Furthermore, legal entities, individuals and competent authorities are obliged to keep electronic documents originally in the information system or on the media enabling the permanence of the electronic record for the determined storage period.

I. Returns and payment

Periodic returns. The tax period is a calendar month. Returns must be filed within 15 days after the end of the tax period.

Periodic payments. The deadline for VAT payment is the same as the deadline for the filing of VAT returns, i.e., within 15 days after the end of the tax period. Upon submitting the VAT return electronically, the taxable person must pay the VAT liability by transferring funds to the prescribed public revenue account. Payments are typically made via bank transfers.

Electronic filing. Electronic filing is mandatory in Montenegro for all taxable persons. The VAT return is submitted on the prescribed PR-PDV-2 form online. Taxable persons must use the "Taxis portal," which is the online tax authorities portal where taxable persons can carry out certain electronic services. For example, it enables taxable persons to be able to submit online tax forms with digital signatures, it can provide follow up on the status of submitted applications and faster and simpler fulfillment of obligations toward tax administration.

Payments on account. Payments on account are not required in Montenegro.

Special schemes. *Small taxable persons.* Small taxable persons are not required to register and account for VAT on their supplies of goods and services. They do not have the right to indicate the VAT on their invoices and are not entitled to deduct input tax. Also, they are not required to keep records prescribed by the VAT law. This applies to those taxable persons that have an annual revenue threshold of less than EUR30,000. The minimum obligation to be VAT registered from voluntarily registering, to account and pay VAT is for three years.

Farmers. A farmer who is not registered for VAT is entitled to a lump sum compensation of input tax if it carries out supplies of agricultural and forest goods or services to taxable persons. Such taxable persons to whom farmers supplied the above-mentioned goods and services are required to include in the price of the supply the lump sum compensation of 5% of the purchase value of goods and services.

Tour operator's scheme. Tourist services provided by a tourist agency are considered as a single service. The place of supply of a single tourist service is the place where the service provider (i.e., the tour operator) has its principal place of business. The tax base of a single tourist service provided by a tourist agency is the amount representing the difference between total price paid by the tourist, without VAT, and actual expenses borne by the tourist agency, which are used directly by the tourist. A tourist agency has no right to deduct input tax charged by other taxable persons for supplies of goods or services used directly by the tourist.

Works of art, secondhand goods, antique goods. Taxable persons that supply used goods, fine art works, collector's goods, and antiques, determine the tax base as a difference between the selling price and purchase price of these goods, reduced by the amount of VAT calculated on that difference.

Annual returns. Annual returns are not required in Montenegro.

Supplementary filings. No supplementary filings are required in Montenegro.

Correcting errors in previous returns. A taxable person who discovers that a submitted tax return contains an error or omission, must without delay, and no later than the statute of limitation (i.e., five years), submit an amended return in which that error or omission is corrected. The taxable person may amend the filed tax return no more than twice by submitting the amended tax return. Previous returns must be corrected online, through the Taxis portal. Exceptionally, a taxable person cannot file an amended VAT return after the initiation of an audit procedure, i.e., after the determination of tax liability by the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Montenegro.

J. Penalties

Penalties for late registration. If a taxable person who is legal entity fails to register for VAT within 20 days from the end of the month in which the EUR30,000 threshold was exceeded, a fine ranging from EUR3,000 to EUR10,000 will apply. Also, a responsible person within the legal entity be fined in the amount of EUR800 to EUR2,000 in this case.

Penalties for late payment and filings. If a taxable person does not pay VAT within 15 days from the end of the tax period, the taxable person shall be fined between EUR6,000 to EUR20,000. Also, a responsible person within the legal entity shall be fined between EUR1,500 to EUR2,000 in this case.

For the late filing of a VAT return, a fine ranging from EUR3,000 to EUR10,000 will apply. Also, a responsible person within the legal entity shall be fined between EUR800 to EUR2,000.

Penalties for errors. If a taxable person does not calculate VAT in accordance with the VAT law, does not issue an invoice or does not keep the copies of invoices for supplies made, incorrectly calculates input tax, or does not calculate or incorrectly calculates output tax, they shall be fined between EUR6,000 to EUR20,000. Also, a responsible person within the legal entity shall be fined between EUR1,500 to EUR2,000 in such cases.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details within the specified time period may result in a penalty ranging from EUR3,000 to EUR10,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Montenegrin criminal law stipulates that whoever with intent to fully or partially avoid payment of taxes, contributions or other statutory liabilities, gives false information on legal income, objects and other facts relevant to determination of such obligations, or who with the same intent, in case of mandatory reporting (filing of returns) fails to report lawful income, objects and other facts relevant to the determination of such obligations, or who with same intent conceals information relevant for the determination of aforementioned obligations, and the amount of the obligation whose payment is avoided, exceeds EUR1,000, shall be punished by imprisonment of one to 10 years and fined.

Personal liability for company officers. The general rule for both criminal and offense legislation is that the responsible person in the legal entity is the person who on the basis of the law, regulation or authorization conducts certain managerial, supervisory or other functions in the legal entity, as well as the person who factually conducts certain work. This is presumably a director, although it can be proved that some other person/company official has been liable for certain activities of the company.

The penalties applicable for company officers are those listed above under each relevant subsection.

Statute of limitations. The statute of limitations in Montenegro is five years. This is the period in which the tax authorities may go back and assess any additional tax liability. The prescribed five years starts counting from the 1st of January of the year following the year in which tax liability was due. In addition to this, note that absolute statute of limitation is set at 10 years.

The relative statute of limitations of five years is interrupted by any action of the tax authorities and starts to run again. As such a law was introduced with the concept of absolute statute of limitations, which is 10 years. Upon expiration of the absolute statute of limitations period, the tax authorities cannot take any actions related to collection of taxes.

Morocco

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la Valeur Ajoutée (TVA)
Date introduced	1 January 1986
Trading bloc membership	None
Administered by	Ministry of Finance (www.finances.gov.ma)
VAT rates	
Standard	20%
Reduced	10% *(transitional reduced rates 8%, 11%, 12%, 13%, 16%)*
Other	Zero-rated (0%) and exempt
VAT number format	12345678
VAT return periods	Monthly or quarterly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to all transactions involving the supply of goods and services performed in Morocco and to the importation of goods and services, including services provided remotely by nonresidents using dematerialized communications for the benefit of Moroccan residents, as well as the one-off supply or importation of goods.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction

where it has customers that are not taxable persons. In Morocco, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Morocco, a TOGC is treated as outside the scope of VAT where the TOGC (e.g., goodwill) is considered as a civil act (non-commercial act), and hence, is not subject to VAT. However, the transfer of movable assets (furniture, equipment, etc.) is subject to VAT in normal conditions at the standard rate of 20%. The transfer should give rise to the application/regularization of the input tax initially deducted on immovable assets hold for a period less than 10 years for the remaining period.

Transactions between related parties. In Morocco, for a transaction between related parties, the value for VAT purposes is calculated at the open market value. The tax authorities outline this as when there is a taxable person (as the supplier) and a dependent nontaxable person (as the customer). In this case, the VAT due by the supplier must be applied to the selling price charged by the customer or, to the market value of the goods.

C. Who is liable

A taxable person is a person or legal entity that carries out a taxable transaction. A taxable transaction is a transaction involving the sale or importation of goods or services that is subject to VAT even if such transaction occurs only once. A person liable to VAT in Morocco must register with the local tax service.

Morocco does not provide a VAT registration threshold. A business registers for VAT when it registers for corporate or income tax purposes.

Exemption from registration. Morocco does not have a VAT registration threshold, and as such all businesses must register for VAT.

However, agricultural products (non-transformed), noncommercial activities, nonindustrial activities and civil acts are outside the scope of VAT. Therefore, a VAT registration is not required for individuals/entities exercising these activities.

Voluntary registration and small businesses. There is no threshold for VAT registration in Morocco, and as such VAT registration is mandatory. However, for certain businesses, VAT registration is not mandatory and voluntary VAT registration is allowed for the following:

- Traders and service providers who directly export products, objects, goods or services for their export turnover
- Manufacturers, service providers and liberal professions who do not exceed an annual turnover of MAD500,000
- Traders who sell without transformation, product and foodstuffs other than those that are exempted without the right to deduct the input tax
- Persons who affect premises for professional use intended for rental (other than furnished premises for professional use located in commercial complexes)

The taxable person should send the application for optional VAT registration to the local tax administration office that is responsible for the taxable person and takes effect after the expiry of 30 days following the date of the notification.

Group registration. Group VAT registration is not allowed in Morocco.

Fixed establishment. In Morocco, there is no legal definition of a fixed establishment for VAT purposes. However, the guidelines issued by the tax authorities refer to the general definition provided by the model tax treaties and define a permanent establishment (PE) as a fixed place of business through which the business of an enterprise is wholly or partly carried out. The said guidelines provide a list of examples of what can be considered a PE, among which are the following:

- Branch
- Office
- Factory
- Workshop
- Construction or assembly project, exceeding a certain duration (generally six months)

Non-established businesses. Non-established taxable persons that perform taxable activities in Morocco are liable to Moroccan VAT (subject to the normal VAT registration rules, as outlined above).

However, where a non-established business supplies services in Morocco to a private individual i.e., a business-to-consumer (B2C) supply, it must appoint a tax representative in Morocco to comply with all VAT filing and payment formalities as put forward by the Moroccan tax legislation.

For supplies made to a taxable person in Morocco, i.e., a business-to-business (B2B) supply, and the non-established business that has not chosen to appoint a tax representative in Morocco, the customer becomes legally bounded, via the reverse-charge mechanism, to account and declare the VAT due, on behalf of the non-established supplier. Therefore, due to this mechanism, the VAT filing and payment obligations pertaining to the tax due by the non-established supplier becomes legally the liability of the Moroccan customer. Therefore, if the Moroccan customer does not comply with the reverse-charge obligation of accounting and declaring the VAT due, the latter becomes liable for all pertaining penalties and surcharges.

Tax representatives. Under the VAT law, non-established taxable persons must appoint a tax representative to handle their VAT obligations (VAT returns, filings and payments). If a non-established taxable person does not appoint a tax representative, the Moroccan customer becomes liable for the declaration and the payment of VAT due on behalf of the non-established supplier on its own VAT return (auto-liquidation).

Reverse charge. Non-established entities performing VAT taxable activities are required to appoint a tax representative in Morocco to comply with VAT obligations and pay due VAT to the tax authorities on their behalf. In case the foreign entity does not appoint a tax representative, the mechanism of the VAT reverse charge applies. This mechanism provides that, in case a tax representative is not appointed, the Moroccan client is required to report and pay VAT on behalf of its foreign provider using its own VAT ID number. In other terms, VAT registration of the non-established taxable person is not mandatory if the Moroccan client declares and pays VAT to the tax authorities on its behalf.

Domestic reverse charge. The 2024 Finance Law introduced an optional VAT reverse-charge mechanism allowing persons liable for VAT to declare and pay the VAT on their purchases (except purchases of land and agricultural products) from suppliers who are not liable to VAT or who are exempt from VAT, without the possibility of deduction. The taxable customer is therefore required to report the amount excluding tax of the transaction on its own turnover return for the month or quarter during which payment for the transaction was made, calculate the tax due and simultaneously deduct the amount of tax due as reported.

Withholding tax on transactions carried out by service providers subject to VAT. The 2024 Finance Law introduced a provision concerning withholding tax on transactions carried out by suppliers of capital goods and works, as well as by service providers subject to VAT. Details are as follows:

- For suppliers of capital goods and works who do not present their VAT-registered customers with a tax clearance certificate issued less than six months previously by the tax authorities, the VAT due in respect of taxable transactions is withheld by the customers. This withholding obligation does not apply to the state, local authorities, public establishments and other legal entities governed by public law.
- For VAT-registered service providers who have presented their customers with a tax clearance certificate issued less than six months previously, a withholding tax of 75% of the VAT amount is levied by:
  - The state, local authorities, and public establishments and companies and their subsidiaries, as well as other public bodies that pay the remuneration for the said services to taxable persons (individuals or legal entities).
  - Legal entities governed by private law that are taxable persons and individuals whose income is determined according to the real or standard taxable income (RNR) or simplified taxable income (RNS) systems (as per the two regimes of corporate income tax company taxable income calculations in Morocco), who pay the remuneration for the said services to taxable individuals.
  - In the absence of the certificate, withholding tax is applied at 100% of the VAT amount.

Among the operations covered by this obligation:

- Installation, fitting, repair or refurbishment operations
- Furnished or equipped premises leases and premises fitted out for business use, as well as premises in shopping malls, including intangible elements of the business, and premises not fitted out for business use acquired or built with the right to deduct or exempt from VAT
- Transport, warehousing, brokerage, leasing of goods or services, transfers and concessions to exploit patents, rights or trademarks and, in general, any provision of services
- Transactions carried out by natural persons or legal entities during their profession in the capacity of lawyer, interpreter, notary, adel, bailiff, architect, quantity surveyor, geometrician, topographer, surveyor, engineer, consultant, expert in any field, chartered accountant and veterinary surgeon

Digital economy. The Moroccan tax code states that any service used or rendered within the Moroccan territory is subject to Moroccan VAT. For digital services, the VAT rate applicable is 20%. As the services rendered by the provider will be used in Morocco, the operation will be subject to VAT in Morocco.

Nonresident providers of electronically supplied services for B2B supplies are required to appoint a tax representative to handle their VAT obligations (VAT returns filings and payments). If no tax representative is appointed, the customer (i.e., the Moroccan business) is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

Nonresident providers of electronically supplied services for B2C supplies are required to appoint a tax representative in Morocco to comply with VAT obligations and pay due VAT to the tax authorities on their behalf. If no tax representative is appointed, a nonresident provider is required register and account for VAT due on its supplies in Morocco.

There are no other specific e-commerce rules for imported goods in Morocco.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Morocco.

Registration procedures. When taxable persons apply for a registration, they must provide the following documents:

- *"Declaration d'existence"* a printed form delivered by the Moroccan tax administration (MTA) that includes, in addition to the corporate name of the non-established taxable person, the following information:
  Information regarding the non-established taxable person:
  - Name and place of the taxable person's registered office
  - Phone number of the registered office and, where applicable, that of the taxable person's main office in Morocco
  - The professions and activities carried on in each establishment and branch mentioned in the declaration
  - The location of all the taxable person's establishments and branches located in Morocco
  - Names, professions or activities and addresses of the natural or legal person resident in Morocco, accredited by the tax authorities
  - The indication, where applicable, of the option for flat-rate taxation in respect of corporate income tax

Information regarding the foreign provider's legal representatives (individuals):

- Last and first name of the legal representative(s)
- Function of the representative(s)
- Address
- City
- Copy of the contract signed by the non-established taxable person with the Moroccan client
- Representation letter signed by the non-established taxable person that allows the representative to collect, declare and pay VAT on its behalf
- Letter from the tax representative stating that it commits itself to fulfill VAT obligations of the non-established taxable person

The MTA usually provides the VAT ID certificate within one week.

The procedure above is applicable to non-established taxable persons. For resident taxable persons, a unique tax identification (VAT, CIT) is given upon the registration process of a taxable person in Morocco.

The VAT registration application (including the accompanying documents outlined above) must be submitted in hard copy, i.e., by paper to the tax authorities' office in Morocco (the address where the documents must be sent depends on which office the individual taxable person is allocated to).

Deregistration. Once the non-established entity ends its activities in Morocco and has appointed a tax representative, it is required to deregister from VAT. In practice, the deregistration process consists of sending a "deregistration letter" to tax authorities in which the non-established entity requests to be deregistered from VAT. The tax authorities do not provide a deregistration certificate.

Changes to VAT registration details. In the event of the head office transfer, the taxable person must notify the tax inspector of its new head office address, tax domicile or principal place of business by registered letter with acknowledgment of receipt or by delivery of the said letter against a receipt or by subscribing to a declaration established on, or according to, a model form of the MTA.

This declaration must be filed within 30 days of the date of the transfer or change. Failing this, the taxable person is notified and taxed at the last address known to the tax authorities.

In the event of a change in the VAT regime, taxable persons who wish to opt for the debit regime must make a written declaration before 1 January of the following year or, in the case of newly VAT-registered taxable persons, within 30 days of the date on which they started its activity. Aside from the changes outlined above, there is no requirement to notify the tax authorities for any other changes to a taxable person's VAT registration details in Morocco.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rates: 10% *(transitional reduced rates 8%, 11%, 12%, 13%, 16%)*
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

The 2024 Finance Law introduced a phased reform of VAT rates on certain products over a period of three years with the objective of converging toward two rates (10% and 20%) from 2026 onward. Transitional reduced rates will be increased or decreased in 2025 and 2026 to achieve either the 20% standard rate or the 10% reduced rate.

Per the changes of the 2024 Finance Law, the 7% and 14% rates have been phased out as follows:
- Downward adjustments – no changes for 2023, 2024, 2025, 2026
- Sale of electricity generated from renewable energy sources – 14% (2023), 12% (2024), 10% (2025), 10% (2026)
- Services provided to insurance companies by direct marketers or insurance brokers (contracts brought to the company by the direct marketer or broker) – 14% (2023), 12% (2024), 10% (2025), 10% (2026)
- Urban and road passenger and freight transport operations – 14% (2023), 13% (2024), 12% (2025), 10% (2026)
- Upward adjustments – no changes for 2023, 2024, 2025, 2026
- Refined or agglomerated sugar – 7% (2023), 8% (2024), 9% (2025), 10% (2026)
- Rental of electricity meters – 7% (2023), 11% (2024), 15% (2025), 20% (2026)
- Electric power – 14% (2023), 16% (2024), 18% (2025), 20% (2026)
- Passenger and freight transport (non-urban and non-road) – 14% (2023), 16% (2024), 18% (2025), 20% (2026)

Examples of goods and services taxable at 0%
(i.e., exempt with credit)

- Exported goods/services
- Goods placed under customs suspensive regime
- Fertilizers
- Machinery for exclusively agricultural use
- Investment goods recorded as fixed assets, acquired by taxable persons, for 36 months as from the start of the activity, excluding vehicles acquired by car rental agencies
- Pharmaceutical products
- Sales and deliveries of water for domestic use, sanitation services provided by sanitation organizations and water meter rental for the same use

Examples of goods and services taxable at 10%

- Petroleum products
- Banking transactions
- Hotel operations

- Restaurant operations
- Sales and delivery operations relating to art objects
- Edible fluid oils
- Solar water heaters and photovoltaic panels
- Sales and deliveries of water intended for public distribution networks, sanitation services provided by sanitation organizations and water meter rental operations not intended for domestic use
- Fishing gear and nets intended for maritime fishing professionals
- Economy cars and all products and materials used in their manufacture, as well as related assembly services

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services (i.e., exempt without credit)

- Sales, other than for consumption on the spot, of goods including fresh, frozen, whole or cut fish products
- Sales of recovered metals and water pumps that use solar energy or any other renewable energy used in the agricultural sector
- Services provided by insurance and reinsurance taxable persons
- Royalties and license fees included in the taxable amount for import VAT, up to the amount of VAT paid on importation in respect of these royalties and license fees
- School supplies and the products and materials used in their composition

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Morocco.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In Morocco, the "tax point" generally corresponds to the time when the payment is made.

The Moroccan tax code provides that the tax point is the date of cash receipt. After a taxable person receives cash for a taxable supply, the output tax becomes due, even if the cash received represents only part of the total outstanding amount for the goods or services provided.

The Moroccan tax code provides an optional regime under which VAT is due when the invoice is issued, or the transaction is booked in the accounts of the seller or service provider (whichever is earlier). However, if the payment precedes the invoicing, the time of payment constitutes the tax point.

Any taxable person that wants to use the optional system must file a declaration to the MTA before 1 January. A list of the taxable person's customers that sets forth the unsettled VAT for each of the customers must be attached to the declaration. Newly registered taxable persons must file the declaration within one month after the commencement of its activity.

Deposits and prepayments. A prepayment or deposit constitutes a tax point. As a result, the time of effective delivery of the goods or services is ignored for VAT purposes.

Continuous supplies of services. If services are received continuously but payment is made periodically, a tax point is created each time payment is made, unless the "debit system" is opted for (see the *Leased assets* subsection below for more detail) or a VAT invoice is issued, whichever is earlier. No specific regulation provides for the VAT treatment of continuous services.

Goods sent on approval for sale or return. The tax point for goods sent on approval is when the customer accepts the goods and a supply is made.

Reverse-charge services. The declaration and the payment of VAT to the tax authorities must be performed during the month following the payment of the non-established provider of services.

Leased assets. The time of supply for leased assets is the date of rent income cash collection. However, under the debit regime, the VAT is due when the rent income is booked in the accounts of the owner/lessor.

The following types of leases are not subject to VAT:
- Rental of unfurnished premises, whether or not intended for professional use
- Rental of equipped premises that does not exceed MAD500,000

The following types of leases are subject to VAT:
- Furnished premises
- Premises that are equipped for professional use
- Non-equipped premises for professional use acquired with input tax deduction or exemption
- Premises located in commercial complexes (malls)
- Machines
- Vehicles

Imported goods. VAT on imported goods is due at the time of customs clearance.

F. Recovery of VAT by taxable persons

Input tax is VAT charged on goods and services acquired by a taxable person for taxable purposes. A taxable person generally recovers input tax by deducting it from output tax (VAT charged on supplies made). Input tax consists of VAT charged on goods and services purchased in Morocco and VAT paid on imports of goods. An input tax credit means that where input tax exceeds output tax in the same period, this generates a VAT credit in the VAT return for the taxable person.

The time limit for a taxable person to reclaim input tax in Morocco is one year (12 months). The right to deduct arises in the month in which the customs receipts are issued, or the invoices or statements issued in the name of the beneficiary are paid in full. This right must be exercised within a period not exceeding one year, starting from the month or the quarter of the start of the said right.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes and that are considered to be nondeductible expenses for corporate tax purposes (for example, goods acquired for private use by an entrepreneur). VAT charged on purchases, works or services, where the amount exceeds MAD5,000 per day and per supplier and MAD50,000 per month and per provider, is not recoverable unless a settlement is made by a check, bill of exchange, magnetic means of payment, bank transfer, electronic process or by compensation.

Examples of items for which input tax is nondeductible

- Goods and services not related to the business requirements
- Transport cars not used for the business needs
- Petroleum products not used as fuel
- Water pumps that run on solar energy or other renewable energy used in the agricultural sector

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchases and services related to a business use
- Transport cars of a business use

Partial exemption. Input tax deduction is granted for taxable supplies and for supplies that are exempt with a right to deduct. If a taxable person makes both taxable supplies and exempt supplies without credit, it may recover only input tax related to supplies that are taxable or exempt with a right to deduct.

The portion of deductible input tax is calculated as follows:
- In the numerator, the amount of turnover taxable and exempt with credit
- In the denominator, the numerator amount increased by the amount of turnover from transactions exempt without credit or transactions out of VAT scope

Approval from the tax authorities is not required to use the partial exemption standard method in Morocco. Special methods are not allowed in Morocco. The taxable person is required to comply with the calculation method as defined by the tax provisions in force (refer to the calculation details above).

Capital goods. Taxable persons may offset input tax incurred on purchases of fixed assets (non-capital expenses) against output tax on the same month's VAT return. No specific rules apply for the input tax recovery for capital goods. In cases when capital goods are used for both taxable and nontaxable activities, the portion of VAT that can be offset is determined as detailed in the previous section. Capital goods are defined as production tools that aim to create wealth within the business for a period of use of more than one year.

The basis of input tax calculation is the acquisition cost, which is calculated as follows:
- The purchase price plus customs duties and other non-recoverable taxes and duties, less trade discounts obtained and taxes legally recoverable
- Related ancillary purchasing expenses such as transports, transit costs, hospitality expenses, insurance – transport excluding legally recoverable taxes

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in the same period, a refund is not generally granted. In most cases, the taxable person must carry the excess forward to a future VAT period. Refunds of the excess are generally only available with respect to the following VAT:
- VAT incurred on supplies of exported goods except for recycling metals (ferrous and nonferrous)
- VAT incurred on supplies of goods and services that are exempt with a right to deduct
- VAT incurred on purchases of equipment goods (fixed assets)
- VAT incurred on purchases of other assets except office equipment and certain passenger transport vehicles
- VAT incurred on financial leasing activities

Pre-registration costs. Input tax incurred on pre-registration costs in Morocco is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Morocco, when the client is defaulting, except when the loss is justified through a complete judicial remedy.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Morocco.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Morocco is not recoverable.

H. Invoicing

VAT invoices. Moroccan taxable persons must provide VAT invoices for taxable supplies, including exports, made to other taxable persons. Recipients of supplies must maintain copies of invoices.

Credit notes. Credit notes must be issued with VAT included. These are generally issued in cases of return of goods or products to the supplier; additional commercial/financial discounts; billing error to the advantage of the customer, etc. No specific conditions apply in Morocco to credit notes.

Electronic invoicing. Electronic invoicing is allowed in Morocco, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Morocco. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Morocco. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, in case of a VAT refund request, the MTA requires the original invoice in hard-copy format, including the company stamp. If taxable persons issue electronic invoices, then they must use an electronic billing system connected to the central billing station of the MTA.

Simplified VAT invoices. Simplified invoices are not allowed in Morocco. Full VAT invoices are required. However, see the *Supplies to nontaxable persons* subsection for more detail.

Self-billing. Self-billing is not allowed in Morocco.

Proof of exports. Moroccan VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence confirming that the goods have left Morocco. The evidence required is the customs declaration, which must clearly identify the exporter, the customer, the goods and the export destination; and it must provide invoice information.

Foreign currency invoices. A VAT invoice for a domestic supply is generally issued in the domestic currency, which is the Moroccan dirham (MAD). VAT based on the applicable VAT rate must be shown on the invoice. It is possible to issue a VAT invoice in a foreign currency. This is, however, not allowed for supplies made to a resident business, (generally, VAT is invoiced in foreign currency if it is invoiced to a non-established business).

Supplies to nontaxable persons. For supplies to nontaxable persons (i.e., private individuals), the receipt may be used as an invoice. Such receipt must include at least the following information:
- The date of the operation
- The identification of the seller or service provider
- The description of the product or service
- The quantity and selling price, with an indication, where applicable, of the VAT

Records. In Morocco, examples of what records must be held for VAT purposes include duplicates of sales invoices or sales receipts; supporting documents for expenses and investments; accounting documents required for the tax audit (in particular, the books on which the operations were recorded); the general ledger; the inventory book (the detailed inventories if they are not copied in full to this book); the journal book; and the customer and supplier files; as well as any other document provided by the legislation or regulations in force.

In Morocco, VAT books and records can be held outside of the country. While there is no provision in the Moroccan VAT law outlining where the records should be held, in practice, records may be held in or outside of Morocco. However, wherever the records are held, in the case of a

tax audit, the taxable person must be able to present such records to the tax inspectors in a timely manner.

Record retention period. Accounting records must be kept for no less than 10 years.

Electronic archiving. Electronic archiving is allowed in Morocco. Electronic archiving must allow the tax authorities to extract the documents as requested.

I. Returns and payment

Periodic returns. The filing of VAT returns may be on a monthly or quarterly cycle based on certain criteria.

The following taxable persons must file monthly VAT returns:
- Taxable persons that had taxable turnover during the preceding year of MAD1 million or more
- Non-established persons that carry out taxable activities in Morocco

The following taxable persons must file quarterly VAT returns:
- Taxable persons that had taxable turnover during the preceding year of less than MAD1 million
- Taxable persons operating through seasonal establishments, practicing periodic activities or carrying out occasional activities
- New taxable persons in their first calendar year of activity

The above taxable persons can opt for the monthly declaration system by filing a request with the MTA before 31 January.

Taxable persons under the tele-declaration and tele-payment system must file VAT returns within one month after the end of the relevant month or quarter.

Other taxable persons must file their VAT returns before the 20th day of the month following the relevant month or quarter.

Periodic payments. Taxable persons under the tele-declaration and tele-payment system must make VAT payments within one month after the end of the relevant month or quarter.

Other taxable persons must pay VAT due before the 20th day of the month following the relevant month or quarter.

Electronic payment of VAT due is mandatory for all taxable persons, regardless of the turnover performed. Electronic payment is made online through the portal of the Moroccan tax department (simpl-tva.tax.gov.ma).

Electronic filing. Electronic filing is mandatory in Morocco for all taxable persons. This is regardless of the turnover performed and is carried out through the MTA's platform ("SIMPL").

Payments on account. Payments on account are not required in Morocco.

Special schemes. *Debit regime.* An optional method allows a taxable person to declare output tax upon invoice issuance or accounting record. Input tax under such system remains recoverable at cash payment.

Margin regime. Travel agencies that carry out purchase and sale operations of travel services used in Morocco are subject to the margin regime. The margin is determined by the difference between, on the one hand, sums collected by the travel agency and invoiced to the beneficiary of the service, and on the other hand, the total expenses, including VAT, invoiced to the agency by its suppliers.

In addition, the sale and delivery of secondhand goods by taxable persons are subject to VAT on the margin in case the goods were initially purchased from a nontaxable person (i.e., not registered for VAT). The taxable basis is determined by the difference between the sale price and the purchase price under certain conditions.

Annual returns. Annual returns are not required in Morocco.

Supplementary filings. *Input tax on petroleum supplies.* Input tax incurred on petroleum products, which is claimed by a taxable person, must be reported in a special VAT return. Such supplies must be reported:
- Gasoline used for the operating requirements of vehicles of collective road transport of persons and goods and road transport of goods carried out by taxable persons on their behalf and by their own means
- Gasoline used for the operating needs of rail transport of persons and goods
- Gasoline and kerosene used for air transport purposes

Correcting errors in previous returns. Corrective returns can be filed voluntarily online through the electronic filing system. The corresponding penalties are calculated automatically. Such penalties are charged at 10% (5% if payment is made in a delay of less than 30 days) for late payment of tax due, plus 5% late payment interest for the first month of delay, and 0.5% late payment interest per additional month of delay. No supporting documents or letter explaining the corrections is required to be submitted to the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Morocco.

J. Penalties

Penalties for late registration. Late filing of the statement of corporate existence (*Declaration d'existence*) is subject to a penalty of MAD1,000. Besides, VAT due for the period preceding registration results in late filing and payment penalties.

Penalties for late payment and filings. In case of late filing of the VAT return beyond the deadline:
- 30 days within the deadline: 5% penalty
- Beyond 30 days following the deadline: 15% penalty

In the case of tax reassessment procedure due to lack of filing, the above penalty is increased up to 20%. In the case of a tax audit, the applicable penalty is increased up to 30%.

In the case of a tax audit, the applicable penalty is increased up to 30%.

If no VAT is due, the penalty equals MAD500. In case of late payment of VAT due:
- A penalty of 20% on the VAT amount due
- Additional 5% penalty in case of late payment within the first month and 0.50% per additional month (or fraction of month)

If the VAT declaration provides that no tax is due, but shows a VAT credit, a fine of 15% will be applied on the VAT credit of the period concerned with a minimum of MAD500.

Penalties for noncompliance with input tax recovery deadline. In case of recovery of input tax after the one-year period, a fine of 15% will be applied on the corresponding input tax, with a minimum of MAD500.

An increase of 1% is applicable on the VAT due or that would have been due in the absence of exemption, in case of noncompliance with the obligations of electronic filing and payment.

Penalties for errors. When the MTA identifies material errors in submitted returns, it will notify the taxable person by way of a letter, inviting the taxable person to submit a corrective return within 30 days as of the date of receipt of the said letter.

For late submission of a VAT return, a 5% surcharge applies. In case the rectification gives rise to payment of a supplementary tax, the additional penalties/surcharges apply:
- A 10% penalty
- A 5% surcharge for the first month of delay
- A 0.50% for each additional month or fraction of a month of delay

In the event of adjustment of the turnover for a fiscal year in the frame of a tax audit, a 30% surcharge is applicable, in addition to the abovementioned penalties and surcharges for late payment. The 30% surcharge is increased to 100% when the taxable person's bad faith is revealed.

As such, a fine equal to MAD50,000 per financial year is applicable to taxable persons who do not keep their accounting documents or copies thereof in electronic form for 10 years or failing that, in paper form.

Failure to comply with the VAT record-keeping requirements (as outlined above in the subsection *Records*) may result in a fine of MAD50,000 per year.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details (specifically a change in the details of the head office) may result in a penalty of MAD500. There is no specific penalty associated with late notification or failure to notify changes to a taxable person's VAT regime. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A fine equal to 100% of the amount of tax evaded shall be applicable to any person who has participated in maneuvers designed to evade the payment of tax or assisted or advised a taxable person in the execution of such maneuvers, regardless of disciplinary action if they perform a public function.

No implications are foreseen for tax advisors unless their direct involvement in the fraud is demonstrated.

Personal liability for company officers. In the event of noncompliance with VAT reporting and payment obligations, any person responsible for the financial or administrative management of the business or any beneficial owner of the amount of unpaid VAT remains jointly and severally liable, both directly and indirectly, for any tax due amount, as well as any penalties and increases arising therefrom.

Statute of limitations. The statute of limitations in Morocco is four years. Note that the four-year (calendar) time limit is the statute of limitation in respect of VAT, exceeding which the tax authorities cannot claim any VAT regularization (such as in the frame of a tax audit).

However, in case of a VAT credit carried forward, the MTA is entitled to audit four additional years. In such case, reassessments from these additional years shall not exceed the total VAT credit that were used during the audited period.

Mozambique

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposto sobre o Valor Acrescentado (IVA)
Date introduced	1 April 1999
Trading bloc membership	South African Development Community (SADC) Common Market for Eastern and Southern Africa (COMESA) African Continental Free Trade Area (AfCFTA)
Administered by	Mozambican Tax Authority [Autoridade Tributária de Moçambique (AT)] (http://www.at.gov.mz/)
VAT rates	
Standard	16%
Reduced	5%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXX (9 digits)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Mozambique by a taxable person
- The importation of goods from outside Mozambique

For VAT purposes, the Mozambican territory includes the land, the maritime zone and the air-space delimited by borders, comprising the areas where, under international law, the Republic of Mozambique has sovereign rights in relation to the prospecting, exploration and production of natural resources, the seabed, the subsoil and the suprajacent waters.

There are certain services for which the tax base for VAT purposes is reduced. This includes the supply of electricity and water (where the price is determined by the state regulator), and for the supply of basic infrastructure public works. For such supplies, VAT is only charged on 60% (basic infrastructure public works), 62% (electricity) and 75% (water) of the invoice amount billed.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Mozambique the following services are subject to the "use and enjoyment" provisions [for both business-to-business (B2B) and business-to-consumer (B2C) supplies]:

- Provision of services related to immovable property located in the Mozambican territory, including those in which its object is to prepare or coordinate the execution of real estate works and the provision of experts and real estate agents
- Works realized in respect to tangible movable assets, and expert reporting works in respect to the same, fully, or partially executed in the national territory
- Transport, for the distance traveled within the national territory

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Mozambique, transfers (onerous or not) of all or part of the assets of a company, which are likely to constitute an independent activity (going concern) are not taxable for VAT purposes, when the acquirer is or will be a taxable person that only carries out transactions that confer the right for deduction of the VAT.

Transactions between related parties. Although the VAT Code does not foresee special rules for transactions between related parties, as per the Corporate Income Tax (CIT) Code and transfer pricing regulations, transactions between related parties should observe the arm's-length principle. This principle is also applicable to VAT by virtue of a general rule that gives the possibility for the tax authority to correct the value of the transaction when it deviates from the market price.

C. Who is liable

A taxable person is required to account for output tax on all goods and services supplied in Mozambique unless the supply is specifically exempted by the VAT law. A taxable person is a business entity or individual liable to VAT, and includes the following:

- The state, except if those activities are not carried out in a significant manner (including telecommunications, water, gas and electricity distribution, transport, ports and airports, TV and radio, etc.)
- Importers
- Any person carrying on an economic activity on an independent and regular basis
- Any person carrying on an operation on an occasional basis
- Nonresidents carrying on operations
- Any person who unduly charges VAT on an invoice

Mozambique does not impose a VAT registration threshold. Instead, a business is required to register for all taxes, including VAT, before commencement of any activities.

Exemption from registration. The VAT law in Mozambique does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Mozambique does not contain any provision for voluntary registration, nor special VAT registration rules for small businesses. Tax (including VAT) is a single registration and is mandatory for all taxable persons before commencement of any activities. However, taxable persons may choose to register under the VAT exemption or simplified regimes according to their annual turnover amount. For further details, see the *Special schemes* subsection below under Section I. *Returns and payment.*

Group registration. Group VAT registration is not allowed in Mozambique.

Fixed establishment. There is no VAT legal definition for fixed establishment and thus the permanent establishment (PE) definition for CIT purposes applies. If the conditions for the creation of a PE are met, the taxable person is required to register for tax in Mozambique, which also includes VAT. A PE for CIT purposes is defined as a fixed premise through which a commercial, industrial or scientific activity is undertaken, including the rendering of services.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Mozambique. A non-established business that makes taxable supplies of goods or services in Mozambique is liable to Mozambican VAT and required to register and account for VAT in Mozambique. However, they must appoint a tax representative to register and account for VAT in Mozambique. The compliance of the non-established business's tax obligations is carried out via a tax representative.

Tax representatives. A non-established business must appoint a tax representative to comply with its VAT obligations in Mozambique. Where a non-established business fails to appoint a tax representative in Mozambique, the tax obligations will automatically fall on the purchaser of the goods or the recipient of the services via the reverse-charge mechanism (see the *Reverse charge* subsection below). Any Mozambique resident taxable person may be appointed as tax representative.

Reverse charge. Non-established businesses that make taxable supplies are required to appoint a tax representative in Mozambique to comply with its VAT obligations and pay any VAT due to the tax authorities on their behalf. In case the non-established business does not appoint a tax representative, the reverse-charge mechanism applies on the supply of taxable services. This mechanism provides that, in case a tax representative is not appointed, the Mozambique resident customer, who is also a taxable person (i.e., a B2B supply) is required to account and pay the VAT on behalf of the supplier, using its own VAT ID number. In other terms, although VAT registration is mandatory, in case the non-established taxable person fails to appoint a tax representative, the VAT obligation is shifted to the Mozambique customer, who must then self-account for the VAT due.

The reverse-charge mechanism does not apply to all supplies, but only applies to the following services:

- Transfers and assignments of copyrights, patents, licenses, trademarks and similar rights
- Advertising and telecommunications services
- Services by consultants, engineers, consultancy bureaus, lawyers, accountants and other similar services, as well as data processing and supply of information
- Placement of staff/seconded staff and services of intermediaries that act on behalf of other persons in providing the services listed above

Domestic reverse charge. There are no domestic reverse charges in Mozambique.

Digital economy. There are no specific rules relating to the taxation of the digital economy. General VAT rules apply. Non-established businesses that provide electronically supplied services are required to appoint a tax representative to account for VAT in Mozambique. Failure to appoint a representative, results in the local customer requiring to self-account for the VAT via the reverse-charge mechanism. This applies for both B2B and B2C supplies. The customer must self-account for the VAT under the reverse-charge mechanism. See the *Reverse-charge* subsection above.

The following services provided by non-established businesses are examples of supplies within the digital economy, and subject to VAT via the reverse-charge mechanism:
- Supply of websites, web pages, remote maintenance of programs and equipment
- Software supply and updates
- Supply of image, text, information and databases
- Supply of movies, music, online gambling, political, cultural, artistic, sporting, scientific and recreational emissions or manifestations
- Online learning
- Other similar services

There are no other specific e-commerce rules for imported goods in Mozambique.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Mozambique.

Registration procedures. Taxable persons must submit application form (Modelo 01/C) and a declaration of commencement of activities for tax purposes (M/02), to obtain and activate their tax number. The application form must be manually filled out and submitted at the tax department of the area where the taxable person is established. There is no deadline for the registration of the business for tax, but the declaration of commencement of activities must be submitted 15 days prior to commencement of activities. It normally takes around two days for the VAT registration process to take place and for a VAT registration number to be issued to the taxable person.

Deregistration. Deregistration is carried out when a taxable person ceases taxable activity and submits application form (Modelo 03) in paper at the tax department where it complies with its tax obligations. The deregistration form must be submitted along with the final tax returns and final accounts with reference to the cut-off date. The submission of the cessation of activities form must be done within 30 days from the date of cessation of activities or the date on which the income ceased to be earned.

The deregistration process generally takes one to three years and usually involves a tax audit.

Changes to VAT registration details. If there is a material change in a taxable person's VAT registration details, it must notify the tax authority as soon as the change takes place. Material changes may include the following:
- Name of business
- Address
- Business activity
- Contact details
- Use of any special VAT regime

The notification must be made via form M/01C. As per the VAT registration, the form is to be submitted in paper at the tax department where the taxable person complies with its tax obligations.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 16%
- Reduced: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Exports, associated services and international transport
- Supplies and services to vessels and aircraft in international transport
- The transfer, freight or rental of passenger vessels or vessels undertaking a commercial, industrial or fishery activity at high sea, maritime assistance and coastal fishing
- Basic food stuffs, including maize, maize flour, rice, bread, iodized salt, powdered milk for infants up to one year old, wheat, wheat flour, fresh or chilled tomatoes, potatoes, onions, frozen horse mackerel, lamp oil, domestic gas-LPG, jet fuel, ordinary bicycles, condoms and insecticides
- Transfers of goods and services carried out in the agricultural activity of sugar cane production and destined for the industrial sector, subject to certain conditions *(in effect until 31 December 2023)*

Examples of goods and services taxable at 5%

- Medical health care services and related operations by private entities
- Teaching/training services and related, as well as the transfer of goods by private entities
- Services consisting of personal lessons on school or higher education subjects

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Banking, financial, insurance and reinsurance services, which are subject to stamp duty
- Rental of property for residential purposes
- Transfer of goods within the scope of agricultural, forestry and fishery activities
- Transfer of goods for the disabled
- Medical, sanitary, waste removal, educational, funeral and ambulance transport services education and related goods by public institutions
- Nonprofit organizations or public entity services and goods (including social assistance, sports and cultural activities, guide services at museums and state-owned parks)
- Services by the state or nonprofit entities cultural, educational or technical newspapers, magazines and books
- Supply of staff by religious or philosophical entities
- Sugar and certain sugar industry products
- Transmission of cooking oil and soap and the respective goods resulting from related activities (*in effect until 31 December 2023*)
- Gaming and betting
- Transmission of iron bicycles up to four speeds
- Services of garbage removal service when carried out by private entities contracted by public entities
- Transfer of production factors of solar panels for rural electrification, included in the Customs Tariff Schedule and detailed in Annex IV, which is an integral part of the VAT Code *(until 31 December 2025)*

Option to tax for exempt supplies. It is possible to waive the VAT exemption for the supply of transfer of goods within the scope of agriculture, forestry and fishing activities. Taxable persons who intend to waive the VAT exemption are required to submit a declaration to the tax authorities.

Once accepted, the waiver should take effect from 1 January of the following calendar year (making all subsequent supplies taxable at the standard rate), and it is mandatory to remain under this regime for five years.

E. Time of supply

The time when VAT becomes due is called the "time of supply." In general, the time of supply for goods and services supplied by a taxable person is the earliest of the following events:
- The date of issuance of the invoice by the supplier
- The date on which any consideration is received for the supply
- The date on which the goods are made available to the recipient or the services are performed

An invoice must be issued before the fifth business day following the time of supply.

Deposits and prepayments. In case of prepayments or advance payments (i.e., deposits) prior to the issuance of the invoice, the time of supply is the date on which the consideration is received. There is no different treatment for the supply of goods, provision of services, refundable or non-refundable amounts.

Continuous supplies of services. The time of supply for continuously supplied services is the end of each period in which each the payment is due.

Goods sent on approval for sale or return. The time of supply for the supply of goods sent on approval for sale or return is when the customer accepts the goods, and a supply is made. This is on the basis that the goods are not returned to the supplier within 180 days from the date the sale took place.

Reverse-charge services. There are no special time of supply rules in Mozambique for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The supply of a financial lease is not subject to VAT (i.e., exempt), and as such, there is not time of supply rule. The supply of an operating lease follows the general rule of contracts with regular ongoing payments, and as such, the time of supply (i.e., when VAT is due) is at the end of each invoicing period.

Imported goods. The time of supply for imported goods is at the time of customs clearance.

Cash accounting. For supplies made under the cash accounting special regime, VAT is due and payable to the tax authorities regardless of whether payment of the supply has been received by the customer. There are no special time of supply rules in Mozambique for supplies made under the cash accounting regime. As such, the general time of supply rules apply (as outlined above). This is regardless of if payment for the supply has been settled or not.

Conversely there is a special regime applicable to public work in which the customer is the government, where taxable persons are only required to pay the VAT due once they receive payment from the government. The time of supply for supplies of public work is the time of payment of the invoice by the public entity.

F. Recovery of VAT by taxable persons

A VAT-registered person may recover input tax (that is, VAT charged on goods and services supplied to it for business purposes) by deducting it from output tax (VAT charged on supplies made) provided the VAT-registered person is in possession of a valid tax invoice and within 90 days from the issuance of the invoice.

The taxable person can apply for a refund of outstanding input tax, subject to certain conditions. See the *Refunds* subsection below.

Input tax includes VAT charged on goods and services supplied in Mozambique and VAT paid on the importation of goods.

The time limit for a taxable person to reclaim input tax in Mozambique is 10 years. This is counting from the time that the credit starts.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes, as well as by taxable persons that undertake VAT exempt activities (e.g., banking supplies). VAT included on invoices that do not meet the legal requirements is also not deductible. In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Light passenger vehicles, recreational boats, helicopters, aircrafts and motorcycles
- Business expense trips
- Fuel used for cars and 50% of diesel fuel (diesel for tractors used for farming purposes and large vehicles transporting passengers and goods is fully deductible)
- Telephone communication costs (e.g., mobile phones), except if related to fixed line telephones in the name of the taxable person
- Entertainment, food, drink and tobacco and accommodation for individuals not connected to the business
- Luxury and entertainment expenses
- Tax paid on transfer of goods and services is subject to taxation at the reduced rate of VAT

Examples of items for which input tax is deductible (if related to taxable business use)

- Acquisition of goods and services, and importation of goods
- Tax paid as beneficiary of taxable operations by non-established taxable persons, in cases where they do not have a legal representative and have not invoiced the tax
- Sale of light passenger vehicles, recreational boats, helicopters, aircrafts and motorcycles in the scope of its social object/business activity
- Repairs, maintenance and other provision of services related to secondhand goods
- Accommodation and food expenses incurred by independent professionals on their own account
- Telephone communication costs (landline)

Partial exemption. Input tax directly related to exempt supplies of goods or services is not generally recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full, as some costs are eligible for deduction, and some are not. This situation is referred to as "partial exemption."

Where a taxable person makes taxable and exempt supplies, it will not be allowed to deduct the VAT incurred on the acquisition of goods and services related to exempt activities (unless it formally renounces/waives exemption) but could be allowed to deduct the VAT incurred on acquisitions made in the scope of non-exempted (i.e., taxable) activities.

The method used for the partial deduction by default is pro rata, where the VAT paid on acquisitions would be deductible only in the percentage corresponding to the annual turnover of the previous year (provisional deduction, then subject to adjustments based on the sales performed in the respective year) resulting from the transactions that are eligible for deduction (not exempted).

Alternatively, the taxable person may formally request the tax authorities an authorization to perform deductions based on the direct allocation method, for deduction of the total tax paid on goods and services used for activities subject to VAT.

Approval from the tax authorities is not required to use the partial exemption standard method in Mozambique. Special methods are not allowed in Mozambique.

Capital goods. In Mozambique there are no special input tax recovery rules for capital goods. The normal rules outlined above apply. Capital goods are not defined in the VAT law. Input tax incurred on capital goods is deducted in the same way as any other purchase. If the taxable person makes both exempt and taxable supplies, the pro rata deduction method applies, and this is for all inputs and not per item/asset. See the *Partial exemption* subsection above.

Refunds. Taxable persons may apply for refund of outstanding VAT credit provided the following requirements are met:

- The taxable person still has a credit of more than MZN100,000 after four months subsequent to the tax period in which the credit arose
- The business is changed to exclusively undertake transactions that do not give rise to the right of deduction, or an election is made for a taxation regime different from the normal taxation regime
- The tax credit exceeds MZN500,000 considering sequentially the credits in the current year
- The tax credit exceeds MZN20,000 if requested by exporters (upon the presentation of a guarantee, as well as other supporting documentation)
- Should the taxable person have a credit for more than 12 months in relation to the tax period in which the credit arose, it must request at least 50% of the VAT credit accrued

The application for the refund is made by paper with the submission of the VAT return, together with the presentation of the following supporting documents:

- Copies of the VAT returns resulting in the credit being claimed
- Supplier's statement (this is a list of suppliers prepared by the taxable person, outlining details of its suppliers, including name, tax number, address, invoice number, date, description, amount, etc.)
- Copies of the monthly balance sheets related to the period of credits
- DU (unique document) for importations
- Goods shipping proof, for international transportation services
- Copies of the service agreements

By law refund claims should be made within 30 days from the initial request. However, in practice, refund claims do not take less than four to six months to be processed, and in many cases take several years.

Pre-registration costs. Input tax incurred on pre-registration costs in Mozambique is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Mozambique. A taxable person is entitled to claim the unpaid output tax by way of a special judicial process of execution, insolvency or bankruptcy.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Mozambique.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Mozambique is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a full VAT invoice for all taxable supplies made to registered taxable persons. A tax invoice is necessary to support a claim for input tax recovery. A tax invoice must include such particulars as prescribed by the VAT Act.

Full VAT invoices must be issued by resident taxable persons, issued in duplicate, in the local language (Portuguese) and local currency [Mozambican Metical (MZN)].

Duplicate means an original and a copy. All taxable persons, including non-established businesses, are required to issue full VAT invoices. The difference is that the invoice issued by a non-established business is not required to be in line with the local requirements. Based on that invoice, the tax representative would issue a debit note to the Mozambique client for the VAT amount. For supplies subject to the reverse-charge mechanism, the Mozambique domestic customer of the services will self-assess and account for the VAT from the invoices received from the non-established business.

Credit notes. A registered taxable person may issue a debit or credit note in circumstances including, but not restricted to, the following: to reflect an alteration in the supply or correction of the tax rate that was applied, correction of the terms of a transaction or a return of goods or services to the supplier, etc. An explanation is required to be indicated on the debit or credit note for its issuance. Credit and debit notes must contain broadly the same information as a tax invoice. The supplier can only adjust the amended output tax if it has written confirmation from the customer acknowledging the VAT adjustment.

Electronic invoicing. Electronic invoicing is allowed in Mozambique, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Mozambique. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Mozambique. There is no limitation in respect of the type of taxable persons (with the exception of the ones registered under the simplified regime) that are eligible for the electronic invoicing.

Invoices may be computer generated or printed. It is only allowed provided that the invoicing software has been approved by the tax authorities (this covers both the invoice template and software for computer-generated invoices). Preprinted invoices should be printed by authorized entities.

The requirements related to electronic invoicing are the same as those for paper invoicing. There are currently no separate requirements for the format of electronic invoices; however, they must contain the relevant information as required for a normal VAT invoice, and the original invoice should be available in case the tax authority requests it.

Simplified VAT invoices. For certain supplies, payment slips/receipts can be issued instead of full VAT invoices. Such documents must be printed and numbered by printers or tax devices authorized by the tax authorities. For further details, see the subsection *Supplies to nontaxable persons* below.

Self-billing. Self-billing is not allowed in Mozambique.

Proof of exports. VAT is levied at the zero-rate on supplies of exports (i.e., no VAT is charged). To qualify as zero-rated, exports must be supported by evidence that the goods have left Mozambique. Suitable documentary evidence includes the single customs document, or a statement issued by the purchaser confirming the destination of the goods being supplied.

Foreign currency invoices. All invoices issued by Mozambique residents and established taxable persons must be issued in local currency and language (Portuguese). For non-established businesses, invoices may be issued in a foreign currency. However, the amounts must be converted to the domestic currency, which is the Mozambican Metical (MZN), for VAT reporting purposes (i.e., in the VAT return). The conversion must be made using the Bank of Mozambique weighted average exchange rate, which can be found on the bank's website (https://www.bancomoc.mz/).

Supplies to nontaxable persons. For supplies made to nontaxable persons, a VAT-registered supplier is not required to issue full VAT invoices. Instead, they are required to issue payment slips/receipts printed and numbered by printers or tax devices authorized by the tax authorities. Dispensation from invoicing applies to the transactions listed below whenever the customer is a private customer (i.e., B2C supply) that does not use the goods and services for the undertaking of a commercial or industrial activity and the payment is made in cash:

- Retailers or ambulant vendors (i.e., street vendors)
- Sales by means of automatic distribution devices
- Rendering of services for which it is common that an entry or transport ticket, ticket or any other bearer issued document is issued proving payment
- Other services whose value is lower than MZN100

For supplies to nontaxable persons, if the customer requests a full VAT invoice, then the supplier is required to issue it. Also, if the recipient of the goods or services is not the final consumer, then a full VAT invoice is still required, but retailers and service providers may issue an invoice with the price with VAT includes.

Records. Registered taxable persons are required to keep accounts and records that evidence all active and passive transactions and fixed assets, as prescribed by the VAT Act and local accounting rules. In Mozambique, examples of what records must be held for VAT purposes include VAT returns and records (e.g., financial statements, trial balance, invoices, etc).

In Mozambique, VAT books and records can be kept outside of the country. However, it is mandatory for a taxable person that has its registered headquarters, permanent establishment or tax representative based in Mozambique, to hold its records in Mozambique.

Record retention period. Registered taxable persons must keep books and records for at least 10 years from the end of the taxable period to which they relate.

Electronic archiving. Electronic archiving is not allowed in Mozambique. All records must be held in paper and for a period of 10 years from the end of the taxable period to which they relate.

I. Returns and payment

Periodic returns. The VAT reporting period is monthly. Returns must be filed together with payment of the VAT due.

Returns must be filed by the end of the following month. For returns with a VAT credit position, returns must be filed by the 15th day of the following month.

Periodic payments. Any VAT due must be paid together with submission of the return, i.e., by the end of the following month. Payment of VAT can made via account deposit in person (i.e., cheque or cash into the tax authorities bank account), or wire transfer.

Electronic filing. Electronic filing is allowed in Mozambique, but not mandatory. An electronic filing platform has recently been implemented in Mozambique by the tax (https://edeclaracao.at.gov.mz/). *At the time of preparing this chapter, the electronic filing platform is not available for all taxes, but it is allowed for VAT. Taxable persons still have the option to file returns manually, i.e., by paper.*

Payments on account. Payments on account are not required in Mozambique.

Special schemes. *Exemption regime.* The exemption regime allows certain taxable persons to not charge and account for VAT on their supplies and cannot recover input tax incurred on their purchases. This regime is optional for taxable persons that do not have, or are not obliged to maintain, organized statutory accounts; are not involved in imports or exports and have an annual turnover that does not exceed MZN750,000.

Simplified regime. The simplified regime allows certain taxable persons to only charge VAT at 5% on their supplies and cannot recover input tax incurred. This regime is optional for taxable persons that do not have, or are not obliged to maintain, organized statutory accounts; are not involved in imports or exports and have an annual turnover higher than MZN750,000 but not exceeding MZN2.5 million.

Mining, oil and gas sectors. Mining, oil and gas companies, as well as public projects funded by development agencies may benefit from a special VAT certificate and voluntary regularization regimes. The special regimes allow suppliers to charge VAT on their invoices as per the requirements of the VAT Code. The customer is then only required to pay the invoice net of VAT and deliver to the supplier the VAT certificate for the VAT amount. The special VAT certificate is issued by the General Directorate of Taxes on request.

Annual returns. Annual returns are not required in Mozambique.

Supplementary filings. No supplementary filings are required in Mozambique.

Correcting errors in previous returns. If a taxable person discovers an error or an omission from a previous periodic declaration, this can be corrected through the submission of a substitution return. The correction can be made either by paper or online. Where the original VAT return for the period has a VAT refund credit, the credit for that specific tax period is suspended until confirmed by the tax authorities. In this case the following documentation must also be submitted:

- Copy of the VAT returns that relate to the credit
- A written note explaining the credit for the total period to which the credit relates, the type of transaction(s) undertaken, identification of the taxable person and base of incidence of the tax

Digital tax administration. There are no transactional reporting requirements in Mozambique.

J. Penalties

Penalties for late registration. A taxable person who fails to register is liable to a penalty between MZN3,000 and MZN260,000. The range is provided by the legislation and the graduation of the fine depends on the discretionary power of the tax authority based on the seriousness, intention, economic situation of the taxable person and amount of VAT payable. In general, the lower fine is applied, unless the offense is recurring.

Penalties for late payment and filings. A taxable person who fails to file a VAT return by the required due date is liable to a penalty between MZN6,000 and MZN130,000. In addition, a fine between the amount of the tax due and its double may also apply, which is reduced up to 10% in case of voluntary disclosure. In addition to the fine and tax due, there is also interest for late payment, which is calculated based on the Maputo Interbank Offered Rate (MAIBOR) (12 months plus 2%). *At the time of preparing this chapter, the MAIBOR has been abolished by the Central Bank, but the tax law has not been updated with this change.*

Where a taxable person fails to self-assess and pay across any outstanding VAT due, the tax authorities may proceed with a tax assessment. This assessment is based upon the VAT returns submitted in the previous months. If the taxable person fails to pay the VAT assessed or to object, within the established deadline, proceedings for coercive collection of the tax are triggered.

Penalties for errors. Errors and omissions that are not corrected by the taxable person within the legal deadlines (i.e., within one year, subject to penalties, and within the tax period following that in which the invoice was issued, without penalties) are subject to additional assessment by the tax authorities in line with the penalties outlined above under the *Penalties for late payment and filings* subsection.

Failure to notify, or late notification to the tax authorities of changes to a taxable person's VAT registration details could result in a penalty varying from MZN3,000 to MZN14,000. In addition, it could have other implications, such as impediment of the tax authority to notify the taxable

business, cases in which the lack of delivery of the notification could not be imputed to the tax authority, which means the notification would be considered as delivered, unless the taxable person proves that it has communicated the change of address to the tax authority. For further details, see the subsection above *Changes to VAT registration details* above.

Penalties for fraud. In addition to the penalties outlined above, there are also several types of VAT fraud offenses and crimes that are regulated and penalized by the tax legislation, as follows:

- Fraud is a tax crime subject to a fine varying form MZN30,000 to MZN500,000, and its recurrence may also result in a two-year imprisonment.
- Qualified fraud is subject to a fine varying from MZN100,000 to MZN3.5 million and two to eight years imprisonment.
- Tax breach of trust (e.g., nonpayment of withheld tax) is subject to a fine varying from MZN15,000 to MZN300,000. If the tax due is greater than MZN500,000, the fine will vary from MZN500,000 to MZN3 million.
- Refusal or obstruction of a tax audit procedure is subject to a fine varying from MZN25,000 to MZN350,000. Recurrence may result in two years imprisonment.
- Damage, omission and disposal of patrimony, with the intention to not satisfy tax debts is subject to a fine varying from MZN30,000 to MZN450,000 and one year imprisonment.

Tax offenses include transgressions, contraventions and crimes. The sanctions are determined on the basis of the illegality of the fact and the willful conduct, which include intensity of the willful conduct or negligence. Gross negligence or willful conduct would fall under fraud in the first bullet point above, which is defined as someone:

- Who hides or amends amounts that may be contained in accounting records or tax returns presented or provided for the tax authorities to inspect or determine the tax situation
- Hides facts or situations that should be revealed to the tax authorities
- Simulates a transaction

Those who are accomplices or cover the above are also subject to criminal charges.

Personal liability for company officers. Company directors, managers and persons that perform a managing/administration function are jointly liable for the penalties such as payment of fines. The covering and being an accomplice of the tax crimes stated above are also penalized as per the Criminal Code (e.g., imprisonment).

Statute of limitations. The statute of limitations in Mozambique is five years. The tax authority has the prerogative to audit/correct the returns for a limit of five years. Taxable persons may voluntary correct errors on the returns through substitute returns until the following period without penalties, and within one year subject to penalties.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	27 November 2000
Trading bloc membership	Southern African Customs Union (SACU) Southern African Development Community (SADC) African Continental Free Trade Area (AfCFTA)
Administered by	Namibian Revenue Agency (NamRA)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	0123 4567
VAT return periods	Bimonthly
Thresholds	
Registration	NAD500,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Namibia by a registered person
- Reverse-charge services received by a person in Namibia that is not entitled to claim full input tax credits (referred to as imported services)
- The importation of goods from outside Namibia, regardless of the status of the importer

Goods imported from countries in the Southern African Customs Union (Botswana, Eswatini, Lesotho, Namibia and South Africa) are not subject to customs duty but are subject to import VAT.

Note that the term "taxable person" is not used in the Namibian VAT Act, and instead "registered person" and "taxpayer" are used.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Namibia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as zero-rated of VAT. In Namibia, a TOGC is treated as zero-rated where the following conditions are met:

- Both the seller and purchaser are VAT registered prior to the supply taking place
- All the goods and services necessary for the continued operation of that taxable activity, or that part of a taxable activity, are supplied
- The taxable activity, or that part of a taxable activity, is carried on up to the time of its transfer
- A notice in writing signed by the seller and purchaser is furnished to the Commissioner within 21 days after the supply taking place

Transactions between related parties. In Namibia, for a transaction between related parties the value for VAT purposes is calculated at the open market value. The value of a supply of goods or services, supplied by a VAT-registered person to a connected person for no consideration or for consideration less than the open market value, shall be valued at the open market value of the supply of the goods or services if the recipient is not registered for VAT and the amount of such consideration if the recipient is registered for VAT.

C. Who is liable

A registered person is required to account for output tax on all goods and services supplied unless the supply is specifically exempted by the VAT Act. Exempt supplies are specified in Schedule IV to the VAT Act.

A registered person is a person (business entity or individual) carrying on an activity in Namibia or partly in Namibia on a continuous or regular basis if, in the course of the activity, goods or services are supplied to another person for consideration exceeding the registration threshold or who has voluntarily registered for VAT. This includes persons who are registered for VAT in Namibia as well as persons who are required to register for VAT.

A person is required to register for VAT if the value of taxable supplies exceeds (or is expected to exceed) NAD500,000 in any consecutive 12-month period.

A VAT registration only becomes effective from the first calendar day of the month after registration was approved. The earliest the registration can become effective is the first day of the calendar month following the month in which application for registration was filed.

Deemed supplies. In addition to actual goods and services supplied by a registered person, the VAT Act deems certain supplies to be supplies of goods or services. The person making the deemed supply is liable to pay VAT. Deemed supplies include the following:

- Ceasing to be a registered person
- Short-term insurance indemnity payments

- Change in use
- Acquisition of used goods (excluding immovable property) from a person not registered for VAT

Import VAT. Goods imported into Namibia are subject to import VAT. The import VAT is payable at the time of import unless the importer has obtained approval from the Directorate of Namibian Revenue Agency (NamRA) to maintain a VAT import account, in which case the payment of the import VAT can be deferred and paid when the import VAT return is due for submission (see Section I). The Commissioner may require security or impose additional conditions before registration of a VAT import account.

Exemption from registration. The VAT law in Namibia does not contain any provision for exemption from registration if the value of taxable supplies made exceeds the registration threshold of NAD500,000 in a 12-month period.

Voluntary registration and small businesses. A person whose turnover is below the compulsory registration threshold may register for VAT on a voluntary basis provided that there is a reasonable expectation taxable supplies will be made for consideration after a period of time and that there is a reasonable expectation that future taxable supplies will exceed NAD200,000 in a 12-month period.

Group registration. Group VAT registration is not allowed in Namibia.

Fixed establishment. In Namibia there is no legal definition of a fixed establishment for VAT purposes. For VAT purposes, the liability to register for VAT is dependent on there being a "taxable activity" in Namibia. A taxable activity is "any activity which is carried on continuously or regularly by any person in Namibia or partly in Namibia, whether or not for a pecuniary profit, that involves or is intended to involve, in whole or in part, the supply of goods or services to any other person for consideration."

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Namibia. A non-established business that makes taxable supplies of goods or services continuously or regularly in Namibia must appoint a tax representative and open a Namibian bank account to register for VAT.

Tax representatives. Persons who make supplies in Namibia may appoint a representative who is responsible for registration and payment of VAT on behalf of the taxable person. Tax representatives are appointed by taxable persons or legally appointed, e.g., public officers of companies, treasurers of local authorities and unincorporated bodies, liquidators of companies in liquidation, guardians of legally disabled persons, agents appointed by the Commissioner for nonresidents, executors of deceased estates and trustees of insolvent or trust funds. Tax representatives are responsible for performing the duties under the VAT Act of the persons they represent.

Reverse charge. Recipients of services who make exempt supplies are liable to pay VAT on imported services, subject to specific provisions. Imported services are exempt from VAT if the services are specified in Schedule IV of the VAT Act. Exempt imported services include, but are not limited to, financial services, public transport services, medical services and educational services as defined. See the section below on *Rates* for more detail.

Domestic reverse charge. There are no domestic reverse charges in Namibia.

Digital economy. There are no special rules for the taxation of the digital economy in Namibia. There is no requirement for nonresidents that provide electronically supplied services to register for VAT in Namibia. Only where services are rendered in Namibia or partly within Namibia will a liability to register and account for VAT arise. Recipients of services who make exempt supplies are liable to pay VAT on imported services.

For business-to-business (B2B) and business-to-consumer (B2C) transactions, the non-established business will only be liable to register for and levy VAT on the supply if it carries on a taxable activity in Namibia or partly within Namibia. To the extent that the customer is registered for VAT, VAT paid on invoices can be claimed as an input tax deduction. To the extent that the non-established business will not be liable to register for and levy VAT, no VAT liability will arise unless the customer makes exempt or mixed (taxable and exempt) supplies, in which case VAT on imported services will be payable by the customer on the inverse of its apportionment ratio.

There are no other specific e-commerce rules for imported goods in Namibia. VAT on imported goods is payable by the importer.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Namibia.

Registration procedures. The Integrated Tax Administration System (ITAS) allows applications for VAT registration electronically. However, in practice a manual application is often processed quicker by NamRA. The VAT registration application (VAT 1) must be completed and submitted to NamRA in hard copy. The person applying for VAT registration should have a Namibian bank account and a fitness certificate for the premises from which they will be conducting the taxable activity. The VAT registration, once approved by NamRA, becomes effective on the first calendar day of the second month after the registration letter was received from NamRA. On specific application the registration can become effective on the first calendar day of the month following the receipt of the registration confirmation.

Deregistration. A person may apply for deregistration if the value of such person's taxable supplies in a period of 12 months (begin on the date of application) will be less than NAD500,000 per year.

Changes to VAT registration details. A registered person shall notify NamRA in writing within 21 days of any change to:
- The name, address, place of business, constitution or nature of the principal taxable activity
- The address from which, or name in which, any taxable activity is carried on by the registered person

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and related services
- International transport of passengers and goods and related services
- Certain supplies of goods that are used exclusively in an export country
- Services supplied outside Namibia and to foreign branches and head offices
- Certain basic foodstuffs
- Supply of land to be used solely for residential accommodation purposes
- Supply of goods or services to erect or extend a residential building
- Supply of a business capable of separate operation as a going concern (provided all the requirements are met)

- Supply of goods subject to the fuel levy
- Supply of telecommunication services, electricity, water, refuse removal and sewerage to residential accounts
- Supply of livestock on the hoof
- Supply of intellectual property for use outside Namibia
- Supply of services to nonresidents subject to certain provisions
- Supply of goods or services to an export processing zone enterprise

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services as defined
- Fare-paying public passenger transport
- Educational services
- Medical services provided by registered medical professionals
- Hospital services provided by registered hospitals
- Rental of residential accommodation
- Fringe benefits provided by an employer to employees
- Services supplied to members in the course of the management of a body corporate
- Supplies of goods or services to heads of state
- Supply of services by a trade union to or for the benefit of members if the supply is made from members' contributions

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Namibia.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In Namibia, the basic time of supply is the earlier of the issuance of an invoice or the receipt of payment.

Other tax points are used for a variety of transactions, including successive supplies like rentals, sale of fixed property, betting transactions, construction, supplies made from vending machines and "lay-by" sale agreements.

Deposits and prepayments. There are no special time of supply rules in Namibia for deposits and prepayments. As such, the general time of supply rules apply (as outlined above). Deposits will only be subject to VAT once it is applied as a consideration for a supply.

Continuous supplies of services. The tax point for continuous supplies is the earlier of the date on which payment is due or the date on which the invoice relating to the payment is issued.

Goods sent on approval for sale or return. There are no special time of supply rules in Namibia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The import of services shall take place 30 days after the time of the import. The normal time of supply rules (as outlined above) will apply to the time of the import.

Leased assets. The supply of goods under rental agreements is deemed to take place at the earlier of when a payment becomes due or is received.

Imported goods. The tax point for imported goods varies depending on the source of the goods being imported. The following are the applicable rules:

- For goods that are imported from a member of the Southern African Customs Union – when the goods enter Namibia at the border post

- For goods imported from other countries – when the goods are cleared for home consumption
- For goods imported and entered into a licensed customs and excise storage warehouse – when the goods are cleared from the warehouse for home consumption

Periodic supplies. The tax point for periodic supplies is the earlier of the date on which payment is due or the date on which the invoice relating to the payment is issued.

Installment credit agreements. For installment credit agreements, the supply is deemed to take place at the earlier of when the goods are delivered, or any payment of consideration is made.

Immovable property. The supply of immovable property is deemed to take place at the earlier of the following dates:
- The date on which the registration of the transfer is made in a deed's registry
- The date on which any payment in respect of selling price is received (excluding deposits)

Supplies between related persons. The tax point for supplies of goods between related persons is when the goods are removed by or made available to the purchaser or recipient of the goods. The time of supply for supplies of services between related persons is when the services are performed. For services such as management services, the tax point is at the end of each calendar month.

Supplies to a branch or main business outside Namibia. The tax point for goods consigned or delivered to a branch or main business outside Namibia is when the goods are consigned or delivered. The tax point for services supplied to a branch or main business outside Namibia is when the services are performed.

F. Recovery of VAT by taxable persons

A taxable person (i.e., registered for VAT) may recover input tax (that is, VAT charged on goods and services supplied to it for business purposes) by deducting it from output tax (VAT charged on supplies made) provided the taxable person is in possession of a valid tax invoice. The VAT Act provides that a taxable person that wants to claim input tax must be in possession of a tax invoice by the time any return is submitted. This is to ensure there is an audit trail used by NamRA on VAT inspections.

Input tax includes VAT charged on goods and services supplied in Namibia and VAT paid on the importation of goods. The time limit for a taxable person to reclaim input tax in Namibia is three years. A late claim is therefore valid for three years from the end of the period in which the registered person was first entitled to claim the credit.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (for example, goods acquired for private use by an entrepreneur or goods and services used for making exempt supplies). In addition, input tax may not be recovered for specifically excluded business expenditure, such as entertainment.

Examples of items for which input tax is nondeductible

- Purchase or rental of a vehicle principally designed to carry nine or fewer seated people including the driver (referred to as a passenger vehicle in the VAT Act)
- Business and staff entertainment, which includes accommodation, meals and beverages when traveling for business purposes
- Club subscriptions (excluding subscriptions to professional bodies)
- Acquisition of capital goods prior to being registered for VAT

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire and maintenance of vans and trucks
- Attendance at conferences and seminars

- Vehicle maintenance costs (including passenger vehicles, excluding if provided as fringe benefit)
- Mobile phones (excluding if provided as fringe benefit)
- Air transport of goods within Namibia
- Aviation fuel
- Trading stock
- Raw materials
- Marketing expenditure
- Stationery

Partial exemption. Input tax directly related to the making of exempt supplies is not recoverable. If a taxable person makes both exempt and taxable supplies, it may recover only a portion of the input tax incurred. The direct attribution method is used to claim input tax if taxable and exempt supplies are made by a VAT registered person.

In Namibia, the deductible portion is determined using the following two-stage calculation:

- The first stage identifies the input tax directly attributable to taxable and exempt supplies. Input tax directly attributable to taxable supplies is deductible in full, while input tax directly related to exempt supplies is denied in full.
- The second stage identifies the amount of remaining input tax (for example, input tax on general business overheads) that cannot be directly attributed to the making of taxable or exempt supplies. Such input tax may be deducted only to the extent that it relates to the making of taxable supplies. In general, the deductible portion is determined by comparing the value of taxable supplies to total supplies. However, a registered person may apply to the Directorate of NamRA for another equitable apportionment method (for example, apportionment based on floor space or activity), particularly if significant investment income, foreign-exchange gains or other nontaxable passive income is realized. The input tax ratio calculated for a financial year is applied to the following financial year and amended annually when a financial year comes to an end. A *de minimis* rule applies, and if taxable supplies are 90% or more of the total supplies, the full input tax deduction may be claimed and there will be no requirement to apportion the input tax claim.

Approval from the tax authorities is not required to use the partial exemption standard method in Namibia. Special methods are allowed in Namibia, but subject to approval.

Banks must obtain approval from NamRA to apply the ratio for the following year.

Capital goods. Capital assets are defined in the VAT Act as any asset, or a component of any asset, that is subject to the deduction of capital allowances in terms of the Income Tax Act. The normal input tax recovery rules apply in respect of the acquisition of capital goods. Only the portion of capital goods used to make taxable supplies can be claimed as an input tax deduction. The normal timing rules apply.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, a refund of the excess may be claimed.

Pre-registration costs. No VAT paid may be claimed prior to the effective date of registration unless it relates to trading stock or consumables on hand at the date the VAT registration becomes effective, and the goods were acquired within four months of the effective date of the VAT registration. The VAT paid in respect of the acquisition of capital goods prior to registration may not be claimed.

Bad debts. A registered person will be entitled to claim the VAT as an input tax deduction where bad debts have been written off. There should be proof that the registered person did in fact try

to recover the bad debts before the VAT can be claimed back. The tax fraction will be applied to the total debt amount to the extent it includes VAT.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Namibia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Namibia is not recoverable. However, VAT incurred by businesses that are neither established nor registered in Namibia may be recovered only with respect to goods that are subsequently exported from Namibia. A refund may be claimed from the VAT refund administrator. No claim may be made in respect of services (such as hotel accommodation and restaurant meals) consumed in Namibia.

H. Invoicing

VAT invoices. Registered persons are required to issue a tax invoice for all supplies made if the consideration (that is, the total amount received exclusive of VAT) amounts to NAD100 or more. If the total amount in money for the supply is less than NAD100, the supplier may issue an abridged tax invoice. Only hard copy tax invoices qualify as valid tax invoices.

In order to claim input tax, the claimant must be in possession of a valid tax invoice for each supply including periodic supplies.

Credit notes. A tax credit note, or debit note may be used to reduce VAT charged and reclaimed on a supply of goods or services. A credit note or a debit note may be issued only if the tax charged is incorrect or if the supplier has paid incorrect output tax as a result of one or more of the following circumstances:

- The supply has been canceled
- The nature of the supply has been fundamentally varied or altered
- The previously agreed consideration has been altered by agreement with the recipient of the supply
- All or part of the goods or services has been returned to the supplier

If a credit note adjusts the amount of VAT charged, it must be clearly marked "tax credit note" and must refer to the original tax invoice. It must briefly indicate the reason that it is being issued and provide sufficient information to identify the transaction to which it refers.

Electronic invoicing. Electronic invoicing is not allowed in Namibia.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is not allowed in Namibia. The Namibian VAT Act requires that all tax invoices be issued in hard copy. In practice, invoices are often emailed but are then required to be printed for input tax recovery.

Simplified VAT invoices. Simplified invoices are permitted in Namibia. There is no requirement to issue a tax invoice if the supply is for less than NAD100. A receipt is sufficient.

Self-billing. Self-billing is allowed in Namibia. It is only allowed provided the Commissioner has provided prior written approval for the issue of tax invoices by a recipient. The recipient and the supplier must agree in advance that the supplier shall not issue any tax invoices where the recipient has issued a tax invoice in this regard. Then the tax invoice is provided to the supplier, and a copy thereof retained by the recipient.

Proof of exports. Exports can be classified as either direct exports or indirect exports. Direct exports (that is, the seller is responsible to deliver the goods at an address outside Namibia) can

be zero-rated if the documentary requirements are met. The seller may not zero-rate exports if the goods are not delivered or consigned and delivered at an address in a country outside Namibia.

Documentation that must be retained to substantiate an export includes the following:
- The original customs export documentation (such as Form SAD500, Form 178 and any export certificate or certificate of origin)
- Commercial and tax invoices for the supply

These documents must be stamped by the customs and excise officials at the port of export.

The import documentation into the country of import may also be requested by the Directorate of NamRA in support of the export from Namibia.

Foreign currency invoices. In general, a tax invoice must be issued in the domestic currency, which is the Namibian dollar (NAD). If an invoice is issued in a foreign currency, the NAD equivalent must be determined using the appropriate exchange rate on the date on which the invoice is issued and must be reflected on the tax invoice.

Supplies to nontaxable persons. Full tax invoices are only required to be issued if requested by the purchaser. It is, therefore, not a requirement to issue full VAT invoices to private consumers; abridged tax invoices should be sufficient.

Records. In Namibia, examples of what records must be held for VAT purposes include all tax invoices, tax credit and debit notes issued and received, and import documents received. All records must be held in English in Namibia (specifically for tax invoices, tax credit and debit notes). In Namibia, VAT books and records can be held outside the country. This is only allowed if the accounting records are maintained on a centralized computer system that is linked to the registered person's place of business in Namibia, and NamRA can readily access the records.

Record retention period. All records should be retained for a period of five years after the end of the tax period to which it relates.

Electronic archiving. Electronic archiving is allowed in Namibia. The original tax invoices, tax credit notes and tax debit notes received, and copies issued, should be kept physically in Namibia. Accounting records can be kept outside Namibia but should be maintained on a centralized computer system that is linked to the registered person's place of business in Namibia.

I. Returns and payment

Periodic returns. The tax return period is bimonthly for all registered persons other than those persons who conduct only farming activities. Registered persons who carry on only farming activities may elect four-monthly, semiannual and annual tax periods.

VAT returns must be filed by the 25th day after the end of the tax period. If the due date falls on a Saturday, Sunday or a public holiday, the due date is the next business day.

Import VAT returns for the declaration of the import of goods are due monthly by the 20th day of the month following the month of import and must be submitted even if no goods were imported in a particular month.

Periodic payments. Payment of VAT is due in full on the same date as the VAT return submission deadline, i.e., by the 25th day after the end of the tax period.

Payment of import VAT is due in full on the same date as the import VAT return, i.e., by the 20th day of the month following the month of import. If the payment date falls on a Saturday, Sunday or a public holiday, the due date is the next business day.

All VAT and import VAT payments can be made electronically or in cash. It is important to use the correct payment reference number to make payment so that the payment is allocated to the correct tax liability.

Electronic filing. Electronic filing is allowed in Namibia, but not mandatory. However, while electronic filing is not mandatory, it is highly recommended, as manual submissions can only be used in exceptional circumstances. NamRA's new electronic system, Integrated Tax Administration System (ITAS), became operational from 1 January 2019. Taxable persons should activate their online tax registration to file returns electronically.

Payments on account. Payments on account are not required in Namibia.

Special schemes. No special schemes are available in Namibia. However, special rules are applicable to various organizations and events in Namibia as provided for in the VAT Act and not on a case-by-case basis.

Annual returns. Annual returns are not required in Namibia.

Supplementary filings. No supplementary filings are required in Namibia.

Correcting errors in previous returns. Errors made in previous returns should be corrected by submitting revised hard-copy VAT returns. The revised returns cannot be resubmitted electronically. Output tax should be declared during the tax period in which the supply was made. Where input tax was underclaimed, the additional tax invoices received can be claimed as input tax adjustments on the VAT returns.

Digital tax administration. There are no transactional reporting requirements in Namibia.

J. Penalties

Penalties for late registration. A person who fails to register will be liable for the payment of a penalty equal to double the amount of output tax payable from the time such person becomes liable to be registered until they file an application for registration. No input tax may be claimed in respect of the period that has lapsed during which the person was not registered.

Penalties for late payment and filings. A penalty equal to 10% of the net VAT due is imposed if the VAT payment is made after the due date. The penalty is calculated as 10% for each month or part of a month the VAT remains outstanding, but the total penalty is limited to the tax due. However, a registered person may request that NamRA waive the penalty if the delay was not due to the intent of the taxable person to postpone payment.

An additional penalty of NAD100 is imposed for each day the VAT return or import VAT return is submitted after the due date.

Interest is charged at 20% per annum on late payments of the VAT liability or import VAT liability.

Penalties for errors. A person who fails to maintain proper records in respect of any tax period will be liable for the payment of a penalty of NAD3,000 for each day during which the failure continues.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a fine of NAD8,000 or a two-year prison sentence or both if found quality of noncompliance with the law by a court. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Additional tax not exceeding double the value of the VAT due may be levied in the case of evasion and where any person knowingly or recklessly makes a false or misleading statement.

Personal liability for company officers. Shareholders of companies and members of close corporations are liable to pay unpaid tax to the extent that the tax debt arose during the time the person was a shareholder or a member. Shareholders and or members will be held liable jointly or severally for a tax debt.

Statute of limitations. There is no specific statute of limitations in Namibia. NamRA may indefinitely conduct reviews/audits. Although there is no legislation prohibiting NamRA to go back indefinitely, it is unlikely that reviews will be conducted outside five years, due to the fact that accounting records are only required to be retained for five years in terms of the VAT Act.

VAT periods that have been audited by NamRA are also not likely to be re-audited. The selection of taxpayers and periods that will be audited is random and may be in respect of tax periods in which a refund is claimed, or VAT was paid. Current practice is that all VAT refunds are subject to audit before being paid to taxpayers.

In terms of voluntary corrections, for output tax, failure to declare sales in the tax period during which the sale occur could result in penalties and interest for late/underpayment being levied. For input tax, a registered person has three years to claim the input tax.

Nepal

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Direct all queries regarding Nepal to the persons listed below in the Kolkata, India, office.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	मूल्य अभिवृद्धि कर (ऍन)
Date introduced	16 November 1997
Trading bloc membership	South Asian Free Trade Area (SAFTA) Bay of Bengal Initiative for Multi-Sectorial Technical Economic Cooperation (BIMSTEC)
Administered by	Inland Revenue Department (IRD) (https://ird.gov.np/)
VAT rates	
Standard	13%
Other	Zero-rated (0%) and exempt
VAT number format	9-digit number which is same as the permanent account number (PAN), provided to persons registered under the income tax law of Nepal
VAT return periods	Monthly (where annual taxable turnover is greater than NPR10 million); four-monthly (where annual taxable turnover is equal to or less than NPR10 million)
Thresholds	
Registration	NPR5 million for goods/NPR2 million for mixed supplies of goods and services, and for only services within the last 12 months
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supply of goods or services within the state of Nepal
- Import of goods or services into the state of Nepal
- Export of goods or services from the state of Nepal

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Nepal, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Nepal, a TOGC is treated as outside the scope of VAT where the taxable person provides the information (and format) as specified in Schedule 4 of the Nepal VAT Rules to the tax authorities. The information must be provided by both the person transferring the business and the person to whom the business is transferred to, within seven days of transfer.

Transactions between related parties. In Nepal, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

VAT is imposed and payable on the taxable import and taxable supply of goods and services. The following persons are liable to pay VAT:
- For a taxable import – the importer
- For any taxable supply in Nepal – the supplier
- For a taxable supply of imported services – the recipient of such supply
- For any other cases – supplier or the recipient of services

VAT registration is required for:
- A person whose turnover exceeds the registration threshold of NPR5 million for supplies of goods only and NPR2 million for mixed supplies of goods and services or only services within the last 12 months
- Any person that has reason to presume that its annual transactions will exceed NPR5 million in the case of goods and NPR2 million in the case of mixed transaction of goods and services, and for services, must file an application for registration

If a person is required to register for VAT, it must do so within 30 days from the date on which the threshold is crossed.

Further, VAT registration is mandatory irrespective of turnover threshold for any person that imports taxable goods worth more than NPR10,000 in one consignment. The person is required to register its transaction except when it is engaged in tax-exempted transaction in Nepal.

Exemption from registration. The VAT law in Nepal does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Any person making taxable supplies that is not required to be registered (i.e., it does not exceed the registration threshold) may apply to register for VAT voluntarily. A person registered voluntarily pays tax from the first day of the next tax period following the date of registration and must preserve the required records and accounts.

Group registration. Group VAT registration is not allowed in Nepal.

Fixed establishment. In Nepal there is no legal definition of a fixed establishment for VAT purposes. However, the definition for fixed establishments in the Income Tax Act shall apply for VAT purposes. As per the Income Tax Act "permanent establishment" (PE) is defined as a place

where any person carries on a business fully or partly, and the term includes the following places:

- Agency PE:
  - A place where any person carries on a business fully or partly, through any agent except a general agent who acts independently in the ordinary course of carrying on business
- Equipment PE:
  - A place where any person's main equipment or main machinery is situated or used or installed
- Service PE:
  - One or more than one place in any country where any person has delivered technical, professional or consultancy service through an employee or in any other manner for more than 90 days at one or several times in a period of any 12 months
- Construction PE:
  - A place where any person is involved in a construction, installation or establishment project and has carried out supervisory works of that project for a period of 90 days or more

Any person that qualifies above to create a PE in Nepal is considered a tax resident in Nepal. Thus, if the nature of business of such a PE attracts VAT, then such PE must register under VAT as per Section 10 of VAT Act and adhere to the VAT laws.

Non-established businesses. There is no definition for non-established businesses in Nepal in the VAT law. Further, there are no conditions specified when a non-established business should account for VAT in Nepal. In practice, a non-established business is only required to register and account for VAT in Nepal if its supplies exceed the registration threshold.

There are special rules for nonresident digital service providers (see the *Digital economy* subsection below).

Tax representatives. Tax representatives are allowed in Nepal, but not mandatory. There are no specific rules or guidance provided by the tax authorities for tax representatives.

Reverse charge. A person who is registered or not registered for VAT in Nepal, that acquires a service from any person outside Nepal (i.e., both business-to-business (B2B) and business-to-consumer (B2C) supplies), is required to self-assess and account for the VAT due via the reverse-charge mechanism at the time of payment or at the time of acquisition of the service, whichever occurs earlier.

For B2C supplies, the consumer (i.e., the non-VAT registered person) is required to account for the VAT due via use of the tax codes specified by the Inland Revenue Department (IRD) for such reverse charge transactions.

Domestic reverse charge. The domestic reverse charge applies in Nepal only to the supply of construction building services where the value of the property is greater than NPR5 million.

Digital economy. Nonresident providers of electronically supplied services for B2C supplies are required to register and account for VAT in Nepal. This requirement became effective from 29 May 2022. Nonresident taxable persons, carrying out transactions of taxable digital services greater than NPR2 million within the last 12 months, must register and account for VAT from the date of registration.

The application for VAT registration must be made to the tax authorities within 30 days from the day when transaction exceeds NPR2 million. A nonresident person must obtain a permanent account number (PAN) by registering under Nepal taxation laws. Nonresident persons must file VAT returns online monthly, and payments of any VAT due must be made electronically. Note that a "nonresident person" means a person from outside Nepal who does not have a permanent

business address or business representative or legal representative in Nepal. Additionally, a "consumer" means a person who consumes services and has a normal place of abode in Nepal. However, a person who purchases goods and services by separate arrangement for business purposes or to use in business shall not be considered as a consumer.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Nepal. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge subsection* above). Electronically supplied services (known as "digital services" in Nepal) include the following services (whose delivery essentially requires information technology and provided automatically through the internet with minimal human intervention):
- Advertisements
- Movies, television, music, over the top (OTT) and other similar subscription-based services
- Data storage services
- Cloud services
- Gaming
- Service related to mobile application
- Online marketplace services and goods and services provided through it
- Supply and update of software
- Download of data, images and similar services
- Consultancy, skill development and training services
- Similar services to the above

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Nepal.

Registration procedures. A person that intends to engage in any transaction must file an application for VAT registration, in the prescribed format to the tax authorities, prior to carrying out any transactions. Where a person carries out any taxable supplies of goods or services, it must file an application for VAT registration, in the prescribed format to the tax authorities, which must be done within 30 days from the date of imposition of the tax or the date of commencement of such transaction.

The registration application along with the required documents must be submitted online. Generally, the VAT registration number is received in at least three working days.

The required documents to be submitted with the registration application include the following:
- Incorporation certificate
- Memorandum of agreement (MOA)
- Articles of association (AOA)
- Details of the directors (ID, proof of address, photographs)
- Rental/lease agreements
- Copy of the permanent account number (PAN) certificate

Deregistration. A registered person may apply for cancellation of its VAT registration (deregistration) for any of the following circumstances:
- In the case of a body corporate, if the body corporate is closed down, sold or transferred or if the body corporate in any manner ceases to exist
- In the case of an individual ownership, if the owner dies
- In the case of a partnership firm, if it is dissolved or a partner dies
- If a registered person ceases to be engaged in taxable transactions
- If the taxable person files a zero return or does not file a return at all within a consecutive period of 12 months

- If taxable transactions of the taxable person do not reach NPR5 million in the case of goods, and NPR2 million in the case of services and transactions involving both goods and services in past 12 months
- If registered mistakenly

An application for cancellation of registration must set out the circumstance(s) for cancellation of registration and be sent to the tax authorities within 30 days from the date of occurrence of the circumstance for cancellation of registration. The deregistration application is submitted online on the IRD's official website.

Changes to VAT registration details. A taxable person is required to notify the tax authorities of changes in registration details within specific time frames that differ depending on the change.

Where there is a change to the principal place of business, a registered person must provide the relevant information to the tax authorities within 15 days of the change.

Where there is a change in the nature of the business activity, a registered person must provide information about the change to the tax authorities within 15 days of the change.

Where a registered person transfers ownership of a business or part of a business, it must provide the relevant information by setting out all the details (in the format as set forth in Schedule 4) to the tax authorities within seven days of the date on which the transaction was transferred.

For the above changes, the registered person may submit the information in the form of a request letter to the tax authorities outlining the required changes. In the case of a transfer transaction, since a format has been specified the prescribed format must be used.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 13%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Goods for export
- Services supplied to persons outside of Nepal
- Goods or services imported by a person or mission utilizing diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal
- If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the taxable persons, on the recommendation of the concerned project, zero-rating shall be provided on such supplies, so long as such treaty or agreement is in effect
- Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone
- Batteries used in the equipment and mechanism generating energy from solar power, which are produced by any domestic industry and to be supplied by that industry (the use of the zero-rate shall be provided to that industry on that transaction on the recommendation of the Alternative Energy Promotion Center and in accordance with the procedures specified by the Department).

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Basic agricultural products
- Goods for basic needs (e.g., salt, oil, electrical energy, etc.)
- Live animals and animal products
- Agricultural inputs
- Medicine, medical and similar health services
- Education
- Books, newspapers and printed materials
- Passengers (excluding air passenger and cargo transport, with effect from 29 May 2023)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Nepal.

E. Time of supply

The time of supply rules are the earliest of the following activities:

- When the supplier issued the invoice for the supply of goods or services
- When the supplier received consideration for the supply of goods or services
- For the supply of goods, when the recipient received or took possession of the goods from the supplies
- For the supply of services, when the service is rendered

Deposits and prepayments. For deposits and prepayments, the time of supply is when the supplier receives consideration for the goods or services. This will only be considered as the time of supply if it occurs before issuing of an invoice or the supply of the goods/services. Where the supply does not take place, the deposit will be refunded and no VAT will be due.

Continuous supplies of services. For continuous supplies of services, the time of supply is the time when the invoice is issued. There are no special time of supply rules in Nepal for continuous supplies of goods. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Nepal for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Nepal for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in Nepal for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. For imported goods, the time of supply is determined on the basis of the customs law, which is at the time of importation.

F. Recovery of VAT by taxable persons

A registered person may deduct the tax paid by it while importing or receiving any taxable goods or services during the concerned month or before that month from the tax collected by it while supplying any goods or services, in the following circumstances:

- In the case the goods or services in which a claim for tax deduction has been made, if they are directly related with the taxable business
- If the purchase has been made internally, and a tax invoice has been received
- In the case of imports, if import documents are available evidencing the payment of the tax at the time of import

"Import documents" mean customs declaration forms, cash receipts, invoices of goods and if the imported services are not imported through custom points, invoices for such import of services and such other related documents as prescribed by the department from time to time.

For tax deduction, the invoices or the import documents for up to one year before the date of the claim must be available.

If the amount of tax paid by a registered person for purchases or imports is higher than the amount collected by it for sales, the person may deduct such an excess amount in the next tax period. If such amount to be deducted in the next tax period remains in balance for a consecutive period of four months, an application for refund may be filed.

The time limit for a taxable person to reclaim input tax in Nepal is in the month of purchase or up to one year from the date of the invoice. From this date a taxable person has four months to file the refund application.

Nondeductible input tax. Input tax credit is not available for goods and services used for making exempt supplies or for a nonbusiness purpose. Further, the VAT law specifies a list of goods and services for which no input tax credit is available.

Input tax is only deductible when the tax invoice contains all the requisite information. In addition, for imports the documents must evidence the payment of tax at the time of import.

Examples of items for which input tax is nondeductible

- Alcoholic beverages such as liquor, beer
- Petroleum products
- Entertainment expenses

If a taxable person carries on a business of supplying goods or services that are out of the above-mentioned list as their principal business, tax deduction can be claimed.

Examples of items for which input tax is deductible (if related to taxable business use)

- On automobiles, only 40% of cost price can be claimed as deduction

Partial exemption. If a taxable person makes supplies that are both taxable and exempt and incurs costs that are used for making both taxable and exempt supplies, the taxable person may deduct the input tax incurred by calculating the proportion of value of taxable transactions to the total sales value. A formula has been prescribed for apportioning the credit, based on turnover of taxable and exempt supplies.

Approval from the tax authorities is not required to use the partial exemption standard method in Nepal. Special methods are generally not allowed in Nepal. However, where the tax authorities feel that the tax cannot be calculated proportionally, it may seek direction from the department to calculate it through another alternative method.

Capital goods. In Nepal there are no special input tax recovery rules for capital goods. The normal rules outlined above apply.

Refunds. A registered person may file an application to the tax authorities for a refund of the excess tax credit after adjusting for any outstanding amount for a continuous period of four months. The amount determined to be refunded shall be paid by the tax authorities and if it is not refunded within 60 days for the application filed, then the interest at the rate prescribed by the Government of Nepal will be paid along with the amount.

Any registered person, whose export sales for a month are 40% or more of its total sales for that month, may file an application for a refund of the excess tax credit after adjusting for any outstanding amount. The amount determined to be refunded shall be paid by the tax authorities and if it is not refunded within 30 days for the application filed, then the interest at the rate prescribed by the Government of Nepal will be paid along with the amount.

Pre-registration costs. Input tax incurred on pre-registration costs in Nepal, is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Nepal.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Nepal.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Nepal is not recoverable.

H. Invoicing

VAT invoices. Every registered person is required to issue a full VAT invoice to the recipient of its supplies, for both goods and services. However, there are special rules for retailers (see the *Simplified VAT invoices* subsection below).

No input tax credit shall be admissible against a tax invoice if the information specified is not included in such invoice.

Credit notes. A "credit note" means a supplementary invoice based on which the registered person can make a decreasing adjustment of one or more invoices issued earlier related to the amendment. A "debit note" means a supplementary invoice based on which the registered person can make increasing adjustment of one or more invoices issued earlier that is related to the amendment.

Electronic invoicing. Electronic invoicing is mandatory in Nepal, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Nepal. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoicing is mandatory for the following taxable persons:
- Taxable persons with an annual turnover greater than NPR100 million for all types of supplies
- Taxable persons engaged in the supply of internet services, furnishings, hotels and restaurants with an annual turn-over greater than NPR50 million

The above rules have been in effect from 17 July 2022.

For other taxable persons, it may only issue electronic invoices where it has obtained prior approval from the tax authorities. However, nonresident digital service providers and airlines are not required to obtain approval from the tax authorities to issue invoices electronically.

The tax authorities may by publishing a notice order specified taxable persons (as specified in the notice) to compulsorily issue invoices through an electronic medium and affiliate, such as the Central Billing Monitoring System (CBMS) of the tax authorities.

Simplified VAT invoices. Simplified VAT invoices are allowed in Nepal for retail supplies. If any taxable person carries out retail sales of any goods or services, it can file an application to the tax authorities, and the tax authorities may then grant permission that the taxable person while conducting retail sales of any goods or services can instead of issuing full VAT invoices issue abbreviated tax invoices.

The main requirements of abbreviated tax invoices include the following:
- Where several goods of small value have been sold, the abbreviated tax invoice issued shall mention the name of each item of goods separately

- A registered person who issues an abbreviated tax invoice to the recipient must maintain the following records:
  - Prepare and maintain a duplicate copy of the original invoice
  - Where a transaction has been carried out by maintaining a duplicate of the till roll, the total thereof must be calculated and maintained every day
  - Maintain records of the value inclusive of tax of each transaction

If the above records are not maintained, tax authorities may cancel the permission granted to issue an abbreviated tax invoice.

If a retail transaction with a value exceeding NPR10,000 has been carried out, a taxable person cannot issue an abbreviated tax invoice, but a full VAT invoice must be issued instead. In addition, if a recipient requests a full VAT invoice for a retail supply, the taxable person must meet this request.

Self-billing. Self-billing is not allowed in Nepal.

Proof of exports. A supply of goods from inside to outside the geographical limits of Nepal is considered to be an export of goods. For exports of goods, the following may serve as proof of export:

- Copy of bill of lading or airway bill or consignment note/truck receipt
- Copy of export general manifest
- Copy of export certificate
- Copy of certificate of receipt of goods, of payment or letter of credit
- Copy of proceeds realization certificate

Export of goods outside Nepal is zero-rated. To substantiate the same, a taxable person must analyze whether its supply can be classified as an export. There is no standard prescribed document as proof of export. However, the documents listed above are generally accepted as proof.

Foreign currency invoices. All amounts on a full VAT invoice (i.e., the price, value and taxes) must be reported in the domestic currency, which is the Nepalese rupee (NPR). Values in a foreign currency may also be reported on a full VAT invoice, as incorporation of any additional information on a tax invoice is permissible. If a foreign currency is used, the converted Nepalese amount must also be reported on the invoice, using the rate of exchange prescribed by the Nepal Rastra Bank on the day of the transaction.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Nepal. As such, full VAT invoices are required.

Records. In Nepal, examples of what records that must be held for VAT purposes include the following:

- VAT account
- Records relating to business, accounts, cash receipts and payments
- Tax invoices and abbreviated tax invoices issued by the taxable person
- Tax invoices and abbreviated tax invoices received by the taxable person
- All documents relating to imports and exports by the taxable person
- All debit and credit notes substantiating the increase and decrease in the values of goods purchased and sold by the taxable person and other documents pertaining thereto
- Books of purchases and sales

In Nepal, VAT books and records can be held outside of the country. However, such documents need to be also stored locally on a server or physically, which should be readily accessible by the tax authorities if required.

Record retention period. Every taxable person must maintain and keep records for a period of six years.

Electronic archiving. Electronic archiving is allowed in Nepal. A taxable person may, with the approval of the tax authorities, maintain the required records by using computers or another similar mechanical system or the method prescribed by the tax authorities.

I. Returns and payment

Periodic returns. Every taxable person must file a VAT return for each tax period, by the 25th day of the following month. Where annual taxable turnover is greater than NPR10 million in a financial year (as per the Nepali calendar), the filing obligation is monthly. Where annual taxable turnover is equal to or less than NPR10 million, the filing obligation is four-monthly (i.e., the returns are filed every four months). The tax period in Nepal is the calendar month. Along with the VAT return, annexures such as sales and purchase register must also be filed.

All filing must be made online via the portal of the IRD. However, for taxable persons registered with districts that have no IRD office or Taxpayer Service Office, manual (paper) filing is allowed. A taxable person registered with a district that has no Inland Revenue Office or Taxpayer Service Office may submit the amount of tax and tax return to the Funds and Accounts Controller Office of the relevant district by the 15th day of the month by which it is required to submit its tax return.

Periodic payments. Payment of VAT due must be made by the filing deadline (i.e., by the 25th day of the following month). Payments can be made online or offline, via specific methods as prescribed by each taxable person's registered tax authorities office. Such methods include a check guaranteed by a bank. The tax shall be deemed paid on the date of the payment in the case of a payment made through electronic means, and receipt by the office if the payment is made by check. If VAT is due to be paid, the VAT return cannot be filed until the payment is completed.

The payment must be made under codes specified by the IRD based on its nature (i.e., reverse VAT or normal VAT, etc.). The payments must be addressed to IRD, Nepal. Payments are accepted through checks, as well as through IPS Connect (the e-transaction portal of Nepal). If there is a shortfall in the payment made compared to the actual tax liability, the balance should be paid before filing the return.

Electronic filing. Electronic filing is mandatory in Nepal for all taxable persons. Electronic filing is made online at (https://taxpayerportal.ird.gov.np/taxpayer/app.html). However, for taxable persons registered with districts that have no IRD office or Taxpayer Service Office, manual (paper) filing is allowed.

Payments on account. Payments on account are not required in Nepal.

Special schemes. No special schemes are available in Nepal.

Annual returns. Annual returns are not required in Nepal.

Supplementary filings. *Excise returns.* Excise duty is levied on the production of goods and services. The liability is on the producer producing the excisable goods and services. Further, excise duty is also levied on imports of goods. The producer or the importer is liable to file the excise returns. A person who has liability to assess and recover the excise duty must file the returns for excisable transactions for each month, within 25 days from the end of the relevant month. Details of excisable sales, exports, excisable purchases, imports and exempt purchases must be provided in the returns. The excise duty payable, refundable or carried forward is determined basis the above details.

Correcting errors in previous returns. Returns once submitted cannot be amended. Any omission or incorrect particulars should be disclosed or rectified in the subsequent period's return. No separate explanatory letter is required to be provided and there is no specified deadline by when the corrections must be made.

Digital tax administration. There are no transactional reporting requirements in Nepal.

J. Penalties

Penalties for late registration. The penalty for not applying for registration within the prescribed time limit is NPR20,000 every time the taxable person does not comply with the provisions of law. Additional penalties and interest will also apply if there is any evasion of VAT on sales before registration.

There is no specific penalty in Nepal for the late registration of VAT. However, interest and fees may be leviable since late registration would lead to late payment of taxes. A fine of 50% of VAT due is charged if a person required to be registered engages in any transaction(s) without registration for VAT.

Penalties for late payment and filings. For the late payment of VAT due, a penalty at the rate of 10% per annum shall be imposed on the amount of tax due. Further, if any amount due to be paid is not paid within the time period, interest shall be charged at 15% per annum on the outstanding amount from the date of the expiry of the time period.

For the late filing of VAT returns due, a penalty at the rate of NPR1,000 per tax period shall be imposed or 0.05% of tax payable per day, whichever is higher.

Penalties for errors. Failure to display the VAT registration certificate in a conspicuous manner at the taxable person's principal place of business and additional places of business; or failure to use the VAT registration number for all transactions relating to VAT, excise and customs duty; and to other prescribed transactions attracts a penalty of NPR1,000 for each breach.

Failure to place the tax board at designated places attracts a penalty of NPR2,000 for each breach.

Failure to issue an invoice attracts a penalty of NPR10,000 for each breach, and NPR1,000 each time for not taking the invoice. "Not taking the invoice" applies to the procurer of goods/service who was required to obtain a VAT invoice for the transaction but failed to do so. For instance, purchasing services worth NPR2.5million. As the procurer is already aware that a person providing services greater than NPR2 million during the year is required to register for VAT, the procurer shall be held guilty for not obtaining a VAT invoice from the supplier.

Failure to maintain updated accounts of transactions attracts a penalty of NPR10,000.

Where a taxable person is found to have used a software for the issuance of electronic invoices that can delete or correct data, a penalty of NPR500,000 may be imposed.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. However, a general penalty of NPR10,000 may be imposed for each default. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. If a taxable person commits any of the following offenses, the tax authorities may impose on such a person the sentence of a fine of 100% of the claimed amount of tax or of imprisonment for a term not exceeding six months or both:
- Preparing a false account, invoice or other document
- Evading tax by committing a fraud

- If an unregistered person acts as if it were a registered person
- Selling on under-invoicing

An accomplice who, intentionally or recklessly, aids or abets or entices or advises any taxable person committing any offense outlined above shall be liable to a fine of 50% of the tax paid less by such person.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Nepal. There are provisions for imprisonment in the following cases:

- In case of fraud as mentioned in the above subsection
- In case a seller issues an invoice without transferring goods, imprisonment of not more than six months

No other penalties are leviable on the directors apart from the above.

Statute of limitations. The statute of limitations in Nepal is four years. The tax authorities can go back four years from the date of the submission of the tax return to assess the taxable persons for any errors and impose penalties. There is no time limit for taxable persons to voluntarily correct errors in previous VAT returns.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local names	Belasting over de toegevoegde waarde (BTW)
Date introduced	1 January 1969
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.minfin.nl)
VAT rates	
Standard	21%
Reduced	9%
Other	Zero-rated (0%) and exempt
VAT number format	NL1 2 3 4 5 6 7 8 9 B 01
VAT return periods	Monthly (if requested by the taxable person or required by the tax authorities); Quarterly (in normal circumstances)
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	EUR10,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in the Netherlands for consideration by a taxable person acting as such
- The intra-Community acquisitions of goods from another European Union (EU) Member State, for consideration, by a taxable person acting as such (*see the EU chapter*)
- The intra-Community acquisitions of goods from another EU Member State, for consideration, by a nontaxable legal person in excess of the annual threshold (*see the EU chapter*)
- Reverse-charge goods and services received by a taxable person and nontaxable legal entities in the Netherlands (that is, goods and services for which the recipient is liable to pay the VAT)
- The importation of goods from outside the EU, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

In the Netherlands, the Quick Fixes rules are applicable as of 1 January 2020. An overview of the changes are outlined below.

- VAT identification number and European Community (EC) Sales Listing: Adopted. For the supplier of goods to other EU Member States to apply the zero VAT rate, a valid VAT identification number of the recipient of the goods must be obtained. The VAT number of the recipient must be issued by an EU Member State other than the Netherlands (the EU Member State of departure). Further to this, the supplier is required to timely submit a correct EC Sales Listing in which the valid VAT number and other required details on the transaction are accurately reported.

- Evidence required for applying zero rate: Adopted, however, in the Netherlands, the existing rules for evidence required to apply the zero VAT rate continue to apply without any changes other than those mentioned under VAT identification number and EC Sales Listing. The EU rules are considered "safe harbor" rules.
- Simplified VAT regime for call-off stock: Adopted. The existing simplified VAT regime for both call-off and consignment stock that existed in the Netherlands was abolished upon introduction of the Quick Fixes. No transitional measures have been implemented for stock transferred to the Netherlands prior to 1 January 2020. The simplified VAT regime for call-off and consignment stock shipped from countries other than EU Member States, remains in place.
- Chain transactions: Adopted, no local derogations.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.*

In the Netherlands, no general use and enjoyment rules apply to services supplied to or from the Netherlands. Specific use and enjoyment provisions apply to designated services, such as transfers and assignments of copyrights, patents, licenses, trademarks and similar rights, advertising services and the services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and the provision of information, that are supplied by taxable persons that are not established in the EU, e.g., to nontaxable legal persons established in the Netherlands and that are actually used and enjoyed in the Netherlands. *See the EU chapter for more details.*

Transfer of a going concern. For a transaction to qualify as a transfer of going concern (TOGC) in the Netherlands, the transfer must include elements that encompass whole or part of a taxable business. The buyer or recipient is required to continue taxable activities, or at least intends to do so, although it does not have to perform the same activities with these assets as the transferor.

Transactions between related parties. In the Netherlands, there are no specific rules for the value for VAT purposes for transactions between related parties. However, the exception to this rule is where a business puts a company car at the disposal of its staff or other related persons. In that case, VAT must be paid on the "normal value" of the supply, which as a general rule is the cost price of the lease (i.e., the installments and other considerations paid).

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services, or intra-Community acquisitions or distance sales, in the course of a business in the Netherlands, on a continuing basis (i.e., not occasionally). Taxable activities also include "carrying on a profession" or the "exploitation of tangible or intangible property in order to obtain income on a continuing basis."

No VAT registration threshold exists in the Netherlands. A taxable person that begins an activity must notify the VAT authorities of its liability to register.

A domestic taxable person may also be liable for Dutch VAT on goods or services they purchase (see the subsection on the *Reverse charge* below).

Special rules apply to foreign or non-established businesses. See the subsection on *Non-established businesses* below.

Exemption from registration. The Dutch VAT rules do not contain a provision for exemption from registration, but from 1 January 2020, businesses whose global turnover does not exceed EUR20,000 per year can apply a special scheme. Under this scheme, these small and medium enterprises (SMEs) will have to register for VAT, but they will not have to issue invoices or file VAT returns. This means that they also cannot deduct any input tax. Businesses that decide to opt out of this scheme cannot reapply for a three-year period.

Voluntary registration and small businesses. The VAT law in the Netherlands does not contain any provision for voluntary VAT registration. Taxable persons established in the Netherlands with an annual Dutch taxable turnover below EUR20,000 can voluntarily apply for the SME-simplification (*see above*).

Group registration. Taxable persons established in the Netherlands (including fixed establishments) may form a VAT group if the members are closely bound by "financial, economic and organizational links." The formation of a VAT group no longer requires a decree from the tax office, which is issued after a written request. However, the tax office may also issue a VAT group decree on its own accord.

The effect of VAT grouping is to treat the members as a single taxable person. As a result, transactions between members of the VAT group are disregarded for VAT purposes. Members of a Dutch VAT group may file a single VAT return, or members may elect to file individually.

All members of a VAT group in the Netherlands are jointly and severally liable for VAT debts and VAT penalties.

There is no minimum time period required for the duration of a VAT group. Businesses are considered to be included in a VAT group for the period during which the relevant substantive requirements are met.

Holding companies. Holding companies established in the Netherlands with no other activities than the mere holding of shares are allowed to be included in a VAT group together with their subsidiaries, if they carry out "directing and policy-making activities" on behalf of the group.

Cost-sharing exemption. The VAT cost-sharing exemption (VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in the Netherlands. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in the Netherlands VAT law).

The supply of services by independent groups of persons to their members can be exempt from VAT in the Netherlands, provided that the group is performing VAT exempt or nontaxable activities, the amount of the recharge to the members does not exceed the amount of costs incurred by the group, the services are directly necessary for the activities of the members and the exemption is not likely to cause distortion of competition. Designated services, including but not limited to the provision of staff- and IT-related services, cannot be exempted from VAT.

Fixed establishment. A fixed establishment is generally understood to be a business establishment in the Netherlands of an entity established outside of the Netherlands, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies and/or to receive and use the services supplied to it for its own needs. A fixed establishment should be capable of acting as a taxable person independent of the head office.

Non-established businesses. A "non-established business" is a business that is not established and that has no fixed establishment in the Netherlands. A non-established business that makes supplies of goods or services in the Netherlands must register for VAT if it is required to account for VAT on those supplies.

Tax representatives. Nonresident businesses may register for VAT without appointing a tax representative. In limited circumstances, businesses that are established outside the EU must appoint a tax representative resident in the Netherlands to register for VAT (for example, for distance sales made from another EU country). Non-established businesses, regardless of whether they are established in or outside the EU, may choose to appoint a representative. In some cases, the appointment of a resident tax representative may be advantageous (for example, for dealing with imports using the "import VAT deferment" facility; *see Section E*).

Non-established businesses that do not appoint a representative must register at the Tax Office for Nonresident Businesses in Heerlen, at the following address (or electronically, see the *Registration procedures* subsection below):

Belastingdienst/kantoor Buitenland
Postbus 4486
6401 DJ Heerlen
Netherlands

Reverse charge. The reverse-charge provision applies generally to supplies of goods and services made by non-established businesses to taxable persons and to other nontaxable legal persons established in the Netherlands, provided that Dutch VAT is due on these supplies. Under the reverse-charge provision, the taxable person or legal person that receives the supply must account for the VAT due. If the reverse charge applies, the non-established supplier may not account for VAT in the Netherlands. The reverse charge does not apply to supplies made to private persons.

Domestic reverse charge. For certain specific transactions, even if they are carried out between locally established businesses, the recipient of the transaction is liable for the Dutch VAT on the supplies. This applies, for example, to:

- The supply of used material that cannot be reused in the same state, scrap, industrial and non-industrial waste, recyclable waste, partly processed waste and certain appointed goods and services
- Supplies of mobile telephones, integrated circuit devices such as microprocessors and central processing units, if the total value of the supply exceeds EUR10,000
- Supplies of telecommunications services between telecommunications services providers

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the EU chapter.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In the Netherlands, a (general) fiscal representative is mandatory if Dutch VAT applies to distance sales and the supplier is not established in the EU.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In the Netherlands, businesses can register for OSS via the standard tax portal. There are two portals, one for established businesses (login via e-Recognition) and one for non-established businesses, or at least not registered with the Dutch Chamber of Commerce (login via username and password).

For more details about the operation of the OSS, see the EU chapter.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the EU chapter.*

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In the Netherlands, the import VAT can be paid by the supplier if the import is done in its name and on its behalf. If the import is done in the name of the consumer, import VAT is generally paid through the postal services/courier scheme, i.e., by the postal services/courier company.

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In the Netherlands, the detail on the special scheme for postal services and couriers on the Dutch Customs Authorities website is still under construction and not available.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In the Netherlands, there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the EU chapter.

Vouchers. The Dutch VAT treatment of vouchers mirrors the EU VAT rules. Regarding face-value vouchers, a distinction is made between single-purpose vouchers (SPVs) and multi-purpose vouchers. A voucher qualifies as an SPV if, at the time of issuing or transferring the voucher, the place of supply of and the VAT amount due regarding the underlying transaction are known. If this is not the case, the voucher qualifies as an MPV. Issuing and transferring SPVs is treated as performing the taxable transaction for which the voucher can be redeemed. The actual redemption is not subject to VAT. This is the other way around for MPVs: issuing and transferring them is not subject to VAT and VAT will become due upon redemption. Other specific VAT rules exist in the Netherlands for transactions involving different types of "vouchers," such as tokens, coupons and discount vouchers.

Registration procedures. The easiest way to register is to do so online with the Dutch Chamber of Commerce (http://www.kvk.nl/). It is also possible to register directly with the Dutch tax authorities. Registration for non-established businesses can be done by way of sending the completed VAT registration form by post to the tax authorities. The registration form should at least be accompanied by a copy of the deed of incorporation and, depending on individual circumstances, a power of attorney to authorize Dutch contacts. This can be helpful as not all correspondence will be translated in English or German. Registration usually takes two to six weeks.

Deregistration. If a taxable person is no longer considered to be a taxable person for VAT purposes, they can deregister by sending a letter to the Dutch tax authorities stating that its VAT registration must be ended.

Changes to VAT registration details. Changes in the company address are generally automatically processed via the information available to the Dutch Chamber of Commerce. If the company is not registered with the Dutch Chamber of Commerce, the change in address should be notified to the tax authorities directly. Most changes, including the company name, address and bank account details, can and should be notified using the online portal. In case the VAT status of a company is changing from, e.g., established to non-established, the domestic VAT registration should be converted into a VAT registration at the Heerlen office.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 21%
- Reduced rate: 9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Some supplies are classified as "exempt-with-credit," which means that no VAT is chargeable, but the supplier may recover related input tax, e.g., certain financial services provided to a customer established outside the EU.

Examples of goods and services taxable at 0%

- Exports of goods
- Intra-Community supplies of goods
- Supplies to ships and aircraft used for international transportation
- Supplies of solar panels for installation on or near residential properties

Examples of goods and services taxable at 9%

- Foodstuffs (as goods and as services)
- Books (hard copy as well as electronic publications)
- Paintings and other "cultural goods"
- Entrance to museums, concerts and similar events
- Passenger transport
- Hotel accommodation

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Supply of immovable property
- Medical services
- Financial services
- Insurance services
- Betting and gaming
- Educational services

Option to tax for exempt supplies. For the supply and letting of immovable property, the supplier and customer can opt for taxation. Several conditions must be met. The most important condition is that the customer use the property for purposes that allow them to deduct at least 90% (in some specific cases at least 70%) of the VAT that is due on the supply or lease of the immovable property.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic EU VAT rule for determining the time of supply for goods is when the goods are supplied. The basic rule for determining the time of supply for services is when the service is rendered or completed.

In the Netherlands, an invoice must be issued ultimately on the 15th day of the month following the month in which the supply takes place if supplies are made to businesses and in other specific cases. The actual tax point is then the date on which the invoice is issued. However, if no invoice is issued or if the invoice is issued late, tax becomes due, at the latest, on the day on which the invoice should have been issued. If the purchaser is not a taxable person, the tax becomes due on the date of the supply.

If the consideration is paid in full, or in part, before the invoice is issued, the actual tax is due on the date on which payment is received (for the amount received).

However, some taxable persons are permitted to account for VAT on a cash basis (cash accounting). If cash accounting is used, the tax point is the date on which the payment is received.

Deposits and prepayments. If the customer pays the consideration in installments or makes a prepayment, the supplier must issue an invoice for each installment before the date it falls due or when it receives the prepayment. The tax point is the date of the invoice. If no invoice must be issued or is issued too late, the VAT becomes due at the time of receiving the prepayment.

Continuous supplies of services. For continuous supplies of services, the main rule (time of invoice) is applicable. However, there is at least one tax point per year.

Goods sent on approval for sale or return. There are no special time of supply rules in the Netherlands for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. For services that are subject to the reverse-charge mechanism, the tax point is the time at which the services are rendered.

Leased assets. For operational leases, the section about continuous supplies of services is applicable. For financial leases, which are normally treated as the supply of a good rather than a service, the tax point is basically the time the invoice is issued (or should have been issued).

Imported goods. The general rule for determining the tax point for imported goods is the date of importation or the date on which the goods leave a duty suspension regime. However, taxable persons may delay that tax point by applying for permission to use the "import VAT deferment" facility. Under this facility, import VAT is reported in the taxable person's VAT return (and recovered in the same tax period as input tax, depending on the taxable person's VAT recovery status, e.g., partially exempt).

A non-established business must appoint a tax representative resident in the Netherlands to use the import VAT deferment facility.

Intra-Community acquisitions. The tax point for an intra-Community acquisition of goods is the date on which the invoice is issued, unless it is invoiced late (i.e., after the 15th day of the month following the month in which the acquisition occurred). In that case, the tax point is the date on which the invoice should have been issued (i.e., the 15th day of the month following the month of the acquisition).

Intra-Community supplies of goods. For intra-Community supplies of goods, the tax point basically is at the time the invoice is issued or should have been issued (i.e., at the latest on the 15th day of the month following the month in which the supply was made).

Distance sales. For supplies of distance sales of goods, the tax point is the time the invoice is issued or should have been issued (i.e., at the latest on the 15th day of the month following the month in which the supply was made).

F. Recovery of VAT by taxable persons

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

Input tax includes VAT incurred on invoices for goods and services supplied in the Netherlands, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse-charge goods and services (*see the EU chapter*).

The time limit for a taxable person to reclaim input tax in the Netherlands is five years. Where input tax is not claimed in the respective period, it may still be reclaimed retrospectively within five calendar years.

A valid tax invoice or customs document must be kept in the accounts to support a claim for input tax.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired by a business for private use). In addition, input tax may not be recovered for some items of business expenditure if the value of the private benefit to an employee exceeds an amount of EUR227, excluding VAT, per person per year, or for the purchase of food and beverages supplied in a restaurant, bar, hotel or similar to persons that are staying there for a short time. If the goods or services are used for private purposes, in specific situations, the business is deemed to make a supply of goods or services and output tax is due.

Examples of items for which input tax is nondeductible

- Private expenditure
- Business gifts (if the value exceeds EUR227 per recipient per year and the recipient cannot recover the input tax in its own right)
- Restaurant drinks and meals
- Home telephone costs

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire, lease, maintenance and fuel for vans and trucks
- Car hire, subject to special rules, as well as the purchase, hire, lease, maintenance and fuel for cars put at the disposal of employees, subject to special rules
- Conferences, seminars and training courses (restaurant meals are excluded)
- Advertising
- Taxis
- Business travel costs
- Business gifts (valued at less than EUR227 a year or if the recipient of the gift could have recovered the input tax in their own right)
- Business entertainment (subject to the limit of EUR227 a year on employee expenses)

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." Supplies that are exempt with credit are treated as taxable supplies for these purposes.

In the Netherlands, the amount of input tax that a partially exempt business may recover is calculated in the following two stages:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is 100% deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, on general business overhead) that may be allocated to taxable supplies and recovered. This takes place via the "pro rata" calculation. The pro rata calculation is a calculation that is normally based on the percentage of the values of taxable and total supplies made in the period of a financial year. The recovery percentage is rounded up to the nearest whole number (e.g., 5.2% becomes 6%).

In specific situations other methods of apportionment may be used, based on the actual use of goods and services.

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in the Netherlands.

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

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

- Immovable property: adjusted for a period of nine years after the year of first use
- Movable property subject to depreciation for income tax purposes: adjusted for a period of four years after the year of first use

The adjustment is applied each year following the year of first use, to a fraction of the total input tax (1/10 for immovable property and 1/5 for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

The adjustment is not made if it is insignificant (that is, less than 10% of the previously deducted amount for that specific year).

In the Netherlands, the capital goods adjustment does not apply to any services.

Refunds. If the amount of recoverable input tax in a period exceeds the amount of payable output tax in that period, the taxable person has an input tax credit. A taxable person may claim a refund of the credit by submitting the VAT return for the period. The refund is paid in cash.

Pre-registration costs. Input tax on pre-registration costs is deductible as long as the (future) taxable person can demonstrate that the goods or services were used in preparation of a future economic activity. In practice, this means the VAT on these costs can be deducted in the first VAT return of the company. No specific time limits apply, other than the statute of limitations of five years.

Bad debts. When the payment of a debtor is not expected to be received anymore, the VAT that was due on this payment can be reclaimed. VAT related to bad debts aging for 12 months can automatically be reclaimed in the regular VAT return. No separate refund request is required. If the bad debt for which VAT was reclaimed is (partially) paid by the debtor anytime in the future,

the taxable person receiving the (partial) payment has the obligation to remit the reclaimed VAT (partially) to the authorities.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the Netherlands.

Input tax directly related to noneconomic activities is generally not recoverable. If a taxable person performs both economic and noneconomic activities, it may not be able to recover input tax in full. This method of calculating the deductible proportion in such situation is referred to as "pre-pro rata."

In the Netherlands, the amount of input tax that a business involved in economic and noneconomic activities may recover is calculated in the following two stages:

- The first stage identifies the input tax that may be directly allocated to economic and noneconomic activities. Input tax directly allocated to economic activities is deductible according to the partial exemption rules as outlined above, while input tax directly related to noneconomic activities is in principle not deductible.
- The second stage identifies the amount of the remaining input tax (for example, costs relating to the business as a whole) that may be allocated to economic activities and hence recovered. This takes place via the "pre-pro rata" calculation. The pre-pro rata calculation is a calculation that cannot always be based on the percentage of the values of economic and noneconomic activities, as not all noneconomic activities are remunerated. The pre-pro rata calculation is a topic of many discussions with the tax authorities in the Netherlands.

The adjustment is applied each year following the year of first use, to a fraction of the total input tax (1/10 for immovable property and 1/5 for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Netherlands is recoverable. The Dutch tax authorities refund VAT incurred by businesses that are neither established nor registered for VAT in the Netherlands. Non-established businesses may claim Dutch VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in the Netherlands during the refund period (excluding supplies covered by the reverse charge). *For full details, see the EU chapter.*

Find below specific rules for the Netherlands:

- Under EU Directive 2008/9/EG, the EU tax authorities of the country where the VAT was paid must decide upon the request for a refund within four months after the date of the refund claim. In case of a positive decision, the EU tax authorities of the country where the VAT was paid are required to repay the VAT within 10 days following the date of the decision. In the case of a late refund, the claimant is entitled to interest at the government interest rate in force at the time, in addition to the repayment.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the EU chapter.*

The Netherlands does not apply reciprocity requirements, meaning VAT is normally repaid to businesses from all non-EU countries (i.e., no countries are excluded from the refund mechanism).

Find below specific rules for the Netherlands:

- The formal deadline for refund claims under the EU 13th Directive is 30 June of the year following the year in which the input tax is incurred. However, a claim may be submitted within five years after the year in which the input tax is payable. In the case of late claims, no appeal is possible against negative decisions.
- Claims may be submitted in Dutch, English or German.
- The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is EUR400. For an annual claim, the minimum amount is EUR5.
- Applications for refunds of Dutch VAT must be sent to the following address:

  Belastingdienst/kantoor Buitenland
  P.O. Box 2865
  6401 DJ Heerlen
  Netherlands

- The Dutch VAT authorities have committed to make refunds within six months after the date on which the claim is submitted for the refund.

Late payment interest. No interest (on arrears) is payable by the tax authorities in the Netherlands to non-established businesses requesting a refund of VAT. However, if a VAT refund is granted and a (negative) assessment is sent, but the actual refund is not made within six weeks thereafter, (negative) collection interest may apply.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable supplies made to other taxable persons, including export supplies and intra-Community supplies.

A VAT invoice is required to support a claim for input tax deduction or a refund under the EU Directive 2008/9/EG or EU 13th Directive refund schemes (see the EU chapter).

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is allowed in the Netherlands, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the Netherlands. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the EU chapter)*. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the Netherlands. The requirements related to electronic invoicing are the same as those for paper invoicing.

No specific requirements apply, as long as the issuer of the invoice ensures the authenticity, integrity and legibility of the invoice. It is not required to use a specific method, e.g., Electronic Data Interchange (EDI) or electronic signature, although these two meet the above requirements by definition. It is not necessary to receive an explicit agreement from the customer to be able to use e-invoicing (they may agree tacitly) and no prior approval from the tax authorities is required.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.

Simplified VAT invoices. Invoices are not automatically required for retail transactions, unless requested by the customer. However, the issuance of invoices for wholesalers is required.

A simplified invoice may be issued with respect to local supplies where the taxable amount of the supply is less than EUR100. Also, for credit notes, a simplified invoice may be issued. Simplified invoices should at least mention the following details:
- The date of issue
- Identification of the taxable person supplying the goods or services

- Identification of the type of goods or services supplied
- The VAT amount payable or the information needed to calculate the VAT amount
- Where the invoice issued is a credit note, a specific and unambiguous reference should be made to the initial invoice and the specific details that are being amended

Suppliers of public transportation services, petrol stations and hotel and restaurant services do not have to issue a VAT invoice. However, VAT recovery is allowed on public transportation tickets and taxi receipts and petrol station receipts (the latter only if the means of payment allows for identification of the purchaser).

Self-billing. Self-billing is allowed in the Netherlands. Both parties involved must agree to self-billing (there is no prescribed confirmation for this, but it is recommended to do this in writing). If the supplier on behalf of which the invoice was issued, does not want to accept the invoice issued on its behalf, it must inform the recipient (the issuer) of its objections. In that case, the invoice loses its status of VAT invoice. The supplier will have to issue an invoice itself unless parties can agree on a way of adjusting the original self-invoice. Beside the standard invoicing requirements, the following applies: each self-invoice must contain a sequential number that uniquely identifies the invoice, and in addition, the self-invoice must contain the references "Self-billing" and "Issued in the name and on behalf of the supplier."

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (*see the EU chapter*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves that the goods have left the Netherlands. Acceptable proof includes (a combination of) the following documentation:

- For an export, customs documentation, transport documentation, order forms and proof of payment issued by a foreign bank
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU Member State), plus a range of commercial documentation (such as purchase orders, transport documentation, proof of payment and contracts) as well as a timely filing of the European Sales Listing that includes the transaction.

For the Quick Fixes, in cases where the customer is responsible for the collection/transportation of the goods, a special document is required to substantiate that the goods have left the Netherlands (a "pick up declaration"), containing, among other things, the license plate number of the vehicle collecting the goods and signatures from the supplier, the transporter and the recipient of the goods.

Foreign currency invoices. A VAT invoice can be issued in any currency, but the VAT amount must be indicated in the domestic currency, which is the euro (EUR), using the daily conversion rate published by the European Central Bank (ECB).

Supplies to nontaxable persons. Taxable persons don't have to issue VAT invoices for supplies to private individuals, with the exception of distance sales. Supplies of goods and services to nontaxable legal persons are generally required to be accompanied by a VAT invoice. If no VAT invoice needs to be issued, the documents ("invoices") that are issued do not have to meet any of the VAT invoicing requirements.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In the Netherlands, examples of what records must be held for VAT purposes include records of all taxable supplies of goods and services, intra-Community acquisitions and imports, as well as all other data that are relevant for tax purposes, in the Netherlands or elsewhere in the EU. Furthermore, taxable persons are required to keep record of goods owned that are shipped

to another EU Member State temporarily (e.g., for repair), as well as goods that are shipped to another EU Member State under the simplified call-off stock regime.

In the Netherlands, VAT books and records can be held outside of the country. It is not required for the records to be kept in the Netherlands, but all records should be made available to the tax authorities upon request within a reasonable time frame.

Record retention period. Taxable persons must retain invoices and all other documents/records that are relevant for VAT for a period of at least for seven years. For invoices and other records/documents related to real estate, a taxable person must retain these for a period of 10 years.

Electronic archiving. Electronic archiving is allowed in the Netherlands. Documents that are not originally in electronic form may be converted to a digital format, as long as the business can guarantee the authenticity, the integrity and the legibility of the documents. Businesses must decide for themselves how they do this. In practice, the Dutch tax authorities do not issue written approval of a system used by a business for this purpose. Also note that businesses will have to keep certain documents in their original form, such as documents that determine the amount of duties due upon importation or exportation, e.g., certificates of origin of goods.

I. Returns and payment

Periodic returns. VAT returns are submitted electronically in the Netherlands. They are submitted for monthly or quarterly periods, depending on the amount of VAT payable.

As a main rule, VAT returns must be filed quarterly. Filing the VAT return on a monthly basis can be requested by the taxable person at the tax authorities. If the VAT due is not paid in time, the tax authorities also may require the taxable person to file the VAT returns monthly. The return must be filed by the last day of the month following the end of the reporting period, together with full payment.

Non-established businesses registered for VAT in Heerlen must file their VAT returns before the last business day of the second month after the reporting period.

Periodic payments. The VAT due must be paid by the same date as the VAT return submission deadline, i.e., the last day of the month following the end of the reporting period.

Non-established businesses registered for VAT in Heerlen must pay the VAT due before the last business day of the second month after the reporting period.

The VAT amounts due must be paid in EUR and via (international) bank transfer, using a specific payment reference number provided when submitting the VAT return or can be derived via an online tool provided by the tax authorities. Cash, credit card or check payments are not accepted.

Electronic filing. Electronic filing is allowed in the Netherlands, but not mandatory. When analog data is transformed into digital data, it needs to be guaranteed that the data is transferred one-on-one. The data must be preserved in such a way that they can be made readable in reasonable time. A digital administration therefore needs to be easily accessible. If a change of computer system occurs, it needs to be secured that the data from the "old" computer system is still readable. Also, the data needs to be stored appropriately. This means specifically that a backup will have to be made regularly.

Payments on account. Payments on account are not required in the Netherlands.

Special schemes. *Small and medium enterprises.* Such businesses can apply to be exempt from filing VAT returns and issuing invoices if their annual turnover is less than EUR20,000.

Supplies of art, antiques and secondhand or used goods. Such businesses that trade in these goods on a regular basis account for VAT on the margin instead of the full sales price, where they cannot deduct VAT included in their purchase price and where special invoicing rules apply.

Investment gold. Special VAT rules apply to transactions regarding investment gold.

Tour operators. A special VAT scheme applies to tour operators ("Tour Operator Margin Scheme" or "*reisbureauregeling*"), which resembles the margin scheme for used goods, art and antiques but also has special rules for determining the place of supply and some other specifics.

Fish. In the Netherlands, the importation of fish, shellfish, crustaceans and mollusks that are brought in by ships returning from fishing, as well as the supply of these animals to auctions are VAT exempt with credit.

Cash accounting. The Netherlands operates a cash accounting scheme, for retailers and comparable businesses. Under this system, an input tax deduction is allowed, even before the effective payment of the consideration.

Annual returns. Annual returns are not required in the Netherlands.

Supplementary filings. *Intrastat.* A taxable person that trades with other EU countries must complete statistical reports, known as Intrastat, if the value of its sales or purchases of goods exceeds the applicable threshold. The threshold applies to intra-Community supplies (Dispatches) and intra-Community acquisitions (Arrivals) separately. Separate reports are required for Arrivals and Dispatches.

From 2023, there are no thresholds for filing Intrastat Arrivals or Intrastat Dispatches. If a taxable person is asked by the Dutch Statistics Office to file Intrastat returns, that taxable person will have to comply with this request. Noncompliance can result in penalties.

The Intrastat return period is monthly. The option to file the Intrastat return on an annual basis was canceled as of calendar year 2022.

The submission deadline is the 10th day following the return period. Intrastat declarations must be completed in EUR and submitted via IDEP+. Import templates are available on the website of the Dutch Central Bureau of Statistics.

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

ESLs must be filed on a monthly basis if the total value of supplied goods exceeds EUR50,000. If the total value of the supplied goods does not exceed EUR50,000, the ESLs may be submitted on a quarterly basis.

Taxable persons must submit ESLs for services if all the following conditions are satisfied:
- The place of supply of business-to-business (B2B) services is located in another EU Member State
- The VAT due in that EU Member State is reverse charged to the customer
- The service is not exempt from VAT in the other EU Member State

The ESLs for services must be submitted on a monthly basis, but a business can opt to submit the ESLs on a quarterly basis.

Correcting errors in previous returns. Errors in previous returns that involve an amount of VAT less than EUR1,000 can be included in the current periodical VAT return. If the VAT amount involved exceeds EUR1,000, the error must be corrected by way of a separate supplementary VAT return. Dutch law requires a taxable person to file a supplementary VAT return as soon as it establishes that an original VAT return was filed incorrectly (i.e., VAT was either underpaid or

overpaid). This supplementary VAT return must be filed electronically using a specific electronic form. If this is done correctly, this means that no penalties can be imposed, apart from interest for late payment if there is an underpayment of the VAT. However, failure to file the supplementary VAT return correctly, may result in significant penalties (see *Section J. Penalties* below).

Digital tax administration. There are no transactional reporting requirements in the Netherlands.

J. Penalties

Penalties for late registration. There is no specific penalty in the Netherlands for the late registration of VAT. However, if the late registration results in the late payment of VAT or the late submission of VAT returns, penalties may be imposed.

Penalties for late payment and filings. Penalties are assessed for the late submission of a VAT return or for the late payment of VAT, in the following amounts:
- For the late submission of a VAT return, the maximum fine is EUR131.
- For the late payment of VAT, the minimum fine is EUR50, and the maximum fine is 10% of the VAT due, up to a maximum amount of EUR5,278.
- If the late payment is caused by negligence, intent or fraud, fines ranging from 25% to 100% of the VAT payable may be imposed.

For Intrastat, a penalty up to a maximum amount of EUR16,000 may be imposed for (structural) failure to comply with Intrastat filing and reporting obligations.

For ESLs, if a business does not file an ESL on time, it receives a reminder. If the return is still not filed, the VAT authorities may impose a fine. The amount of the penalty depends on the number of successive omissions. The following penalties apply:
- For the first omission, a fine of 2.5% to a maximum of EUR5,278 is imposed.
- For the second and third omissions, a fine of 5% to a maximum of EUR5,278 is imposed.
- For a fourth or subsequent omission, a fine of 25% to a maximum of EUR5,278 is imposed.

Under certain conditions, the VAT authorities may impose a maximum fine of EUR5,278 for missing ESL reports or ESLs with systematic errors or omissions.

Penalties for errors. Penalties in the following amounts are assessed for VAT errors:
- For errors in the payment of VAT, the maximum fine is 10% of the VAT due, up to a maximum amount of EUR5,278.

In addition, taxable persons must file supplementary returns if it appears that the information provided was inaccurate and/or incomplete. Noncompliance with the duty to file supplementary returns is subject to an offense penalty of up to 100% of the amount of the unpaid tax. This penalty may be imposed if the taxable person knew or should have known that the tax levied fell below the amount that was actually due.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. However, the taxable person can be held liable for penalties arising from the failure to notify, e.g., noncompliance due to not having access to important mail sent to a former company address. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Penalties for gross negligence, intent and fraud are assessed for where a taxable person know that errors were made in the payment of VAT and did not notify the tax authorities accordingly, a penalty may be imposed up to 100% VAT that was not reported and paid as a result of the error, i.e., 25% is the typical penalty for gross negligence, 50% for intent and 100% for fraud.

Personal liability for company officers. Directors cannot, in principle, be held personally liable for errors or omissions in VAT returns. However, should VAT due by the company remain unpaid,

the director(s) can be held liable in case it can be proven that the fact that VAT remained unpaid is a result of maladministration by the director(s). Directors may enhance their protection against this liability by timely announcing the inability of the company to pay the VAT to the tax authorities.

Statute of limitations. The statute of limitations in the Netherlands is five years. Dutch tax authorities can review, and correct VAT returns up to five calendar years. Taxable persons can (voluntarily) correct errors in previous VAT returns also up to five calendar years. However, if the correction results in a refundable amount of VAT, the correction is treated as a VAT refund request that was filed late (i.e., outside of the standard appeal period of six weeks following the VAT payment). This status has impact on further procedural rights and obligations for the taxable person.

An active information obligation exists in the Netherlands. That means that taxable persons are legally mandated to report and correct historic errors in their VAT returns (in the past five years) as and when these are detected. Corrections must be done without delay and penalties apply to taxable persons not reporting these corrections (in time).

New Zealand

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A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Goods and services tax (GST)
Date introduced	1 October 1986
Trading bloc membership	None
Administered by	Inland Revenue Department (IRD) (www.ird.govt.nz) and New Zealand Customs (www.customs.govt.nz)
GST rates	
Standard	15%
Reduced	9% (effective rate based on GST valuation rules)
Other	Zero-rated (0%) and exempt
GST number format	XXX-XXX-XXX (IRD number)
GST return periods	
Monthly	Annual taxable turnover exceeds NZD24 million (optional for other taxable persons)
Bimonthly	Annual taxable turnover between NZD500,000 and NZD24 million
Biannually	Annual taxable turnover below NZD500,000 or 80% or more of the person's taxable supplies for an income year occur within six months of the end of the income year
Quarterly	Non-established suppliers of remote services or (from 1 December 2019) low-value goods are required to file quarterly GST returns
Thresholds	
Registration	NZD60,000
Recovery of GST by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

GST applies to the following transactions:
- The supply of goods or services made in New Zealand by a taxable person
- The importation of goods into New Zealand, regardless of the status of the importer
- The cross-border supply of remote services and intangibles made by a non-established business to New Zealand nontaxable customers

Remote services. From 1 October 2016, the supply of "remote services" by non-established businesses to New Zealand nontaxable customers is subject to GST at the standard rate (*see Section D*). "Remote services" are defined as services that, at the time of the performance of the service, there is no necessary connection between the physical location of the customer and the place where the services are performed. The definition of "remote services" includes any services supplied digitally or remotely, including electronic services and remotely provided traditional services (e.g., accounting, legal and consultancy work).

Remote services supplied to GST-registered New Zealand customers will be outside the scope of New Zealand GST unless the supplier chooses to treat the supplies as zero-rated (see Section D). Specific rules apply for determining the residence and registration status of the recipient of remote services.

Low-value goods. From 1 December 2019, offshore suppliers are required to register, collect and return GST on supplies of "distantly taxable goods" to New Zealand nontaxable customers, if the value of such supplies (and any other taxable supplies) in aggregate exceeds the GST registration threshold of NZD60,000 per annum. Distantly taxable goods (also known as "low-value goods") are defined as goods that:
- Individually have a value of NZD1,000 or less
- Are outside New Zealand at the time of supply (see Section E)
- Are supplied by a non-established business
- Are delivered to New Zealand, and the supplier makes, arranges or assists with the delivery

For low-value goods, the New Zealand Customs Service (NZCS) will not be collecting GST/duty at the border when the goods are imported. This is with the exception of fine metal, alcohol and tobacco products, which are subject to GST, excise taxes or customs duties at the border regardless of the value.

For imported goods valued more than NZD1,000 ("high-value goods"), no GST will be required to be charged by the offshore supplier. The NZCS will continue to collect duty and/or GST on the import. To minimize the compliance costs of identifying high-value goods, the offshore supplier can elect to charge GST on such goods, provided the total high-value goods are less than 25% of the total goods supplied to New Zealand customers. Once GST is charged, certain documentation is required to be provided to the NZCS, so that no GST would be required to be paid on these goods at the border.

New Zealand GST does not apply to supplies of low-value goods where the recipient identified themselves as a GST-registered business or provided their GST registration number or New Zealand Business Number. However, to minimize the compliance costs of identifying business-to-business (B2B) supplies, the offshore supplier may choose to charge GST on B2B supplies if such supplies are less than 50% of their total supplies to New Zealand customers.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in every jurisdiction

where it has customers that are not taxable persons. In New Zealand, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a GST-registered or GST-registrable business will be subject to GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In New Zealand, a TOGC is treated as zero-rated where the following conditions are met:

- It must be the supply of the whole or stand-alone part of a taxable activity (able to operate separately), from one GST-registered person to another
- It must be the supply of all the goods and services necessary for the continued operation of the activity
- Both the transferor and the transferee must agree that there is a supply of a going concern and record this agreement in a document
- Both the transferor and the transferee must intend that the activity is capable of being carried on as a going concern by the transferee
- The business must be a going concern at the time of supply and carried on up to the time of the transfer to the transferee

Transactions between related parties. In New Zealand, for a transaction between related parties, the value for GST purposes is calculated as follows:

- If the supply is made to a GST-registered associated person, GST is accounted for on the amount received.
- If the supply is made to a non-GST registered associated person, the consideration for the supply is the greater of the open (current) market value or the amount charged.

C. Who is liable

A "taxable person" is any business entity or individual that is registered or is liable to register for GST in New Zealand.

A person is liable to register if the taxable supplies made exceed the GST registration threshold of NZD60,000 per annum. The registration threshold applies in the following ways:

- Retrospectively to taxable turnover in the current month and the preceding 11 months
- Prospectively to taxable turnover in the current month and expected turnover in the following 11 months

Exemption from registration. The New Zealand GST law in does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A small business with taxable turnover of less than NZD60,000 a year may voluntarily apply to become a taxable person.

Group registration. Group registration is allowed for corporations or other taxable persons that are "under common control." For these purposes, a corporation is "controlled" if one or more persons own at least 66% of either the voting power in the corporation or the corporation's common market value interests.

Other taxable persons may form a group if any of the following control conditions is satisfied:

- One group member controls each of the others.
- One-person (outside the group) controls all the members of the group.
- Two or more persons carrying on a taxable activity as a partnership control the members of the group.

Certain investment funds may join a GST group with other companies or other investment funds that meet the eligibility criteria. A listed portfolio investment entity can also become part of a group for GST purposes.

Non-established businesses registered under the new "enhanced" registration system (i.e., non-established GST business claimant registration) for non-established entities cannot group with resident companies.

A group must appoint a representative member. Group members making supplies outside the group must issue taxable supply information if requested to do so. The representative group member must account for GST with respect to all group members' taxable activities and file the group's GST returns. Group members must adopt the same filing frequency and accounting basis for GST purposes.

All members of a GST group are jointly and severally liable for GST debts and penalties. However, on leaving a GST group, a member's joint and several liability can be waived, subject to approval from the Inland Revenue Department (IRD).

Transactions between group members are disregarded for GST purposes. This measure applies on the condition that the supply is made to a group member that would have been entitled to input tax recovery if the supplier had not been a member of the group.

If a taxable person's business is organized in branches or divisions, it may register the divisions or branches separately for GST purposes. To register separately, a branch or division must maintain its own accounting system and it must either be in a separate location or carry out different activities from the rest of the legal entity. A branch or division that is separately registered must obtain its own GST registration number and complete a separate GST return. GST is charged on supplies made between branches and divisions that are registered separately and the rest of the legal entity.

There is no minimum time period required for the duration of a GST group.

Fixed establishment. In New Zealand, there is no legal definition of a fixed establishment for GST purposes. The permanent establishment rules that apply for income tax purposes do not apply for GST. However, as well as being resident for GST purposes on the basis that a business is resident for income tax purposes (including where a company is incorporated in New Zealand), a business will be resident for GST purposes to the extent it carries on a taxable activity in New Zealand while having a "fixed or permanent place" in New Zealand relating to that taxable activity or other activity. For GST purposes, the term "fixed or permanent place" is used instead, and no strong linkage is required between this fixed or permanent place and the New Zealand activity. It requires that the fixed or permanent place simply relates to the activity that is being carried on and does not require that the activity amount to a business, nor does it require that the activity be carried on in or through the fixed or permanent place. A "fixed or permanent place" is generally regarded as a physical presence in New Zealand, such as a branch office.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in New Zealand. A foreign or non-established business must register for GST if it makes taxable supplies in New Zealand that exceed NZD60,000 in any 12-month period. A non-established business may also register for GST voluntarily if its supplies are below the annual registration threshold.

A non-established business that does not make taxable supplies in New Zealand may register for GST, in order to recover GST incurred in New Zealand, under the non-established GST business claimant registration regime (*see Section G*). Prior to 30 March 2017, GST imposed by the NZCS cannot be recovered by a business registered under this regime. However, from 30 March 2017,

legislation has been amended to enable the non-established suppliers registered under this regime to recover the GST by entering into an appropriate arrangement with the recipient of the goods, who is deemed to have incurred the import GST and accordingly may be entitled to recover the GST from the IRD.

Tax representatives. A non-established business is not required to appoint a New Zealand resident tax representative in order to register for GST.

Agents. When a taxable person makes a supply to a customer using an agent, the customer and taxable person (or principal) are considered to be dealing directly with each other for GST purposes.

A supplier and its agent may agree in writing to opt out of this rule so that a supply by the principal to the customer using an agent is treated as two supplies: one from the principal to the agent and the other from the agent to the customer. A purchaser and its agent may also agree in writing to allow agents and principals to opt out of the agency rules for a supply made to the principal. Opting out enables the parties to account for GST as though the supply was two supplies: between the supplier and agent, and between the agent and principal.

Reverse charge. A compulsory reverse-charge regime applies if all of the following circumstances exist:

- A supply of services is made by a non-established business to a resident.
- The supply would be taxable if made in New Zealand
- The recipient of the supply is registered (or required to be registered) for GST
- The recipient makes taxable supplies that are less than 95% of its overall supplies
- The recipient of the supply meets one of the following conditions
  - At the time of acquisition, it estimates that the percentage of intended taxable use of the services is less than 95%
  - It determines that the percentage of actual taxable use is less than 95%

The reverse charge is 15% of the consideration for the supply. An input tax credit may be claimed with respect to the reverse charge to the extent that the service was used or available for use in making taxable supplies.

Domestic reverse charge. There is no domestic reverse charge in New Zealand.

Digital economy. Non-established businesses that supply "remote services" and "low-value goods" must register and account for GST in New Zealand if the annual value of those goods and services supplied to nontaxable New Zealand consumers (i.e., business-to-consumer [B2C] supplies) exceeds NZD60,000 (approximately EUR35,7500 or USD38,750). For further details, see subsection *Remote Services* under *Section B* above.

Online marketplaces and platforms. Suppliers who only supply remote services and/or low-value goods to New Zealand customers through an "electronic marketplace" operated by a non-established business will generally not be required to register for GST in respect of the supplies made through the marketplace. Instead, the non-established operator of the marketplace is generally liable to register and return GST on behalf of its underlying suppliers, unless the supplier agrees to the GST obligation, the operator does not authorize the charge or delivery of the goods or services and various steps are taken to ensure the operator is not seen to be the supplier.

A non-established operator of a nonelectronic marketplace through which remote services are supplied to New Zealand customers can also register and return GST on behalf of its underlying suppliers if it obtains approval from the IRD to do so.

A re-deliverer of low-value goods who arranges or assists a non-GST-registered New Zealand customer in the purchase of goods outside of New Zealand could be held responsible for collecting GST on the low-value goods if neither the supplier nor an operator of a marketplace delivers or assists in delivering the goods to New Zealand.

The latest omnibus tax bill, i.e., Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) was enacted on 31 March 2023, effective 1 April 2024. The changes include an extension of the GST rules for electronic marketplaces to the platform economy, where the operators of electronic marketplaces (both offshore and in New Zealand) through which supplies of "listed services" are made would be required to account for GST on the listed services where those services are supplied to customers in New Zealand. It is currently the underlying supplier's responsibility to account for the GST (if GST registered). "Listed services" include certain transportation services (ride sharing), beverage and food delivery services, taxable accommodation services (e.g., short-stay accommodation), etc. The enacted changes are due to apply from 1 April 2024.

Registration procedures. Before registering for GST, the taxable person must already have an IRD number. If not, the taxable person can apply for an IRD number and register for GST at the same time. IRD number and GST registration can be undertaken by submitting a hard copy form or by registering online. Registration online is done instantly, whereas registration by way of a hard copy form can take several weeks. The registration can be submitted either by the taxable person or by a tax agent of the taxable person. Online registration can be completed at www.ird.govt.nz.

The registration process for non-established businesses who only make supplies of remote services or low-value goods has been simplified, and the registration form can be submitted by email, by posting to the IRD or by registering online.

Generally, the following information and documentation will be required for an IRD number and GST registration:

- General business information, e.g., country of residence, registered name, address, business industry classification (BIC) code, certificate of incorporation or taxable person identification number, business start date, etc.
- Full name and address of all directors and shareholders (if less than five) and supporting documentation (i.e., passport page showing photo ID and name and proof of residential address) for at least one director
- A fully functional New Zealand bank account number and supporting documentation (not required for a non-established business)
- The business' turnover in the last 12 months or expected turnover in the next 12 months
- Choice of GST filing frequency and accounting basis

Deregistration. A taxable person that ceases to make taxable supplies must notify the IRD within 21 days after ceasing operations. If the IRD is satisfied that the taxable person's operations are not expected to recommence within 12 months, they may cancel the taxable person's GST registration. The taxable person is required to file a final return on deregistration and the GST on any remaining assets or liabilities in New Zealand at the date of deregistration needs to be accounted for.

A taxable person may deregister voluntarily if it can satisfactorily prove to the IRD that its taxable turnover in the following 12 months is expected to be less than NZD60,000.

Changes to GST registration details. Taxable persons should notify the tax authorities about changes in their GST registration details within 21 days of the change. This may be done by submitting a hard copy form or by updating the details in the IRD online portal (i.e., myIR).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to GST, including the zero-rate.

The GST rates are:
- Standard rate: 15%
- Reduced rate: 9% (effective rate based on GST valuation rules)
- Zero-rate: 0%

The standard rate of GST applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Sale of a business as a going concern
- Exported goods
- Goods not in New Zealand at the time of supply
- Certain exported services (excluding exported services that are acquired to enable or assist a change in the physical or legal status of land located in New Zealand)
- Services performed outside New Zealand
- Transport of goods to and from New Zealand (including the domestic leg of the international transportation)
- Services for ancillary transport activities, insuring or arranging insurance and arranging transport in relation to international transportation of goods
- First sales of refined precious metals for investment purposes
- Supplies of financial services to businesses that make taxable supplies in excess of 75% of total supplies where the supplier has elected to do so
- Certain transactions involving emissions units
- Exported secondhand goods if the recipient gives the supplier an undertaking in writing that the goods will not be reimported into New Zealand
- Certain supplies of which land is a component by GST-registered vendors to taxable persons
- Supplies of remote services made by non-established businesses to GST-registered New Zealand customers, where the supplier chooses to zero-rate

Some specific supplies have an effective rate of 9% through the GST valuation rules.

Examples of goods and services taxable at 9%

- Supplies of accommodation and other domestic goods and services in a rest home where nursing care and other services are provided
- Supplies of long-term accommodation in a hotel or motel

The term "exempt supplies" refers to supplies of goods and services that are not liable to GST and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services (although some qualify for the zero rate)
- Sales of donated goods and/or services by nonprofit organizations
- Certain real estate transactions
- Supply of fine metals

Option to tax for exempt supplies. In some cases, suppliers of financial leases can elect to treat their interest income as taxable supplies instead of exempt supplies.

E. Time of supply

The time when GST becomes due is called the "time of supply" or "tax point." Under the general rule, a supply takes place when an invoice is issued or when payment is received by the supplier, whichever is earlier.

Taxable persons may opt to account for GST using the invoice basis (most common), the payments basis or the hybrid basis. These methods are described below:

- Under the invoice basis of accounting, a taxable person must account for GST when an invoice is issued or when payment is received, whichever is earlier. Input tax is recoverable on the basis of taxable supply information received (*see Section F*).
- A taxable person may use the payments basis of accounting if the total value of its taxable supplies in the preceding 12 months did not exceed NZD2 million or if its turnover is not expected to exceed this figure in the following 12 months. Under the payments basis of accounting, a taxable person must account for GST on the basis of payments received (except for a supply for which the consideration is more than NZD225,000 and a supply that is not a short-term agreement for the sale and purchase of property or services). Input tax is recoverable on the basis of invoices paid (*see Section F*). Non-established businesses registered under the GST business claimant registration regime must account for GST on the payments basis.
- Under the hybrid basis of accounting, a taxable person accounts for GST on sales and income when an invoice is issued or when a payment is received, whichever is earlier. Input tax is recoverable on the basis of invoices paid (*see Section F*). GST on expenses and purchases is accounted for when a payment is made, and output tax is returned on the basis of invoices paid (*see Section F*).
- Where the supplier and recipient are associated entities, the time of supply is the earliest of the issuing of an invoice, the receipt of payment by the supplier or the making available of the goods, removal of movable goods or performance of the services.

Deposits and prepayments. Where a binding contract exists, the receipt of a deposit applied to the benefit of the vendor may trigger the time of supply. This is regardless of whether at the time of the receipt the contract is conditional or unconditional. Where a deposit is paid to a person as a stakeholder, there will have been no receipt by the supplier and the time of supply will not be triggered. For nonrefundable deposits, if the facts show that the supplier is entitled to the deposit from the moment of payment, then the time of supply will have been triggered. For refundable deposits, if the facts show that the deposit is paid to a stakeholder and cannot be applied to the supplier's benefit until the happening of a specific event, then the time of supply will not be triggered until the event has occurred and the stakeholder obligations are at an end.

If a deposit is received but the supply does not take place (for example because the contract has been canceled), the vendor is still required to account for GST. However, the GST effect of entering into the contract will be reversed in the period in which the agreement is canceled.

The treatment of deposits does not depend on whether the supply is in relation to goods or services.

Continuous supplies of services. Under the following instances, each periodic payment is deemed to be a separate supply and the time of supply is deemed to take place whenever any periodic payment becomes due, is received, or any invoice relating only to that payment is issued, whichever is the earlier:

- Goods that are supplied progressively or periodically pursuant to any agreement or enactment that provides for the consideration for that supply to be paid in installments or periodically and in relation to the periodic or progressive supply of those goods

- Goods and services supplied directly in the construction, major reconstruction, manufacture or extension of a building or an engineering work and are supplied pursuant to any agreement or enactment that provides for the consideration for that supply to become due and payable in installments or periodically in relation to the progressive nature of that construction, manufacture or extension

Goods sent on approval for sale or return. There are no special time of supply rules in New Zealand for supplies of goods sent on approval for sale or return. As such, the normal time of supply rules apply (as outlined above).

Reverse-charge services. The normal time of supply rules apply for the supply of reverse-charge services (i.e., the earlier of when an invoice is issued, or any payment received) with an exception where the supplier and recipient are associated persons.

Where the supplier and the recipient are associated parties, the time of supply is generally the earlier of the following:
- The end of the taxable period that includes the date that is two months after the recipient's balance date for the year in which the service was performed
- When an invoice is issued
- When any payment is received

Leased assets. Where goods are supplied under an agreement to hire (which generally includes leases where title to the assets is not expected to pass to the lessee) or where services are supplied under any agreement or enactment that provides for periodic payments, the time of supply is deemed to take place when a payment becomes due or is received, whichever is the earlier.

Where goods and services are supplied under a hire purchase agreement (which generally includes leases where there is an option to purchase the leased assets), the time of supply is deemed to take place at the time the agreement is entered into.

Imported goods. There are no special time of supply rules in New Zealand for supplies of imported goods. As such, the general time of supply rules apply (as outlined above).

Related parties. There are specific time of supply rules for supplies between related parties. For goods, the time of supply is the date of removal of the goods (if removed) or the date the goods are made available. For services, the time of supply is at the time the services are performed. These specific rules do not apply if a tax invoice is issued or payment is made before the GST return relating to the GST period in which the supply would have been treated as being made under the specific rules is filed. For further details see the subsection Transactions between related parties above.

F. Recovery of GST by taxable persons

A taxable person may recover input tax, which is GST charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is GST charged on supplies made. Input tax includes GST charged on goods and services supplied in New Zealand and GST paid on imports.

Non-established businesses may recover GST costs without making taxable supplies in New Zealand under the GST business claimant registration regime (*see Sections C and G*).

Taxable supply information or a customs document must generally accompany a claim for input tax for a supply greater than NZD200 (including GST). If a tax invoice is not issued by the supplier, the recipient of a supply can keep other records that are sufficient on their own or in combination to support the expense claims, e.g., invoices, supplier agreements, contracts, bank statements. From 1 April 2023, the threshold of NZD50 was increased to NZD200 and certain

sets of information are required to be retained by both the supplier and the recipient for a supply for a supply greater than NZD200 (including GST) (*see Section H. Invoicing*).

To claim an input tax deduction on GST paid on imports, the following documents issued by NZCS can be used as "invoices":
- An electronic import entry once the entry has been passed
- A deferred payment statement issued to an importer
- A cash statement
- A manual invoice/statement

The time limit for a taxable person to reclaim input tax in New Zealand is two years. A taxable person is effectively restricted from claiming input tax credits with respect to supplies that are greater than two years old except in certain circumstances. The exceptions under which a taxable person can claim input tax greater than two years include where the taxable person is unable to obtain taxable supply information, there is a dispute over the amount of the payment for the supply and where the failure to claim the input tax in an earlier period was a result of a clear mistake or simple oversight.

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

Examples of items for which input tax is nondeductible

- Nonbusiness expenditure
- 50% of business entertainment expenses

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease, hire, maintenance and fuel for cars, vans and trucks
- Conferences and seminars
- Advertising
- Accommodation
- Mobile phones
- Business gifts
- Travel expenses
- Capital raising costs

Partial exemption. A taxable person may recover GST, to the extent that the acquired goods or services are used for making taxable supplies. This input tax regime replaces the "principal purpose" test described below with an apportionment test. Under the regime, a taxable person apportions GST incurred on the acquisition of goods and services and claims an input tax deduction for goods or services that are used for making taxable supplies.

To determine the extent that goods or services are used for making taxable supplies, a taxable person must estimate how it intends to use the goods or services and choose a determination method that provides a fair and reasonable result. The taxable person then uses the estimated intended taxable use of the goods and services to determine the proportion of the input tax that corresponds to the estimated intended taxable use.

A taxable person is not required to apportion input tax if it makes both taxable and exempt supplies and has reasonable grounds to believe that the total value of its exempt supplies is no more than the lesser of NZD90,000 or 5% of the revenue from all taxable and exempt supplies for the period beginning at least 12 months from acquisition of the goods and services and ending on the person's balance date.

Taxable persons may be required to make further adjustments if the actual taxable use of an asset is different from its intended taxable use.

Approval from the IRD is not required to use the partial exemption standard method in New Zealand. Special methods are allowed in New Zealand. Taxable persons who principally make supplies of financial services are required to seek agreement from the IRD to use an alternative method of apportionment (i.e., a special method).

Taxable persons may obtain approval from the IRD to use an alternative method of apportionment and adjustment that is "fair and reasonable" if the taxable person is making supplies exceeding NZD24 million in a 12-month period, or the taxable person is associated with a specific industry.

A special rule has been introduced for situations in which land is used concurrently for a taxable purpose and a nontaxable purpose, such as when land is simultaneously advertised for sale (taxable use) and rented out as a dwelling (nontaxable use). The new rule requires a taxable person to calculate the percentage that the land is used for making taxable supplies by using the following formula:

$$\frac{\text{Consideration for taxable supply}}{\text{Total consideration for supply}} \times 100$$

In the above formula, "consideration for taxable supply" is the amount received on a disposal of land in the adjustment period or the market value of the land at the time of making the adjustment. "Total consideration for supply" is the consideration for taxable supply, as described in the preceding sentence, plus the total exempt rental income payable since the acquisition of the land.

Special apportionment rules apply where certain assets (land, boats and planes) are used for both income-earning and private activities (i.e., "mixed-use assets"). If an asset is not used for at least 62 days per income year, expenditure relating to such assets is to be apportioned according to the following formula:

GST amount * (income days / (income days + private days))

In the formula, days can be substituted for a comparable unit, such as flying hours for planes or nights for accommodation. Some expenditure is fully deductible, such as costs incurred to repair damage caused when the asset is used to earn income, expenditure solely relating to the use of the asset for deriving income that derives no personal benefit (such as advertising) and expenditure incurred to meet regulatory requirements.

If goods and services were acquired principally for making taxable supplies but were also used for making exempt supplies, an output tax adjustment was required to the extent that the goods and services were used for making exempt supplies.

If goods and services were acquired principally for making exempt supplies or for nonbusiness purposes, an input tax adjustment was required to the extent that the goods and services were used for making taxable supplies. Some transitional rules relate to specific aspects of the changes are discussed above.

The latest omnibus tax bill enacted by the New Zealand government on 31 March 2023 included several amendments to the input tax apportionment rules.

Some of the key changes were:

- Providing an ability to elect to exclude assets from a GST-registered person's taxable activity at the time of purchase

- Introducing a principal purpose test for goods and services acquired for NZD10,000 or less (excluding GST) that would allow a GST-registered person to claim a full input tax deduction
- Allowing GST-registered persons to elect to treat certain assets that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use
- Reducing the number of required adjustment periods
- Allowing IRD to approve a wider range of apportionment methods

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is not recoverable to the extent that the capital goods are purchased by a business for private use. Similarly input tax is not recoverable to the extent that capital goods are used to make exempt supplies (assuming the value of the exempt supplies is more than NZD90,000 or 5% of the total supplies made by the taxable person).

For land, the actual taxable use must be determined by reference to the percentage taxable use of the asset over the entire period from the purchase date to the end of the adjustment period. The resulting taxable use percentage is effectively the weighted average of the annual taxable use percentages calculated over the ownership period. Capital goods are subject to annual wash-up adjustments as stated above. The number of GST adjustments required is determined by reference to the value of the capital goods.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable, a refund may be claimed. GST refunds are generally made within 15 working days after the IRD receives a correct return unless the IRD investigates the return and determines that the taxable person has not complied with its GST obligations.

However, a refund can be withheld for up to 90 days for non-established businesses registered under the GST business claimant registration regime.

Pre-registration costs. Costs incurred prior to registration may be claimed, provided they were legally incurred by the company or person seeking to recover them, and they relate to the taxable activity of that company or person. Preincorporation expenditure cannot be claimed where the goods or services were acquired more than six months prior to the date of incorporation of the company. Input tax on pre-registration costs is claimable in the GST return period covering the income tax balance date. This includes goods or services acquired prior to the incorporation of a company, where the costs were incurred by a person who became a member, officer or employee of the company and was fully reimbursed for the costs, and where the goods and services were acquired for the purpose of a taxable activity to be carried out by the company and have only been used for that purpose.

Bad debts. The GST on bad debts may be recoverable by including the amount as a credit adjustment in the GST return, provided the debts are both bad and written off. If all or part of the bad debts is later recovered, the GST on the bad debts recovered must be returned to the IRD by including the amount as a debit adjustment in the GST return.

Noneconomic activities. A registered nonprofit body resident in New Zealand may recover input tax on expenses to the extent that the acquired goods and services are not used for making exempt supplies.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in New Zealand is recoverable. A non-established business that does not make taxable supplies in New Zealand may register for GST to recover GST incurred in New Zealand under the non-established GST business claimant registration regime. The following rules will govern the scheme:

- The non-established business must be registered for GST or VAT in its own country or be carrying on a taxable activity and making a sufficient level of supplies that would render them liable to be registered under the New Zealand legislations

- The GST refund resulting from the first GST return must be more than NZD500 or the non-established business is likely to be liable for GST levied by the NZCS in relation to the importation of goods (note that the NZD500 threshold does not apply here)
- The GST input tax credits only arise when the non-established business has paid for the expenditure
- The non-established business cannot form a New Zealand GST group with New Zealand resident entities unless the nonresident is registering for GST under the ordinary rules
- The non-established business must not be making supplies of services that are likely to be received by a person in New Zealand who is not registered for GST or is registered but is not receiving the services in the course of making taxable or exempt supplies
- The tax authority will not be legally obliged to refund the GST until 90 days after the GST return has been lodged

H. Invoicing

GST invoices. A New Zealand taxable person must generally provide taxable supply information for all taxable supplies that cost more than NZD50 (including GST) made to other taxable persons within 28 days after a request for the taxable supply information. Taxable supply information is generally required to support a claim for deduction of input tax for items that cost more than NZD50 (including GST).

Non-established businesses that supply only remote services are not required to issue taxable supply information to New Zealand customers. However, they can choose to issue taxable supply information where GST was incorrectly charged on a supply made to a GST-registered person and both of the following conditions are met:

- The consideration for the supply was less than NZD1,000 (by reference to the foreign currency amount converted into NZD at the time of supply)
- The customer has informed the supplier that it is GST-registered or has provided its GST/IRD registration number or New Zealand business number

Offshore suppliers of low-value goods are not required to issue taxable supply information to New Zealand customers. However, the supplier can choose to issue taxable supply information if the NZ customer is registered for GST and the supplier elects to treat their B2B supplies as being subject to GST (see *Section B* above). Alternatively, taxable supply information may be issued where GST is charged on a B2B supply of low-value goods by mistake. This allows the customer to submit a GST claim to the IRD for the GST they incorrectly paid to the supplier.

Offshore suppliers are required to issue receipts to the customers for the supplies of low-value goods if GST is charged on the supply. Receipts must be issued within 10 working days after a request for the receipt. The customer can then provide the receipt to the NZCS as evidence that GST was charged at the point of sale, so that the NZCS does not collect GST again when the goods are imported into New Zealand.

The above rules were in place until 31 March 2023. On 30 March 2022, the New Zealand government enacted the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022, which contains the measures relating to GST invoicing simplifications. These rules, effective from 1 April 2023, change the threshold of NZD50 to NZD200 and modernize the GST rules for invoicing and record-keeping. There is no longer a requirement for GST-registered persons to create and maintain prescribed documents (such as tax invoices and credit notes) to support input tax recovery, with entitlement to input tax recovery instead being supported by business records showing the GST that has been borne on the supplies and holding certain sets of information. Various records such as invoices, bank statements, supplier agreements and contracts can be used on their own or in combination to support the figures in the GST return, Both the supplier and the recipient must retain the required set of information.

The words "tax invoice" have been replaced by the new term "taxable supply information." Taxable supply information refers to the minimum set of information buyers and sellers need to keep as evidence of a transaction. The taxable supply information that GST-registered persons need to provide or keep depends on the value and the type of supply.

The omnibus tax bill enacted by the New Zealand government on 31 March 2023 also includes several remedial changes to the legislation passed to introduce comprehensive changes to the existing GST invoicing rules (which came into effect from 1 April 2023). The focus of the changes is on ensuring that businesses are not burdened by additional compliance costs and obligations because of the changes, consistent with the overall aim of the GST tax invoice changes of providing more flexibility to business with respect to invoicing (aligned with modern business practices and government initiatives on e-invoicing).

Credit notes. A credit note may be used to reduce the GST charged and reclaimed on a supply if the value originally charged was incorrect. A credit note must indicate the reason why it was issued and must refer to both the GST originally charged and the corrected amount. The time limit for issuing a credit note for a supply made in an earlier period is generally four years from the end of the taxable period in which the supply was made.

With effect from 1 April 2023, the words "credit note" (and "debit note") have been replaced by the new term "supply correction information" under the new GST legislation (see the subsection *GST invoices* above). Supply correction information must be provided when the taxable supply information included an incorrect amount of GST, or when the supplier has included an incorrect GST amount in their GST return.

Electronic invoicing. Electronic invoicing is allowed in New Zealand, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in New Zealand. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in New Zealand. The requirements related to electronic invoicing are the same as those for paper invoicing.

Where the originals are in hard copy form, the electronic recording of the documents is accepted provided that the soft copy, if printed, is identical in format and all other aspects to the original documents. Further, the information must be readily ascertainable and must meet the requirements of the Electronic Transactions Act 2002.

The omnibus tax bill enacted by the New Zealand government on 31 March 2023 includes several remedial changes to the legislation passed to introduce comprehensive changes to the existing GST invoicing rules (which came into effect from 1 April 2023). The focus of the changes is on ensuring that businesses are not burdened by additional compliance costs and obligations because of the changes, consistent with the overall aim of the GST tax invoice changes of providing more flexibility to business with respect to invoicing (aligned with modern business practices and government initiatives on e-invoicing).

Simplified GST invoices. Simplified taxable supply information is allowed when the supply is less than NZD1,000. Simplified taxable supply information means the name and address of the recipient and the quantity or volume of the goods and services supplied are not required to be shown on the invoice, but the invoice should include the consideration for the supply and a statement that GST is charged.

Self-billing. Self-billing is allowed in New Zealand. Taxable supply information can be issued by a recipient of a taxable supply and is required to include the same information as taxable supply information issued by a supplier. In addition, the supplier and the recipient must agree that the supplier will not issue taxable supply information for the same supply and that the recipient will issue taxable supply information for each taxable supply by the supplier to the recipient. The

supplier and the recipient must also record the reasons for entering the agreement for recipient created taxable supply information if the agreement is not part of the normal terms of business between the supplier and the recipient. With effect from 1 April 2023, approval from the IRD to issue recipient created taxable supply information is no longer required. GST-registered persons who currently issue recipient created taxable supply information are no longer required to include the words "buyer created tax invoice – IRD approved" in a prominent place; however, these can continue to be included. The document must still be provided to the supplier, with a copy to be retained by the recipient.

Proof of exports. In order to apply zero-rating to a supply of exported goods, the following documents are accepted by the NZCS as proof of export:
- Delivery evidence (e.g., bill of lading showing export by sea, or air waybill for export by air)
- Packing list or delivery note showing overseas delivery address
- Insurance documents
- Purchase order showing overseas delivery address

There is no specific wording requirement for an invoice issued relating to an exported sale.

Foreign currency invoices. Taxable supply information must be issued in the domestic currency, which is the New Zealand dollar (NZD). If taxable supply information is issued in foreign currency, the values used for GST purposes must be converted to NZD based on the exchange rate in effect at the time of supply. Exchange rates published by an approved bank (all registered banks in New Zealand are approved) or an approved bureau de change (e.g., American Express and Travelex Australasia Group, which includes Thomas Cook) are acceptable by the IRD.

Supplies to nontaxable persons. There are no specific rules in relation to the invoices issued for supplies made by taxable persons to private consumers. No taxable supply information is required to be issued by a supplier of remote services, or if the value of the supply is less than NZD50. In other cases, the general tax invoicing requirements apply.

Records. In New Zealand, examples of what records must be held for GST purposes include books of account recording receipts, payments, income or expenditure and include vouchers, bank statements, invoices, taxable supply information, supply correction information, debit notes, receipts and such other documents as are necessary to verify the entries in any such books of account.

Records must be kept in English or te reo Maori, unless agreed otherwise with the IRD.

In New Zealand, GST books and records can be held outside the country. Generally, it is a requirement to store the records in New Zealand, unless approval is obtained from the IRD for offshore storage. Nevertheless, suppliers of remote services or low-value goods can store records in a language other than English or te reo Maori and outside of New Zealand without obtaining an approval from the IRD.

Record retention period. Records must be kept for at least seven years after the end of the taxable period to which they relate.

Electronic archiving. Electronic archiving is allowed in New Zealand. Records may be kept in a manual or electronic format. However, taxable persons should ensure the records being kept are sufficient to enable ready ascertainment by the IRD of the taxable person's liability to tax.

I. Returns and payment

Periodic returns. GST returns are generally submitted monthly or bimonthly. Two cycles of bimonthly returns are provided to stagger submission dates. A taxable person may request a change in its GST return cycle to ease administration.

A taxable person whose taxable turnover exceeds NZD24 million in a 12-month period must submit GST returns monthly. Other taxable persons may opt to submit GST returns monthly if they wish to receive regular repayments of GST or if they find it easier to account for GST on a monthly basis.

A taxable person whose annual taxable turnover does not exceed NZD500,000 may submit GST returns on a six-monthly basis. A person may also apply for a six-monthly filing frequency even though their taxable supplies exceed the NZD500,000 threshold, if 80% or more of their taxable supplies in an income year are made within a six-month period that ends at any day within the last month of the person's income year, and the person had not had a six-monthly filing frequency under this criterion in the 24-month period before the application.

A non-established business who only makes supplies of remote services and/or low-value goods in New Zealand (and whose taxable supplies exceed the registration threshold of NZD60,000) must submit GST returns on a quarterly basis.

GST return periods generally end on the last day of the month. However, taxable persons may request different periods to align with their accounting records. GST return due dates generally fall on the 28th day of the month following the end of the return period, except for the periods ending 30 November and 31 March. The due dates for these periods are 15 January and 7 May, respectively. The GST return form indicates the due date for each return.

Periodic payments. GST payment due dates fall on the same day as the periodic GST return filing due dates as detailed above.

GST payments can be made in several ways, including the use of internet banking, debit or credit card, setting up direct debit payments in myIR or money transfer from overseas. Making payments electronically is the recommended approach by the IRD, as it is the most accurate and reliable method. The following references must be included when making an electronic payment to the IRD:

- The taxable person's IRD number
- An account type (e.g., GST)
- The tax period the payment relates to (ddmmyyyy)

Electronic filing. Electronic filing is allowed in New Zealand, but not mandatory. Retention of electronic records is subject to special requirements.

Payments on account. Payments on account are generally not required in New Zealand, except for certain taxable persons. For taxable persons that are provisional taxable persons, provisional tax installment dates should coincide with the GST return due dates. A provisional taxable person is a person that pays its anticipated yearly income tax liability in installments during the income year.

Special schemes. *Non-established suppliers of remote services or low-value goods.* Non-established suppliers of remote services or low-value goods are subject to special filing frequencies with quarterly filing as detailed above.

Annual returns. Annual returns are not required in New Zealand.

Supplementary filings. No supplementary filings are required in New Zealand.

Correcting errors in previous returns. If an error has been made in a GST return that has already been filed, the taxable person should notify the IRD about the error before being audited to prevent or reduce the penalties being imposed. The taxable person will be liable to pay for the tax shortfall, the use of money interest on the tax shortfall (if over NZD100) and the shortfall penalty (*see Section J. Penalties*). An error can be corrected in either the next return or the same return under specific circumstances.

The error can be corrected in the next return if the mistake relates to miscalculation of annual gross income or the GST collected, resulting in the final tax amount being incorrect, and the tax difference caused by the error is NZD1,000 or less. An error made in a GST return, which caused the tax difference to be equal to or less than NZD10,000 or 2% of the annual output tax GST collected, can also be corrected in the next return, provided that the purpose is not to delay the tax payment.

The taxable person can also correct an error in a later return if the error relates to an unclaimed input tax that is within two years of when the claim was left out, or if the error relates to an inability of the taxable person to obtain a taxable supply information, a dispute over the proper payment amount for the taxable supply to which the deduction relates, a mistaken understanding that the supply to which the input tax relates was not a taxable supply or a clear mistake or simple oversight by the taxable person.

For errors that involve an adjustment to output tax or an overstatement of input tax, a voluntary disclosure should be made to the IRD and certain information relating to the error should be provided to correct the error in the same return. This can be done via calling the IRD or sending a letter by mail or email.

Digital tax administration. There are no transactional reporting requirements in New Zealand.

J. Penalties

Penalties for late registration. There is no specific penalty in New Zealand for the late registration of GST.

Penalties for late payment and filings. A penalty is assessed for the late payment of GST. A penalty of 1% of the tax due is assessed on the day after the due date. If the tax remains outstanding, the following additional penalties apply:
- 4% of the tax that is due seven days after the due date
- 1% of the tax due each month that the tax remains unpaid

A late filing penalty may be imposed of NZD250 if the taxable person accounts for GST payable on an invoice basis or NZD50 if the taxable person is using the payments basis.

A penalty of NZD250 will apply for taxable persons that have chosen to file their GST return electronically but fail to do so.

Penalties for errors. Penalties are also assessed for underpayments of GST. This "shortfall penalty" is assessed as a fixed percentage of the tax due, depending on the nature of the error, in the following amounts:
- Lack of reasonable care or unacceptable tax position: 20% of the tax due
- Gross carelessness: 40% of the tax due
- Adopting an abusive tax position: 100% of the tax due
- Tax evasion: 150% of the tax due

Penalties may be reduced by the IRD in certain circumstances by up to 75%.

A reduction of the shortfall penalty to zero may apply if the penalty is imposed for not taking reasonable care and if the taxable person makes a voluntary disclosure before notification of an IRD audit or investigation.

The late notification or failure to notify the tax authorities of changes to a taxable person's GST registration details may result in liability penalties being imposed (not exceeding NZD4,000 for a first offense), although such penalties are not generally imposed in practice. For further details, see the subsection *Changes to GST registration details* above.

In addition, use of money interest is calculated for underpayments and overpayments of GST for amounts equal to or over NZD100. *At the time of preparing this chapter, the rate of interest is 10.91% for underpayments and 4.67% for overpayments.*

Penalties for fraud. A shortfall penalty can be imposed for "tax evasion" or "adopting an abusive tax position." See the detail above for more information. Depending on the circumstances, a taxable person may also be convicted for criminal offenses in addition to the tax shortfall penalties.

Personal liability for company officers. There are no specific rules in relation to the personal liability for company officers in respect of GST errors.

Statute of limitations. The statute of limitations in New Zealand is four years. The statute of limitations (or "time bar") for the IRD to amend a GST assessment is four years. Generally, the IRD may not reassess historical GST debts and amend the assessment to increase the amount assessed if four years have passed from the end of the GST return period in which the return was provided. However, the IRD may, at any time, amend an assessment to increase the amount of the assessment if the IRD considers that the person assessed has knowingly or fraudulently failed to disclose all the material facts that are necessary for determining the amount of GST payable for a GST return period.

Nicaragua

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	21 December 1984 (revised 18 February 2019)
Trading bloc membership	Central American Integration System
Administered by	Ministry of Finance (Ministerio de Hacienda y Crédito Público) via the tax administration (http://www.hacienda.gob.ni; http://www.dgi.gob.ni)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	Taxable person identification number (RUC) – 14 digits
VAT return periods	Monthly (general), biweekly (large taxable persons)
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Transfer and supply of goods
- Supply of services within Nicaragua
- Use or enjoyment of goods
- Importation of goods
- Exports of goods and services

Taxable events include the sale, importation and nationalization of goods, the export of goods and services, the rendering of services and the use and enjoyment of goods.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Nicaragua, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Nicaragua, there are no specific rules or conditions for a TOGC to be treated as outside the scope of VAT.

Transactions between related parties. In Nicaragua, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

No separate VAT registry exists in Nicaragua. All businesses must register as taxable persons and obtain a taxable person identification number (*Registro Único del Contribuyente [RUC]*). The RUC is also used for VAT purposes. A taxable person for VAT purposes is any entity or individual that engages in taxable operations in Nicaragua.

Exemption from registration. The VAT law in Nicaragua does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Nicaragua does not contain any provision for voluntary VAT registration.

In accordance with VAT law in Nicaragua, there is no special VAT registration. This is only done through the general regimen registration that is open for all tax obligations for taxable persons. However, there is a special regimen for small businesses called *cuotas fijas* (i.e., fixed fees) that combines income tax and VAT obligations.

Group registration. Group VAT registration is not allowed in Nicaragua.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Nicaragua, where it meets the conditions of the permanent establishment (PE) rules, as defined in Nicaragua's domestic legislation as follows:

- The place in which a non-established taxable person carries out all or part of its business activity, including without limitation:
  - A central place of management
  - A branch
  - An office or a representative
  - A factory
  - A workshop
  - A mine, an oil or gas well, a quarry or any other place of extraction of natural resources
- It also includes:
  - A building site or construction or installation project or the related supervision activities, but only if the duration of such building site, projects or supervision activities lasts more than six months
  - Business consulting services lasting more than six months within a calendar year
- Notwithstanding the above, where a person, other than an agent of an independent status, acts on behalf of a non-established taxable person, then this enterprise shall be deemed to have a PE

in Nicaragua in respect of any activities which that person undertakes for the enterprise, if such person:
  – Has, and habitually exercises, in Nicaragua an authority to conclude contracts and perform other activities in the name of the enterprise.
  – Does not have such authority, but habitually maintains in Nicaragua a stock of goods or merchandise from which it regularly delivers goods or merchandise in the name of the enterprise.
- Taxable persons that operate as branches or agents of foreign companies engaged in maritime or air transportation of passengers, maritime or air cargo, or international ground transportation of passengers, are excluded from the PE definition. These taxable persons will be considered as "non-established taxable persons."

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Nicaragua. If the non-established business is not registered in the Nicaragua tax system, it cannot register for VAT.

Generally speaking, if a non-established business habitually and commonly has economic activities in Nicaragua, it should register as a taxable entity in the Nicaragua tax system. To register for VAT, a foreign business must provide the VAT authorities with a copy of its articles of incorporation, legalized by a Nicaraguan consulate, together with an official translation in Spanish. In Nicaragua, branches should register the business before the Mercantile Registry as a first step, and then the process will continue in the tax administration.

Tax representatives. It is not mandatory to appoint a tax representative in Nicaragua; however, it is permitted. A tax representative can be appointed through a tax power of attorney. A permanent power of attorney can be registered with the tax administration.

Reverse charge. Nicaraguan tax legislation does not permit use of the reverse charge. There is no registration threshold in Nicaragua and, as such, non-established businesses that make supplies to domestic business customers in Nicaragua must register for VAT.

For imported services, there is no VAT due on such supplies. This means that if Nicaraguan businesses buy services from a non-established business, the recipient doesn't self-account for VAT, and the supplier doesn't have to register and charge VAT either. As such, no VAT is accounted on the supply.

Domestic reverse charge. There are no domestic reverse charges in Nicaragua.

Digital economy. There are no specific rules regarding the taxation of the digital economy for VAT purposes. However, general taxable events should always be observed regardless of whether or not they are transacted by digital means. A VAT liability will arise when the digital transaction involves one of the following:
- Transfer and supply of goods
- Supply of services within Nicaragua
- Use or enjoyment of goods
- Importation of goods
- Exports of goods and services

Furthermore, there is no different treatment for business-to-business (B2B) and business-to-consumer (B2C) supplies. This means, for example, if a nonresident provides electronically supplied services within Nicaragua to a resident customer, it is subject to VAT. However, note that there is no reverse-charge mechanism in Nicaragua. It is not possible for a nonresident provider to register specifically for VAT in Nicaragua, but it must register in general with the Nicaraguan tax system to account for the VAT due.

There are no other specific e-commerce rules for imported goods in Nicaragua.

Online marketplaces and platforms. Services provided from outside Nicaragua (i.e., abroad) through online marketplaces and platforms to be consumed/used in Nicaragua are not subject to VAT.

Services provided from a local Nicaragua supplier (taxable person) through online marketplaces and platforms to be consumed/used in Nicaragua are subject to VAT. VAT applied on services rendered by a non-established business to a local taxable person should be incorporated as part of the acquisition cost.

Sales of goods from outside Nicaragua (i.e., abroad) through online marketplaces and platforms to be consumed/used in Nicaragua are not subject to VAT. However, the importations of such goods must comply with the importations VAT rules.

Sales of goods from a local Nicaragua supplier (taxable person) through online marketplaces and platforms to be consumed/used in Nicaragua are subject to VAT.

Registration procedures. Taxable persons must register before the tax administration at the time they start selling goods or rendering services subject to VAT in Nicaragua.

For this purpose, taxable persons must file a completed VAT registration form with the following information:
- Incorporation documents of the company
- The registration of the company in the public register and copies of the identification number of the shareholders
- Information of the taxable persons domicile and a support document of the address (e.g., a copy leasing contract)
- Information of the legal representative of the taxable person in the country (include information of general power of attorney granted, ID number, domicile and telephone information); in practice, the Nicaragua tax administration does not allow the registration of a legal representative that does not have a Nicaraguan ID number or Nicaraguan residence ID number
- Information of the principal economic activity that the company will develop in the country
- Register of beneficial ownership

The VAT registration takes approximately one week and must be completed on paper by the legal representative or person who holds a special power of attorney. The information should be delivered to the tax administration office that is located nearest to the domicile of the taxable person.

Deregistration. To deregister as VAT taxable person, the following documents must be filed before the tax administration:
- Letter requesting VAT deregistration
- Accounting books
- Last invoice and the other invoices that taxable person will not use
- VAT declaration of final inventory
- Annual declaration of income tax
- Tax identification (i.e., RUC)

During a VAT deregistration, the tax administration may also initiate a tax audit.

Changes to VAT registration details. A taxable person has the liability to maintain its VAT registration information in the Nicaragua tax administration system. Changes that must be notified include address, phone number, board of directors, legal representation and shareholders. Such updates should be carried out at least every two years.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
• Standard rate: 15%
• Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for as the zero-rate or an exemption.

Examples of goods and services taxable at 0%

• Exports

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

• Live animals and fresh fish
• Domestically produced fruits and vegetables that are unprocessed
• Basic foodstuffs, such as corn tortillas, rice, beans, certain dairy products, eggs and meat
• Used goods (unless imported)
• Crude oil
• Real estate transactions
• Life and health insurance
• Domestic transport
• Education
• Certain financial services
• Construction of social housing (as defined by law) and leasing of unfurnished accommodation
• Equipment used for agriculture
• Irrigation for agriculture and forestry
• Electricity used for irrigation
• Importation of goods, machinery and equipment for use by the media
• Books, newspapers and magazines
• Medicines and vaccines
• Local production of sanitary protection products and toilet paper
• Matches, kerosene, butane and electricity
• Veterinary products
• Insecticides, fungicides, fertilizers and seeds

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Nicaragua.

E. Time of supply

The time when the taxable event is considered to have taken place and when VAT becomes due is called the "tax point." Under the tax law (*Ley de Concertación Tributaria*), for VAT purposes, the taxable event varies depending on the type of supplies. The applicable rules are summarized below.

The time of supply for the sale of goods is when the invoice or corresponding legal document is issued, when the goods are delivered to the new owner or when the new owner has the ability to dispose of the goods as the owner, or when the price is fully or partially paid.

The time of supply for the rendering of services is when the purchaser becomes legally liable for payment.

Deposits and prepayments. In Nicaragua, the payment, in part or in full, of the price of goods and services is considered a tax point. Therefore, prepayments and deposits would trigger the payment of VAT when they are considered an advanced payment of the price.

Continuous supplies of services. There are no special time of supply rules in Nicaragua for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above), and the taxable event is the issuance of the invoice.

Goods sent on approval for sale or return. There are no special time of supply rules in Nicaragua for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above), and VAT would be due when the goods are sold.

Reverse-charge services. There are no special time of supply rules in Nicaragua for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. In Nicaragua, the leasing of assets is subject to VAT as a service (except the interest), even if it doesn't result in a transfer in ownership of the underlying assets. There are no special time of supply rules in Nicaragua for the supply of leased assets. As such, the general time of supply rules for services apply (as outlined above).

Imported goods. The time of supply for the importation of goods is when the goods are made available to the importer at the fiscal warehouse.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services. This is generally credited against output tax, which is VAT charged or collected on the sale of goods or the rendering of services. To deduct or credit input tax, all the following conditions must be satisfied:

- The goods or services must be part of the economic process of transferring goods or providing services. This measure also applies to zero-rated operations.
- The payment must meet the deductibility requirements for income tax purposes even if the taxable person is not subject to income tax.
- The payment must be adequately documented.

The time limit for a taxable person to reclaim input tax in Nicaragua is four years.

Nondeductible input tax. VAT is not creditable in the following cases:

- When VAT is paid on purchases related to the exempt transfer of goods
- Services that are exempt from VAT
- Self-consumption (when it is a nondeductible expense for income tax)
- Expenses not related with the main economic activity of the taxable person

Examples of items for which input tax is nondeductible

- Any item acquired that is not directly linked to the taxable person's economic activity is not creditable for VAT purposes

Examples of items for which input tax is deductible (if related to a taxable business use)

- VAT paid to produce goods or services subject to VAT

Partial exemption. Generally, taxable persons may recover VAT paid for the purchase of goods and services used to generate other goods and services subject to VAT (i.e., taxable supplies). This is known in Nicaragua as VAT liquidation, which is determined by subtracting VAT credits paid on transactions needed to generate taxable income for VAT purposes (i.e., input tax) from VAT collected on the sales of goods or the rendering of services (i.e., output tax). VAT paid on

transactions to generate nontaxable income for VAT purposes (i.e., exempt goods *[bienes exentos]*) are not allowed as VAT credits.

VAT incurred by a taxable person related to the making of exempt goods or the provision of exempt services does not generate VAT credit (i.e., it should be registered as an expense). Taxable persons must identify the VAT incurred in exempt and taxable supplies to recover the tax related to taxable goods or services. If such distinction is not possible, taxable persons may apply a percentage based on taxable turnover vs. total turnover.

Approval from the tax authorities is not required to use the partial exemption standard method in Nicaragua. Special methods are not allowed in Nicaragua.

Capital goods. Capital goods are not defined in the local legislation; however, they are generally understood as the goods necessary for the generation of income. There are no special input tax recovery rules for capital goods. The normal input tax recovery rules, as outlined above, apply. As such, when a taxable person purchases a capital good that is used exclusively for taxable activities, the input tax incurred gives rise to the right of tax credit in the same month of acquisition.

When a taxable person purchases a capital good that is used for both taxable and exempt activities, the input tax incurred must be apportioned based on the percentage of taxable activities over the total activities made by the taxable person, as per the *Partial exemption* subsection above.

Refunds. If the amount of input tax recoverable in a month exceeds the amount of output tax payable, the taxable person may carry forward VAT credits to offset output tax in subsequent VAT periods. Exporters and taxable persons that provide exempted activities may use their excess credits to offset other taxes (such as income tax) and then may request a refund.

Pre-registration costs. Input tax incurred on pre-registration costs in Nicaragua is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Nicaragua.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Nicaragua.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Nicaragua is not recoverable. However, diplomatic consular delegations and international organizations and agencies are exempt from VAT. Consequently, these organizations are also entitled to a reimbursement for VAT paid in Nicaragua if reciprocal treatment is granted to delegates from Nicaragua.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable activities. An invoice is generally necessary to support a claim for an input tax credit.

Credit notes. A credit note may be used to reduce the VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, a discount or bonus is granted, the price is changed, or the goods are returned). A credit note must generally include the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is not allowed in Nicaragua,.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is not allowed in Nicaragua.

However, taxpayers can submit an authorization to the tax authorities to issue invoices through approved software. Taxpayers can request an authorization for invoicing through such approved software, and it applies for all transactions related with their economic activity (e.g., B2B, B2C and B2G supplies). General invoicing requirements for this software are outlined by the tax administration.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Nicaragua. As such, full VAT invoices are required.

However, there are special tickets issued by retailers (i.e., supermarkets) to final consumers. But these are not authorized to be used as support for input tax recovery. If the taxable person requires the invoice to support input tax recovery, they should request a full VAT invoice instead.

Self-billing. Self-billing is not allowed in Nicaragua.

Proof of exports. Proof of exports in Nicaragua are the invoice and declaration of exportation. A Nicaraguan exporter must issue an export invoice on a free-on-board (FOB) basis. Once the goods pass the flange in the local port, they should be considered as exported. An "export invoice" is the same general invoice but used for exportation purposes. Therefore, there is no difference between a general invoice and an invoice for exportation purposes.

Foreign currency invoices. Invoices can be issued in the US dollar (USD), as well as the domestic currency, which is the Nicaraguan córdoba (NIO). Where the invoices are issued in USD, the taxable person must provide the amount in NIO (and record the amounts in an accounting register) according to the official exchange rate.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Nicaragua. As such, full VAT invoices are required.

Records. In Nicaragua, examples of what records must be held for VAT purposes include VAT invoices (issued and received), importation documentation, contracts, legal books, and support documentation for the VAT returns.

In Nicaragua, VAT books and records must be held within the country. This is to allow review by the tax administration, if so requested.

Record retention period. As a general rule, the statute of limitations is four years. Therefore, the record retention period should be at least four years. However, there are some cases, as for example the acquisitions of certain goods, that the retention period should be longer, for example, for depreciation purposes, for machinery. The records should be kept for the period of depreciation (i.e., 10 years for machinery), even though the statute of limitations corresponds to four years.

Electronic archiving. Electronic archiving is allowed in Nicaragua. However, physical records must also be kept for archiving purposes in Nicaragua, as these may be requested by the tax authorities.

I. Returns and payment

Periodic returns. VAT returns can be submitted on a monthly or biweekly basis. Monthly and biweekly returns must be submitted by the 5th day of the month following the end of the return period. Monthly return filings are for regular taxable persons. Biweekly returns are for major taxable persons *(grandes contribuyentes)*, which are defined as legal entities or individuals with income equal to or greater than NIO160 million.

Periodic payments. Return liabilities must be paid in NIO. VAT returns that are filed on a monthly basis must be paid by the by the 15th calendar day for regular taxable persons (including weekends and holidays) of the month following the period being reported, and by the 5th day for

major taxpayers (income greater than NIO160 million) or principal taxpayers (income greater than NIO60 million and less than NIO 160 million). For biweekly returns, the payment must be made by the 5th calendar day (including weekends and holidays) of the biweekly tax period being reported.

The payments must be submitted using Form 124 and using the Tributary Electronic Window (*Ventanilla Electrónica Tributaria [VET]*). The VET issues a Tax Information Ticket (*Boleta de Información Tributaria [BIT]*) with the information of the filed VAT return filed. It can then be paid through electronic transactions with authorized banks by the tax administration.

Electronic filing. Electronic filing is mandatory in Nicaragua for all taxable persons. The VAT return (Form 124) should be filed through the VET attaching a spreadsheet table describing the invoices issued, sales prices and VAT (output and input tax). The VET issues automatically a BIT indicating the amount of tax to be paid. The BIT should be paid immediately (on the same day as it is issued) to avoid fines and other charges.

Note that the VAT electronic filing system applies for all taxable persons, and as such is not treated as a special scheme (see the subsection *Special schemes* below).

Payments on account. Payments on account are generally not required in Nicaragua, except for certain taxable persons. Major taxable persons must make an advance payment of VAT within the first 15 days after the end of the VAT return period. They must make the full payment of VAT within five days after the advance payment.

Special schemes. No special schemes apply in Nicaragua.

Annual returns. Annual returns are not required in Nicaragua.

Supplementary filings. *Supporting details.* In Nicaragua, for the electronic filing of the VAT return, a supporting spreadsheet table must be filed with the VAT return, describing the invoices issued, sales prices and output tax.

Amended VAT return. It is possible to make a supplementary filing/rectify a VAT return in case of excess payments to the tax authorities. An amended VAT return should be filed through the VET attaching a spreadsheet table describing the invoices issued, sales prices, output tax and input tax. The tax administration may request more information from the taxable person regarding this amendment. A new BIT/information indicating the amount to be paid or considered as credit should be issued by the VET.

Correcting errors in previous returns. A taxable person can correct any errors or omissions from prior periodic filings through a supplementary filing. This also includes rectifying a VAT return in case of excess payments to the tax authorities. An amended VAT return should be filed through the VET by attaching a spreadsheet table detailing the invoices issued, sale prices, output tax and input tax. The tax administration may request more information from the taxable person regarding the amendment. A new BIT indicating the amount to be paid or considered as credit should be issued by the VET.

Digital tax administration. There are no transactional reporting requirements in Nicaragua.

J. Penalties

Penalties for late registration. In case of late registration, a penalty of between 30 and 50 penalty units may be assessed. A penalty unit equals approximately USD1.

Penalties for late payment and filings. In the case of late registration, a penalty of between 30 and 50 penalty units may be assessed. Interest is charged on the tax due at a rate of 5% per month for

the late submission of a VAT return. In addition, a penalty fine applies, computed as a minimum of 70 units of fine with a cap of 90 units of fine (each unit equals NIO25).

Other penalties may also apply, including a 25% penalty and surcharges ranging from 5% to 50%, both computed on the amount of unpaid VAT.

Penalties for errors. In the case of supplementary fillings for any errors, a penalty of between 30 and 50 penalty units may be assessed. A penalty unit equals approximately USD1. Also, interest is charged on the tax due at a rate of 5% per month for the late submission of a VAT return. In addition, a penalty fine applies, computed as a minimum of 70 units of fine with a cap of 90 units of fine (each unit equals NIO25). Other penalties may also apply, including a 25% penalty and surcharges ranging from 5% to 50%, both computed on the amount of unpaid VAT.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of a minimum of NIO750 (approx. USD20.47) to a maximum to NIO1,500 (approx. USD40.95). For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax evasion that does not constitute fraud is deemed to occur if the taxable person files an inaccurate return that results in the underpayment of VAT. The penalty for tax evasion is 100% of the VAT amount due.

Tax fraud is deemed to exist when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of VAT due. Tax fraud is considered a crime and sanctioned with a penalty of six months to three years in prison and a fine of twice the amount defrauded, pursuant to section 303 of Penal Code.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Nicaragua. In accordance with Section 19 of Nicaragua Taxation Code (NTC), the responsible persons for any tax debt are the persons that for the nature of its functions work or by law disposition should comply or make comply such obligations as the representatives, authorized agents or managers. The responsibility is limited to the value of assets that are administered or are under their responsibility. In case the administrator or person in charge has a hierarchical superior, who could warn in writing of the responsibility of complying in a timely manner with a tax obligation, and the second ignores such warning, the administrator or manager will be relieved of responsibilities for that case.

Statute of limitations. The statute of limitations in Nicaragua is four years. The time limit that the tax authorities can go back to review returns and identify errors and impose penalties is generally four years. However, this can be extended to six years, where the tax authorities prove that the taxable person has tried to hide information, goods and income.

There is no time limit for taxable persons to voluntarily correct errors in previous VAT returns. However, if the taxable person voluntary corrects a tax filing (including electronic VAT filing), the statute of limitation is interrupted and a new statute of limitation is established and counted from the following calendar day.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 December 1993
Trading bloc membership	Economic Community of West African States (ECOWAS) African Continental Free Trade Area (AfCFTA)
Administered by	Federal Inland Revenue Service (FIRS)
VAT rates	
Standard	7.5%
Others	Zero-rated (0%) and exempt
VAT number format	01012345-0001
VAT return periods	Monthly
Thresholds	
Registration	NGN25 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the supplies of goods and services other than those specifically exempt under the VAT Act as amended by the Finance Acts 2019 and 2020, as well as those included in the VAT modification order 2021. With effect from 1 January 2021, the sale, rental or lease of land and building is deemed as outside the scope of Nigerian VAT.

A taxable person is defined by the VAT law as persons who make supplies of goods and services and include an individual or body of individuals, family, corporations sole, trustee or executor or a person who carries out in a place an economic activity; a person exploiting tangible or intangible property for the purpose of obtaining income therefrom by way of trade or business; or a person or agency of government acting in that capacity.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Nigeria, no services are subject to the "use and enjoyment" provisions.

In Nigeria the "destination principle" is used and is a concept that allows VAT to be retained by the country where the taxable goods or services are being consumed.

In Nigeria, goods are deemed to be taxable where the goods are physically present in Nigeria at the time of supply, imported into Nigeria, assembled in Nigeria or installed in Nigeria, or the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria. In relation to services, taxable services are deemed to be supplied in Nigeria if the services are rendered in Nigeria by a person physically present in Nigeria, regardless of whether the service is rendered within or outside Nigeria or whether or not the legal or contractual obligation to render such service rests on persons within or outside Nigeria, or the service is connected with existing immovable property (including the services of agents, experts, engineers, architects, valuers, etc.). This applies where such property is located in Nigeria, and in respect of incorporeal, where the exploitation of the right is made by a person in Nigeria, the right is registered in Nigeria, assigned to or acquired by, a person in Nigeria, regardless of whether the payment for its exploitation is made within or outside Nigeria, or the incorporeal is connected with a tangible or immovable asset located in Nigeria.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Nigeria, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The TOGC is between resident taxable persons, i.e., Nigerian companies incorporated and operating in Nigeria
- One company has control over the other
- Both are controlled by some other person
- The companies are members of a recognized group of companies, and have been so for a consecutive period of at least 365 days prior to the date of the reorganization

Provided that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, the treatment of the transaction as a TOGC shall be rescinded and the companies shall be treated as if they did not qualify for TOGC.

Transactions between related parties. In Nigeria, for a transaction between related parties, the value for VAT purposes is subject to the transfer pricing regulations. The scope of the transfer pricing regulations is applicable to the sale and purchase of goods and services (which applies for VAT). There are specific transfer pricing rules that applies to transactions between related parties, of which such transactions should be calculated using the arm's-length principle. The VAT Act was recently amended by the Finance Act 2023 to introduce general anti-avoidance transfer pricing rules to combat fictitious agreements between related parties for VAT purposes. Section 7 of the VAT Act was amended to empower the Federal Inland Revenue Services (FIRS) to assess transactions to determine their credibility and competitive market value for tax purposes. The effective date of commencement of the Finance Act 2023 is 1 September 2023.

C. Who is liable

Taxable persons are persons that make supplies of goods and services. They are expected to register for VAT. The following are examples of taxable persons:

- Individuals or bodies of individuals, families, corporations with one shareholder, trustees or executors that carry out economic activities

- Persons exploiting tangible or intangible property for the purpose of obtaining income from the property in the course of a trade or business, including persons from or agencies of the government performing such actions

The following are required to deduct VAT on their suppliers' invoices and remit the VAT to FIRS:
- Oil and gas companies including oil-service companies
- Governments and government ministries, agencies and departments
- Resident entities engaging in transactions with nonresidents carrying on business in Nigeria
- MTN *(with effect from 1 January 2023, as per a public notice issued in November 2022)*
- Airtel *(with effect from 1 January 2023, as per a public notice issued in November 2022)*
- Money deposit banks *(with effect from 1 January 2023, as per a public notice issued in November 2022)*

Exemption from registration. The VAT law in Nigeria does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Only taxable persons who make or expect to make taxable supplies of NGN25 million and above are required to register for tax, charge, collect, remit the tax and file monthly returns to the FIRS. A taxable person may voluntarily register, charge, collect, remit the tax and file monthly returns to the FIRS at any time even without attaining the NGN25 million threshold. Such a person shall notify the FIRS prior to doing so and shall be subject to all the provisions of the VAT Act applicable to persons above the threshold.

Group registration. Group VAT registration is not allowed in Nigeria.

Fixed establishment. In Nigeria there is no legal definition of a fixed establishment for VAT purposes. However, a fixed establishment is generally considered to be a location with a degree of permanence through which the business of an enterprise is wholly or partly carried on thereby giving rise to tax liabilities in that jurisdiction where it exists. In Nigeria, permanent establishment (PE) rules for direct taxation applies for VAT. If a non-established business has a fixed base (i.e., a PE) in Nigeria, it is required to comply with registration, charging, filing, payment and other requirements as if it is a resident Nigerian business. Such businesses must register using the address of their place of business in Nigeria (fixed base), issue VAT invoices, file returns, remit the tax, submit itself to tax examinations, etc., in accordance with the provisions of the VAT Act.

Non-established businesses. A non-established business that makes a supply of taxable goods or services in Nigeria or to a Nigerian resident is required to register for VAT with the FIRS and obtain a tax identification number (TIN). The non-established business is to use the address of the person to whom it is making the supply, as its Nigerian address, for the purposes of correspondence relating to the tax. The non-established business must include VAT on its invoice for the supply of goods or services made. The recipient of the goods or services in Nigeria is required to withhold and remit the VAT due on the invoice to the FIRS in the currency of transaction.

Non-established businesses making a supply of goods and services in Nigeria may choose to appoint a representative for the purpose of its filing obligations in Nigeria (see the subsection *Tax representatives* below).

The significant change made in relation to non-established businesses relates to the inclusion of the supply of goods (not services only) as a requirement for non-established businesses to register for VAT. This change takes place from 1 January 2021. Per the FIRS circular entitled "Guidelines on Simplified Compliance Regime for Value Added Tax (VAT) for Non-Resident Suppliers" No. 2021/19 dated 11 October 2021, the guidelines with respect to supply of goods are due to come into effect from 1 January 2024. *However, at the time of preparing this chapter, the implementation of the regime has been postponed.*

However, if a non-established business has a fixed base (permanent establishment) in Nigeria, it is required to comply with registration, charging, filing, payment and other requirements as if it is a Nigerian company. As such, this type of company must register using the address of its place of business in Nigeria (fixed base), issue a VAT invoice, file a return, remit the tax, submit itself to tax examinations, etc., in accordance with the provisions of the VAT Act.

Tax representatives. Tax representatives are allowed in Nigeria, but are not mandatory. A taxable person may register for VAT and file returns directly in person or appoint an accredited tax representative to act on its behalf, which includes non-established businesses.

Reverse charge. There is a self-account mechanism in Nigeria for all supplies for which VAT was not charged. The self-account provision imposed a duty to withhold and remit VAT on a taxable person to whom a supply is made in Nigeria where the following are met:

- The supplier is a person exempt from charging VAT under the Act or otherwise failed to charge VAT
- The supplier is a foreign company without a fixed base (permanent establishment) in Nigeria, whether or not VAT is included in the invoice

The taxable person must self-account and remit the tax due in the currency of transaction on or before the 21st day of the month immediately following the month of the transaction.

The taxable person, in accounting and remitting the VAT, shall provide a schedule of all taxable transactions for which it is self-accounting, in the form prescribed by the service, indicating the tax identification numbers of the suppliers in the schedule.

Note that where a taxable person receives taxable supplies for which VAT was not charged from either a person below the threshold of NGN25 million or any other person, the taxable person receiving the supplies must self-charge and account for the VAT due. Also, the return for VAT self-accounted or self-charged must be separated in the form prescribed by the service.

Domestic reverse charge. There are no domestic reverse charges in Nigeria.

Digital economy. The Nigerian VAT Act does not make specific provisions for the digital economy. However, nonresident companies that render taxable supplies of goods and services to Nigeria are required to register for tax in Nigeria and obtain a TIN, while the taxable person to whom the supplies are made in Nigeria is required to withhold the VAT at source and remit the same to the tax authority in the currency of the transaction.

However, most business-to-consumer (B2C) customers are not tax registered, and therefore they are not taxable persons for VAT purposes. Consequently, they are unable to remit the VAT directly to the FIRS. As a result, in practice for B2C sales, the FIRS expects the nonresident companies to collect the VAT portion on such supplies and remit the VAT directly to the Revenue Authority to prevent loss of tax revenue. Nonresident companies may appoint a tax representative for the purpose of complying with the VAT obligations in Nigeria.

The rules for nonresident companies cover all taxable supplies made to Nigeria, regardless of the place or means of supply, for both business-to-business (B2B) and B2C supplies. As such, this provision applies to electronically supplied services, remote services and other types of taxable services.

Online marketplaces and platforms. The tax authority released a clarification circular in April 2020 wherein they clarified the provisions of the Finance Act. The tax authority specifically stated that services performed in Nigeria to persons in Nigeria irrespective of the residence status of the service provider; services provided to persons while in Nigeria, regardless of the medium of delivery of the service; and services rendered remotely, online or by other virtual means to Nigerian residents or persons in Nigeria are liable to VAT in Nigeria.

Registration procedures. To register for VAT in Nigeria, the taxable person is required to complete the VAT registration forms and provide its company registration documents to the tax authority. Upon completion, a tax identification number is assigned to the taxable person within one to two weeks. This process is the same for both resident and nonresident businesses.

The following documents are required for the VAT registration for resident businesses:
- Memorandum and articles of association (MEMAT)
- Certificate of incorporation
- Scanned particulars of a director of the company (e.g., identification card)
- Utility bill (to verify that the company is a resident company)
- VAT application letter on the business or tax representative's letterhead
- Completed VAT registration form
- Completed tax registration questionnaire
- Letter of notification of appointment of tax consultants

The following documents are required for the VAT registration for nonresident businesses:
- Memorandum and articles of association (MEMAT)
- Certificate of incorporation
- Scanned particulars of a director of the company (e.g., identification card)
- Utility bill (to verify that the business is nonresident)
- Completed VAT registration form
- Completed standard questionnaire
- Letter of notification of appointment of tax consultants (on the company's letterhead)

Deregistration. Where a taxable person permanently ceases to carry on a trade or business in Nigeria, the taxable person must notify the tax administration of its intention to deregister for tax purposes within 90 days of such cessation of the trade or business.

Changes to VAT registration details. A taxable person must notify the tax authorities of any change to its address within 30 days of the change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. In addition, Section of 46 of the VAT Act as amended by the Finance Act defines taxable supplies as any transaction for sale of goods or the performance of a service for a consideration in money or money's worth.

The VAT rates are:
- Standard rate: 7.5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Goods and services purchased by diplomats
- Goods and services purchased for humanitarian donor-funded projects

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- All exported goods and services
- Medical goods and services and pharmaceutical products
- Basic food items

- Locally produced sanitary napkins
- Books and educational materials
- Petroleum products, renewable energy equipment, gas supplied to electricity generating companies (GENCOs) and electricity distribution companies (DISCOs)
- Airline transportation tickets, shared passenger road transport services
- Commercial aircraft, aircraft engines and spare parts
- Plant, machinery and goods imported for use in free-trade zones
- Plant, machinery and equipment purchased for the utilization of gas in downstream petroleum operations
- Tractors, plows and agricultural implements purchased for agricultural purposes
- Services rendered by unit micro-finance banks and mortgage institutions
- Plays and performances by educational institutions as part of learning
- Proceeds from the disposal of short-term federal government of Nigeria securities and bonds
- Proceeds from the disposal of short-term state, local government and corporate bonds; this exemption will only last 10 years from a commencement date of 2 January 2012

The detailed list of VAT-exempt goods with respective Common External Tariffs (CET) codes can be found in the VAT modification order 2021.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Nigeria.

E. Time of supply

The time when VAT becomes due is called the "time of supply." Section 13A (2) of the VAT Act, Cap V1, LFN 2004 (as amended) states that "A tax invoice shall be issued on supply whether or not payment is made at the time of supply." For the purposes of VAT, a service is supplied when it is performed or an agreed milestone is reached, and when goods are supplied upon delivery or transfer of risk, whichever occurs first.

Provided that where it is not practicable to determine the time of supply as aforesaid, the service may rely on the dates indicated on the relevant invoices, bills, debit notes, goods-received notes, waybills, journal entries, etc.

Deposits and prepayments. There are no special time of supply rules in Nigeria for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Nigeria for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Nigeria for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Nigeria for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The time of supply rules for the supply of leased assets is when such asset becomes available for the use of the recipient.

Imported goods. VAT on imported goods is payable at the at point of customs declaration.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax that is charged on business purchases by offsetting it against output tax that is charged on taxable supplies. If the input tax exceeds the output tax, the

taxable person is allowed to claim a refund of the excess input tax. An input tax refund may be claimed in any of the following manners:
- Credit method
- Direct cash refund
- By both credit method and direct cash refund

The most common practice is the credit method under which the taxable person may offset the excess input tax against the output tax in the subsequent month. This practice is expected to continue until the input tax amount is fully recovered.

The direct cash refund involves applying to the tax authorities for a VAT refund. This usually triggers a tax audit and could take years to complete. In this case, proper documentation of transactions relating to the recoverable input tax should be made readily available.

There is no set time limit for a taxable person to reclaim input tax in Nigeria. This means that, effectively, the input tax (VAT credit) may be carried forward indefinitely until its complete recovery.

Input tax is deductible from output tax if it relates to goods purchased or imported directly for resale and goods that form the stock-in-trade used for the direct production of any new product on which the output tax is charged. Input tax incurred on any overhead, service and general administration of any business that otherwise can be expended through the income statement (profit and loss accounts) and on any capital item and asset that is to be capitalized along with the cost of the capital item and asset, shall not be allowed as a deduction from output tax. As such, this means that input taxes incurred on services are not recoverable and they are to be expensed in the income statement.

Nondeductible input tax. A taxable person cannot reclaim VAT paid on goods and services used for nonbusiness purposes. In addition, input tax incurred on the purchase of fixed assets and expenses such as general administration and overhead costs, cannot be recovered from output tax.

Recovery of input tax is not allowed with respect to the supply of services and exempt supplies.

VAT on fixed assets should be capitalized together with the cost of the assets, but VAT on general administration, overhead costs and services should be expensed in a company's profit-and-loss account.

Examples of items for which input tax is nondeductible

- Supply of services
- Plant and machineries
- Rent

Examples of items for which input tax is deductible (if related to a taxable business use)

- Raw materials used in production of a taxable good
- Taxable goods purchased for resale

Partial exemption. There are no specific provisions in the Nigerian VAT Act with respect to partial exemption in the VAT Act. Any taxable person whose input tax meets the requirements for recoverability is required to provide a schedule of input tax recovered when submitting its returns to the tax authority. The tax authority may also request an input tax schedule during a tax audit.

If the total input tax incurred by the taxable person relates to goods allowable for deduction (i.e., taxable) and goods not allowed for deduction (i.e., exempt), the taxable person is required to devise an allocation method that accurately shows how much VAT was incurred on the goods imported or purchased for resale or used in the production of a new product on which output is charged.

Based on the strict interpretation of Section 17, as outlined above, the tax authority would ordinarily expect the taxable person to calculate the input tax on its cost of sales (for goods only as VAT on services is not recoverable). However, in practice, if the cost of sales cannot be easily allocated for input tax recoverability purposes (i.e., the input tax incurred on a purchased good cannot be easily traced to the goods produced and sold out), in practice, an argument can be made to the tax authority that the input tax can be calculated on the purchases (rather than cost of sales).

Approval from the tax authorities is not required to use any partial exemption method of apportionment.

Capital goods. Based on the provisions of the VAT Act input tax on capital expenditure/fixed assets should be capitalized along with the cost of the asset. For capital assets, the input tax should be capitalized along with the cost of the asset. As such, no input tax deduction is allowed for such assets (depreciable), sold or used in the production of the goods.

Refunds. The FIRS Establishment Act provides for a cash refund within 90 days, subject to a refund application by the taxable person and an appropriate audit by the FIRS.

Pre-registration costs. Input tax incurred on pre-registration costs in Nigeria is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Nigeria. However, based on accounting principles, there should be appropriate supporting documentation and approval(s) available to support the write-off of such bad debts to avoid this treatment being challenged in the event of a tax audit.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Nigeria.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Nigeria is not recoverable.

H. Invoicing

VAT invoices. A taxable person that makes a taxable supply is required to furnish the purchaser with a tax invoice for that supply. A tax invoice must be issued at the time of supply, regardless of whether payment is made at the time of supply. VAT is payable in the currency of the transaction.

Credit notes. There are no specific provisions on credit notes in the VAT Act. However, as a principle in accounting, a VAT credit note should be used if the VAT payable on a supply is reduced or reversed because of a subsequent allowance or discount or an error. In practice, an annual reconciliation of total VAT per audited account with total VAT per monthly returns filed is carried out to ensure accurate VAT accounting and remittances. Accordingly, it will be helpful to have in place a credit note indicating a reversal of revenue and VAT initially recognized and accounted for.

The details of information to be contained in the credit note are essentially the same as that required in a tax invoice. However, the credit note should give a description of the initial invoice, the amount of which is reversed or reduced for ease of reference.

Electronic invoicing. Electronic invoicing is mandatory in Nigeria for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Nigeria. There is no threshold beyond

which taxable persons are required to adopt electronic invoicing in Nigeria. The requirements related to electronic invoicing are the same as those for paper invoicing.

There are no specific provisions in the VAT Act on electronic invoices. While in practice, electronic invoicing is allowed in Nigeria, the tax authorities rely on paper invoices during a tax audit. This means that invoices must be made easily accessible to the tax authority in paper format or electronically upon request.

While there are no specific provisions in the VAT Act, per the FIRS circular entitled "Guidelines on Simplified Compliance Regime for Value Added Tax (VAT) for Non-Resident Suppliers" No. 2021/19 dated 11 October 2021, a nonresident supplier that makes taxable supplies for Nigeria electronically (goods, services or intangible) is required to issue an electronic tax invoice to its customer. Therefore, it is permissible for the invoice to be in the format utilized in the nonresident supplier's jurisdiction; however, it must contain the following key information:
- Name and the TIN of the nonresident supplier
- Description of supply
- Date of supply
- Value of supply
- VAT charged

This is applicable to all taxable supplies consumed electronically (i.e., B2B, B2C and B2G). The general invoicing requirement as stipulated in the VAT act applies.

For all other supplies, electronic invoicing is allowed but not mandatory.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Nigeria. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Nigeria.

Proof of exports. There are no specific provisions in the VAT Act on proof of exports. However, in practice, documentary evidence that goods physically left Nigeria and evidence within the accounting system to confirm that a transaction took place should suffice. This documentation should be kept accessible should the Nigerian tax authority request this. In the event that no document is provided on request by the tax authority, a company may be required to account for VAT on an export sale.

Foreign currency invoices. Invoices can be issued in the domestic currency, which is the Nigerian naira (NGN), or a foreign currency. There is no preference in the VAT Act as to which currency should be used to issue invoices.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Nigeria. As such, full VAT invoices are required.

Records. In Nigeria, examples of what records must be held for VAT purposes include:
- Filed VAT returns
- VAT schedules
- Sales invoices (and purchase invoices)
- General ledgers and trial balance

In Nigeria, VAT books and records can be held outside of the country. Such records can be kept anywhere (i.e., in or outside of Nigeria), as long as they are made easily accessible to the tax authorities during a tax audit and upon request at any time. Note that holding records outside of Nigeria does not need to be approved by the tax authorities.

Record retention period. The statute of limitation for document retention is six years. Furthermore, the tax provisions provide that tax audits may be conducted on accounts dating as far back as six years. As such, tax documentation should be retained for at least six years.

Electronic archiving. Electronic archiving is not allowed in Nigeria. Archiving must be made in paper form only. There are no specific provisions with respect to the form in which records should be archived in Nigeria. This would depend solely on the policy of the organization. However, in practice, electronic archiving is not allowed in Nigeria. Archiving must be made in paper form only, as the tax authorities rely on paper invoices during a tax audit.

I. Returns and payments

Periodic returns. VAT returns must be submitted monthly on VAT Form 002. A taxable person is required to submit a VAT return on or before the 21st day of the month following the month in which supplies are made.

The VAT Act was amended by the Finance Act 2023 to empower the FIRS to appoint any person to withhold or collect VAT, and such person is obligated to remit the VAT withheld or collected in the currency of the transaction to the FIRS on or before the 14th day of the following month. Hence, effective 1 September 2023, VAT collection agents are required to submit their VAT returns on or before the 14th day of the month following the month in which supplies were made.

Periodic payments. A taxable person must pay the tax due by the due date when filing the VAT returns, i.e., by the 21st day of the month following the month in which supplies are made. Payment must be made via a bank-certified check/draft or wire transfer through designated banks to the local tax office that issues a receipt after confirmation of such payment.

Electronic filing. Electronic filing is mandatory in Nigeria for all taxable persons. Electronic filling is done via an electronic software application provided by the tax authority (Tax Pro Max). This platform allows taxable persons to file their VAT returns electronically. To be eligible to register on this platform, the taxable person must be VAT registered, obtained a TIN number and complete the e-filing registration with the submission of all required documents requested for by the tax authorities. This process usually takes between three to seven days for completion. Upon completion, unique login details will be issued to the taxable person. This then enables the taxable person to file returns electronically.

Payments on account. Payments on account are not required in Nigeria.

Special schemes. No special schemes are available in Nigeria.

Annual returns. Annual returns are not required in Nigeria. However, it is recommended that an annual return (true-up filing) for reconciliation purposes is completed at the end of the reporting period, ahead of desk examination review or tax audit conducted by the FIRS, to avoid additional tax liabilities being imposed.

Supplementary filings. The VAT return must be accompanied by a schedule containing details of the supplies made and received within the tax period. For VAT deducted at the source by tax agents, there is a need to attach the schedule containing the details of the related transactions to the VAT return.

Correcting errors in previous returns. Corrections can be made by way of adjustments in the returns filed for subsequent months. Corrections are required to be compulsorily documented, indicating all necessary details with respect to the errors that have been made. This documentation must be done via a letter submitted to the FIRS.

Digital tax administration. There are no transactional reporting requirements in Nigeria.

J. Penalties

Penalties for late registration. The VAT Act as amended by the Finance Act states that all taxable persons are required to register for VAT upon commencement of business. A taxable person who fails to register with the service within the time specified (as outlined in the *Registration procedures* subsection above) is liable to pay a penalty of NGN50,000 in the first month the failure occurs and NGN25,000 for each subsequent month in which the failure continues.

Penalties for late payment and filings. A taxable person who fails to submit a return will be liable to a fine of NGN50,000 in the month of default and NGN25,000 for every month in which the default continues.

If a taxable person does not remit the tax on or before the 21st day of the month following the month in which the purchase or supply was made, a sum equal to 10% of the tax not remitted per annum is levied as a penalty. Interest at the prevailing Central Bank of Nigeria minimum rediscount rate shall be added to the tax not remitted and the provision of this Act relating to collection and recovery of unremitted tax, penalty and interest shall apply.

Penalties for errors. The failure to issue a tax invoice results in, on conviction, a fine of 50% of the cost of the goods or services for which a tax invoice was not issued.

The failure to notify or late notification to the tax authorities of a change to a taxable person's address will attract a penalty of NGN50,000 for the first month in which the failure occurs and NGN25,000 for each subsequent month in which the failure continues.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details (specifically for a change in taxable activity, i.e., a taxable person permanently ceases to carry on a trade or business) will result in a penalty of NGN50,000 for the first month in which the failure occurs and NGN25,000 for each subsequent month in which the failure continues. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Furnishing false documents could result in a conviction for a fine of twice the amount underdeclared. There are no specific provisions on the implication of such action for the tax advisors.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Nigeria.

Statute of limitations. The statute of limitations in Nigeria is six years. In practice, the tax authorities have the power to review and audit the taxable person's returns and impose penalties (where necessary) going back six years. The taxable person may voluntarily correct errors in previous VAT returns before the tax audit commences.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Danok na dodadena vrednost (DDV) Данок на додадена вредност (ДДВ)
Date introduced	1 April 2000
Trading bloc membership	Stabilization and Association Agreement with the European Union (SAA) European Free Trade Association (EFTA) Central European Free Trade Agreement (CEFTA)
Administered by	Ministry of Finance (http://www.finance.gov.mk)
VAT rates	
Standard	18%
Reduced	5%, 10%
Other	Zero-rated (0%) and exempt
VAT number format	MK 1 2 3 4 5 6 7 8 9 10 11 12 13
VAT return periods	
Monthly	Turnover in excess of MKD25 million in preceding calendar year
Quarterly	Turnover of MKD25 million or less in preceding calendar year
Thresholds	
Registration	MKD2 million
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- Supply of goods and services made in North Macedonia by a taxable person within the scope of its business activity
- Importation of goods into North Macedonia (other than exempt importations)
- Supplies by foreign legal entities to North Macedonian legal entities (i.e., business-to-business [B2B] supplies) subject to the reverse-charge mechanism

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In North Macedonia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in North Macedonia. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

From a Macedonian VAT perspective, transfer of a going concern (TOGC) exists in transactions where the essential features of a taxable person's business or part of it are being transferred to the acquirer, who will further use them for its business activities. In cases where only part of the taxable person's business is sold, such transfer is also considered a TOGC provided that the transferred part constitutes an economically independent part of the business and is being capable of operating separately. Based on the VAT guidelines, TOGC is considered as supply of goods, subject to 18% VAT. The base for calculation of the VAT shall be the price agreed for purchase of the business or its independent part. The law and the related bylaws do not further regulate what is considered as essential features of a business. The merits should be done on a case-by-case basis, depending on the factual situation at the time when the transfer takes place. The mere transfer of assets is not considered as a TOGC. The existing entity shall be obliged to issue an invoice and charge 18% VAT on the agreed price. The new company, as acquirer shall be entitled to deduct the input tax charged on the transfer provided it is registered for VAT purposes.

Transactions between related parties. In North Macedonia, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is a person that permanently or temporarily performs an independent business activity, regardless of the purposes of and the results from such business activity.

Taxable persons must register for VAT when their total supplies in a year exceed MKD2 million. Also, they must register if, at the beginning of a business activity, they project the making of total annual supplies exceeding MKD2 million. Taxable persons may voluntarily register for VAT at the beginning of each calendar year or at the beginning of their business activity.

Exemption from registration. The VAT law in North Macedonia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. Taxable persons may voluntarily register for VAT at the beginning of each calendar year or at the beginning of their business activity, regardless of if they have reached the VAT registration threshold.

Group registration. North Macedonian VAT law allows VAT group registration. Several VAT-registered entities may decide to be registered as a single VAT-registered taxable person if they have a proprietary, organizational or managerial relationship.

In addition, if the tax authorities detect violation of tax principles or the possibility for violation of such principles as a result of proprietary, organizational or managerial relationship among particular entities registered as separate VAT taxable persons, they can issue a decision ordering the entities to register as a single taxable person.

There is no minimum time period required for the duration of a VAT group.

All members of a VAT group in North Macedonia are jointly and severally liable for VAT debts and penalties. This is for the period in which they are members of the VAT group. In case of a VAT debt from any member of the VAT group, all members of the VAT group shall bear the liability for the debt. Also, for any VAT debt and interest prior to the registration as a member of the VAT group, the representative and any person in the VAT group will assume the responsibility for paying the VAT debt.

Fixed establishment. In North Macedonia there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. Non-established businesses without a registered seat or branch in North Macedonia that perform supplies of goods and services in the jurisdiction to private customers (i.e., a business-to-consumer [B2C] supply subject to VAT) would be obligated to register for VAT purposes via a VAT representative (for further details see the subsection *Tax representatives* below*).* If a B2B or business-to-government (B2G) supply is made by a taxable person that does not have headquarters or a branch office in North Macedonia, the VAT reverse-charge mechanism applies.

Tax representatives. The proposed amendments of the VAT law regarding the concept of the VAT representative have been voted on and published in the Official Gazette of North Macedonia on 25 September 2023, and will enter into force as of 1 January 2024.

Foreign legal entities without a registered seat or branch in North Macedonia that perform a supply of goods and services in the country (B2C supply subject to VAT) would be obliged to register for VAT purposes (prior to commencement of the activity) through a VAT representative. The foreign legal entity can appoint only one VAT representative. The appointment of the VAT representative is performed by submitting the VAT registration form along with the necessary documentation (prescribed by the Ministry of Finance) to the tax authorities.

VAT representative can be appointed only if the following criteria are cumulatively met:
- Registered for VAT purposes at least 12 months before submitting the application for the appointment of a VAT representative
- On the day of submitting the application for appointment of the representative, there are no due and unpaid tax liabilities
- Bankruptcy or liquidation proceedings have not been initiated if it is a legal entity or, in case of an individual, if the same has not been legally convicted of a crime

The tax representative has an obligation for calculation of the tax, submission of a tax return, payment of the tax and interest in case of late payment of the tax, as well as to keep records on behalf of the foreign entity.

In cases when the VAT representation is terminated for any reason, the foreign entity should appoint another VAT representative for the purpose of performance of the supply by submitting a new application.

The VAT representative jointly guarantees for the VAT owed by the foreign entity.

Reverse charge. In North Macedonia, the reverse charge applies to the supply of goods and services by foreign non-established legal entities to North Macedonian established taxable persons (i.e., a B2B or B2G supply). Under the reverse-charge mechanism, the recipient of the goods or services bears the responsibility for the calculation of VAT, the submission of a VAT tax return, the payment of tax and the payment of interest in the event of a late payment.

The services that are subject to the VAT reverse-charge mechanism are: (i) advertising/marketing services; (ii) banking and financial services and insurance and reinsurance services; (iii) consulting services; (iv) electronic data processing and information provision services; (v) lease of personnel; (vi) rental of movable property, except for all types of means of transport; (vii) telecommunication services, (viii) purchase of software and maintenance of software, transfer of royalties and similar rights, etc.

Domestic reverse charge. In North Macedonia, the domestic reverse charge applies to the following:

- Supply of construction services by a domestic constructor to an investor
- Supply of construction services by a domestic subcontractor to principal constructor
- Supply of waste and scrap
- Transfer of movable and immovable property in a procedure of enforced collection, according to the law on tax procedure, and in an enforcement procedure, according to the law on enforcement procedure, when the creditor acquires the property

Digital economy. Following the adopted amendments of the VAT law, as supply of services are also considered the following services (applicable as of 1 of January 2024):

- Telecommunication services – services related to transmitting, broadcasting or receiving signals, words, images and sounds or information of any kind through communication, radio, optical or other electromagnetic systems, including the associated transmission or assignment of the right to use the capacity for such transmission, transmission or reception, including providing access to global information networks
- Electronically supplied services – services that refer to the development of web pages, web hosting, maintenance of programs and equipment at a distance, software and its update, images, text and information and making available databases, music, movies and games, including games of chance, as well as political, cultural, artistic, sports, science and entertainment broadcasts and events, distance learning

Based on the adopted amendments, the place of supply of telecommunication, radio and television broadcasting and electronically supplied services is where the customer is established, has its branch or its permanent address/residence. A service is not considered as an electronically supplied service where the supplier and the recipient of the service are communicating via email.

Nonresident providers of electronically supplied services for B2C supplies would be required to register and account for VAT in North Macedonia, via a VAT representative (see the *Tax representatives* subsection above).

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in North Macedonia. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in North Macedonia.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in North Macedonia.

Registration procedures. Taxable persons apply for VAT registration by filing a hard copy form (DDV-01) with the tax authorities the Public Revenue Office (Regional Directorate Office; 11th October St. 27, Skopje 1000, North Macedonia) or electronically through the e-tax system (www.etax-fl.ujp.gov.mk). The electronic VAT registration can be submitted by an authorized accountant. The relevant form can be submitted by the legal representative or by an authorized person of the taxable person. The deadline to submit the VAT registration form is 15 days from

the day the taxable person meets the VAT registration obligation. The average time for the tax authorities to complete the registration is seven working days following the day the registration form is submitted.

Deregistration. Taxable persons stay VAT registered for at least three years following the year of VAT registration. If in the third year, the taxable person does not reach the VAT registration threshold of MKD2 million (regardless if in the first and second year the threshold has been reached), it is entitled to request to be deregistered at the beginning of the following year. The tax authorities may deregister the taxable person before the three-year period lapses in any of the following circumstances:

- In the year preceding the deregistration, with the VAT returns, the taxable person did not report taxable supplies and input tax
- In the two years preceding the deregistration, the taxable person did not calculate output tax
- The taxable person cannot be found on the registered address
- The taxable person failed to submit VAT returns in two VAT periods for monthly and quarterly VAT payers
- The taxable person committed tax fraud
- In cases where the criteria for VAT group registration is met

The related party may decide to terminate the group registration by applying for deregistration. The tax office shall accept or reject the application within 90 days from its filing.

Changes to VAT registration details. In case of change in the VAT registration details, the taxable person is obliged to submit an application in paper form (form RDO). The application may be submitted by the taxable person or person authorized by the taxable person. There is no prescribed deadline for submission of the form RDO upon change in the registration details. However, failure for timely reporting of the new details may cause delay in receiving notifications from the tax authorities.

D. Rates

The term "taxable supplies" refers to supplies of goods and services and imports that are subject to VAT, including the zero-rate.

The VAT rates are:

- Standard rate: 18%
- Reduced rate: 5%, 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Based on the adopted amendments of the VAT law, there has been change and introduction of goods for which the preferential tax rates of 5% and 10% will be applied, as mentioned in the examples below. The amendments for the above VAT rates are applicable as of 1 of September 2023.

Some supplies are classified as "exempt-with-credit" (i.e., zero-rated [0%]), which means that no VAT is due, but the supplier may recover related input tax.

Examples of supplies of goods and services taxable at 0% (i.e., exempt-with-credit)

- International air transport of passengers
- Supply of precious metals for the central bank
- Supply, repair and maintenance, chartering and leasing of aircraft

Examples of supplies of goods and services taxable at 5%

- Potable water from public water supply entities
- Basic products for human consumption *(with effect from 1 September 2023)*
- Computers
- Pharmaceuticals and medical devices
- Raw oil for production of food for human consumption
- First sale of new residential buildings (within the first five years)
- Services provided by commercial tourist facilities (hotels, motels and similar facilities)
- Feminine hygiene products *(with effect from 1 September 2023)*
- Publications (i.e., electronic textbooks, brochures and other printed materials, newspapers and other periodicals, etc.) *(with effect from 1 September 2023)*
- Pellets, pellet stoves and pellet boilers *(with effect from 1 September 2023)*
- Thermal energy for heating *(with effect from 1 September 2023)*

Examples of supplies of goods and services taxable at 10%

- Other products for human consumption different from the basic products for human consumption *(with effect from 1 September 2023)*
- Restaurant services, specifically serving food and beverages for onsite consumption, except alcoholic beverages
- Supply and import of electricity for households *(from 1 January 2023 to 30 June 2023)*

The term "exempt supplies" refers to supplies of goods and services that are not subject to tax and that do not give rise to a right of input tax deduction.

Examples of exempt supplies of goods and services

- Rental of residential buildings and apartments that are used for housing
- Banking and financial services
- Insurance and reinsurance
- Games of chance
- Educational services

Option to tax for exempt supplies. The option to tax exempt supplies is not available in North Macedonia.

E. Time of supply

The moment when VAT becomes due is called the "time of supply" or the "tax point." The tax point is the earlier of the following two dates:

- The date on which goods are dispatched (transferred) and services are completely delivered
- The date on which the payment is received if the payment is made with respect to future supplies of goods or rendering of services

In the case of periodical or continuous supplies for which subsequent payments are prescribed, the tax point is the date on which the invoice is issued for the relevant period or, if earlier, the date on which the payment for the relevant period is received.

Deposits and prepayments. VAT becomes due on advance payments at the moment when the prepayment is received. The VAT is due proportionally on the amount of the payment made before the taxable event. The prepayment is considered to be VAT inclusive. The VAT should be charged, and invoice should be issued within five days after receipt of the advance payment.

There is no difference in the time of supply rules for deposits and prepayments for supplies of goods or services, and also if the amounts are refundable or nonrefundable.

If the supply does not take place, and the prepayment is refunded, the supplier should correct the VAT charged on the prepayment and submit a corrective VAT return for the period in which the VAT was charged.

Continuous supplies of services. The time of supply for periodic or continuous supplies is the date of each payment or the date when the payment is due, whichever is the earlier. If a supply is rendered continuously for more than one year and if no payment is made or due during that period, the date of supply is considered the end of the calendar year.

Goods sent on approval for sale or return. There is no special time of supply rules in North Macedonia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). Under the general tax point rules, VAT is due on the earliest of the supply of goods, the receipt of payment or the issue of an invoice. In case of return of goods, the taxable person is entitled to correct the VAT charged earlier by making appropriate correction of the VAT return of the tax period when the VAT was charged.

Reverse-charge services. Reverse-charge VAT applies to amounts charged for goods or services supplied by foreign legal entities to North Macedonian legal entities (i.e., a B2B supply). Under the reverse-charge mechanism, the recipient of the goods or services bears the responsibility for the calculation of VAT, the submission of a VAT return, the payment of tax and the payment of interest in the event of a late payment.

Leased assets. The time of supply for leased assets may vary in view of the type of lease and the specific contractual arrangements:

- Operational leases (rentals) are taxed for Macedonian VAT purposes as supplies of services. VAT becomes chargeable proportionately on each installment, and the time of supply follows the rules for periodic and continuous supplies (see below).
- Finance leases are taxed either as a supply of services (rentals) or as a supply of goods depending on the contractual arrangements VAT becomes chargeable proportionately on each. VAT becomes chargeable proportionately on each installment if the lease is considered a supply of rental service. A finance lease qualifies as a supply of goods (and the time of supply is upon handing over of the leased asset) if the legal title over the leased asset will transfer upon expiry of the lease term or an option for transferring the title on the leased asset is envisaged, but the total amount of the lease installments, less the interest payments, equals the fair value of the leased asset. VAT on the total price of the goods received under financial leasing with option to transfer their legal title, would be chargeable upon the handing over of the goods if the total amount of the lease installments is identical to the fair value of the leased goods upon inception of the lease.

Imported goods. Imported goods are subject to VAT unless they are exempt from VAT by law. The import VAT is calculated by the customs authorities based on the customs value of goods, increased with the customs duty, excise duty and commission, transportation and insurance fee. The import VAT is paid to the customs office simultaneously with the payment of the customs and excise duties.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax. The difference between the output and input tax is refunded to the taxable person based on a written claim stated in the taxable person's tax return.

The time limit for a taxable person to reclaim input tax in North Macedonia is 30 days. The deadline for reclaiming the input tax from a previous period is 30 days, from the submission of the tax return (monthly or quarterly tax return). If the taxable person does not claim the difference of the input tax stated in the tax return, such difference is to be offset in the following tax periods.

Input tax includes VAT charged on goods and services supplied in North Macedonia, VAT paid on imports of goods and VAT self-assessed under the reverse-charge mechanism with respect to goods or services supplied by non-established entities.

VAT is recoverable for supplies provided to taxable persons by other taxable persons if a valid invoice or a customs declaration containing a separate statement of the tax collected on the import is issued and if such document is recorded in the accounting books of the taxable person.

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

The following lists provide some examples of expenses for which input tax is not deductible and examples of expenses for which input tax is deductible if made for business purposes.

Examples of items for which input tax is not deductible

- Representation expenses
- Audio and video devices
- Hotels
- Restaurant meals

Examples of items for which input tax is deductible

- Advertising
- Consultancy services
- Telecommunication services
- Equipment

Partial exemption. Input tax directly related to taxable supplies is fully recoverable, while input tax directly related to exempt supplies is not recoverable. If the domestically supplied or imported goods or services are used by the taxable person to make both supplies with the right to deduct input tax and exempt supplies without the right to deduct input tax, such person may deduct only the portion of the input tax corresponding on a pro rata basis to the supplies giving rise to an input tax deduction.

Approval from the tax authorities is not required to use the partial exemption standard method in North Macedonia. Special methods are not allowed in North Macedonia.

Capital goods. There are no special input tax recovery rules for capital goods. As such, normal input tax recovery rules (as outlined above) apply.

Refunds. If the amount of input tax recoverable in a tax period exceeds the amount of output tax in that period, the taxable person earns an input tax credit. In general, the input tax credit is carried forward to offset output tax in the following tax period. However, a taxable person may claim a refund of the input tax credit in the VAT return for the relevant tax period. The refund of the difference between the input and output tax is made within 30 days after the date of the submission of the tax return.

Pre-registration costs. Input tax incurred on pre-registration costs in North Macedonia is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in North Macedonia.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in North Macedonia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in North Macedonia is not recoverable.

However, on the condition of reciprocity, North Macedonia refunds VAT incurred by businesses that do not have a headquarters or a branch office in the country and that satisfy the following additional conditions:
- It does not make any supplies in the country
- It does not owe any outstanding VAT

There is no official list of countries with which North Macedonia has reciprocity. In general, it is decided on a case-by-case basis.

The deadline for refund claims is 30 June of the year following the calendar year in which the tax becomes chargeable. The application for refund must be submitted to the North Macedonian tax authorities and must be accompanied by the appropriate documentation.

A refund application must be processed within six months after the date of submission of the application and supporting documents.

The claim period varies between one month and several consecutive months in one calendar year. The minimum claim for these periods is MKD30,000. In the claims for the last month of the calendar year, input taxes from previous claim periods may also be taken into account. The minimum claim for this period is MKD15,000.

Claims are paid in domestic currency (MKD) into a bank account opened by the applicant in North Macedonia.

One of the mandatory conditions is the business must have an opened nonresident bank account prior to the submission of the application for the VAT refund. The applicant should meet the following conditions:
- Reciprocity
- Has not performed any trading activities in the country except for services related to import, export and transit
- Has performed business activity in the country for which the recipient of the goods or the purchaser of the services shall bear the tax in accordance with the law on VAT
- The amount of the tax refund claim must be at least equal to the minimum threshold of MKD30,000 (approx. EUR500)

H. Invoicing

VAT invoices. A North Macedonian taxable person must issue invoices for all of its taxable supplies. A document qualifies as a valid invoice if it complies with the requirements set out in the North Macedonian VAT Act. The invoice must be issued within five working days after the date of the supply.

If an invoice is issued both for taxable supplies and nontaxable supplies, each supply must be stated separately. If a nontaxable supply is made, it must be stated on the invoice that "the value-added tax is not calculated".

A taxable person delivering taxable goods to recipients of goods or services who are not taxable persons (end consumers) must record the supply through a cash register and issue a receipt, regardless of whether the recipient of such goods or services requests a receipt.

Credit notes. A credit note may be used to reduce VAT charged and claimed back on a supply. A credit note must be cross-referenced to the original invoice. However, no official rules have been issued with respect to credit notes.

Electronic invoicing. Electronic invoicing is allowed in North Macedonia, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and B2G supplies, electronic invoicing is allowed but not mandatory in North Macedonia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in North Macedonia. The requirements related to electronic invoicing are the same as those for paper invoicing.

Based on the law, the supplier must obtain explicit written consent by the recipient of the electronic invoices, to allow them to receive electronic invoices. Electronic invoices should be protected from any subsequent alteration and modifications and signed with an electronic signature of the person authorized for signing invoices on behalf of the legal entity. The electronic signature of the authorized person must be issued by an authority authorized for issuance of electronic signatures.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in North Macedonia. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in North Macedonia.

Proof of exports. The taxable person must hold an export customs clearance issued by the customs authorities as proof that the goods are exported from the country. If the export customs procedure does not require an export clearance to be issued, the taxable person must hold a document issued by the customs authorities that displays the name and address of the taxable person and the foreign recipient of the goods, trade name of the goods and the quantity of the goods exported, place and date of export.

Foreign currency invoices. In general, VAT invoices must be issued in the domestic currency, which is the Macedonian denars (MKD), if the place of supply is North Macedonia. If a VAT invoice is issued in a foreign currency, all values required for VAT purposes must be converted into MKD for tax purposes, using the rate published by the National Bank of North Macedonia on the date of the invoice.

Supplies to nontaxable persons. A taxable person delivering taxable goods or services to persons who are not taxable persons (private consumers) must record the supply through a cash register and issue a receipt, regardless of whether the recipient of such goods or services requests a receipt.

Records. In North Macedonia, examples of what records must be held for VAT purposes include records of all documents (invoices, supporting documentation, etc.).

In North Macedonia, VAT books and records must be held within the country.

Record retention period. Taxable persons should hold records for a minimum of five years. However, in addition, the prescribed statute of limitations in the Tax Procedural Law is five years, but in cases of tax evasion it is 10 years. As such, taxable persons must keep their records for the period of 10 years.

Electronic archiving. Electronic archiving is allowed in North Macedonia. The VAT and tax legislation does not prescribe specific provisions for electronic archiving. Further, to the local

legislation for electronic manner of archiving, electronic archiving of documents is the archiving and storage of documents in electronic form, for which the storage time of those documents is precisely determined, corresponding to the storage time of documents in printed form and for which the storage time is confirmed by an electronic time stamp.

Electronic archiving refers to documents that were originally created in an electronic form suitable for electronic storage. However, the electronic archiving gives an opportunity for conversion of an electronic document into a different format suitable for electronic storage and digitalization of documents originally created in a form that is not electronic or suitable for electronic storage.

Electronic archiving is allowed provided certain conditions are met:
- All basic elements of the content of the original document are loyally transferred to the document prepared for electronic storage, taking into account the nature and purpose of the document, i.e., to maintain the integrity of the content of the document
- The usability of the original document is kept
- All elements of the content of the original document that are important for its authenticity are included
- Provided integrity of the original document, as well as its attachments, by using an electronic signature or stamp and an electronic time stamp
- Implementation of accuracy and quality control during the conversion process to remove any errors that might be caused by the process
- Proper records/documentation are kept for the activities undertaken in the preparation of documents for secure electronic storage

I. Returns and payment

Periodic returns. The tax period is the calendar month if the total turnover in the preceding calendar year exceeded MKD25 million. Taxable persons that had a total turnover in the preceding year of less than MKD25 million must file VAT returns and pay VAT quarterly. Newly registered taxable persons projecting an annual turnover of more than MKD2 million must register for VAT and make quarterly VAT return filings. Taxable persons must calculate the VAT for the relevant tax period for all supplies made that are subject to VAT. Taxable persons must submit a tax return within 25 days after the end of the relevant tax period.

Periodic payments. For monthly filing, provided that the amount of the total turnover of the taxable person in the preceding year is at least MKD25 million, the taxable person is obliged to file a monthly VAT return. The filing and the payment are performed no later than the 25th of the month following the reporting month.

For quarterly filing, provided that the amount of the total turnover of the taxable person in the preceding year is below MKD25 million, the taxable person is obliged to file a VAT return on quarterly basis. The filing and the payment are performed no later than the 25th of the month following the reporting month.

In the abovementioned cases, the payment of the due VAT must be made through a bank transfer on the treasury account of the National Bank of North Macedonia.

Electronic filing. Electronic filing is mandatory in North Macedonia for all taxable persons. After the VAT registration and before the deadline for filing the first tax return, the taxable persons must register for electronic filing.

Payments on account. Payments on account are not required in North Macedonia.

Special schemes. *Tour operators.* The provisions apply to tourist services of a taxable person, if the same acts toward the tourists in his own name and receives goods and services from third parties that are of direct benefit to the tourists.

Tourist services provided by the tour operator are considered as a single service, taxed with 18% VAT. The place of supply of the service shall be deemed to be the place where the service provider has its establishment/residence.

The taxable base is determined as the difference between the amount paid by the tourist for the tourist trip and the expenses paid by the tour operator for the previously ordered tourist services by the tour operator. The tour operator can determine the tax base either for each service separately, for a group of tourists' services or for all tourist services together within a certain tax period.

The tour operator is not eligible to deduct input VAT for the previously received supply by third parties.

Investment gold. According to the VAT law, the following is considered as investment gold (not for sale for numismatic purposes):

- Gold in the form of rods or plates with a weight accepted by the precious metal markets and with a fineness equal to or greater than 995 thousand parts, regardless of whether it is secured in the form of securities or not
- Gold coins, with a fineness equal to or greater than 900 thousand parts, minted after 1800, which in the country of origin are or were legal means of payment and are usually sold at a price not exceeding 80% of the value of gold contained in the coin, on the free market

Trade and import of investment gold, including investment gold represented by certificates for allocated (unsecured) or unallocated (unsecured) gold or traded through gold trading accounts, as well as loans in gold and gold swaps (swap), which acquires ownership of investment gold, and transactions relating to investment gold involving futures and forward contracts resulting in the transfer of ownership or a claim relating to investment gold, are VAT exempt. Intermediary services related to investment gold are also VAT exempt.

Input tax can be recovered for sale of investment gold that is VAT exempted and for manufacturing of investment gold or conversion of gold into investment gold, if certain conditions are met.

The taxable persons are required to keep evidence of the performed supply related to investment gold.

Annual returns. Annual returns are not required in North Macedonia.

Supplementary filings. No supplementary filings are required in North Macedonia.

Correcting errors in previous returns. In case of incorrect VAT reporting, VAT taxable persons should prepare and submit corrected VAT returns via the online e-tax platform no later than the deadline prescribed for submission of the annual accounts, i.e., 27/28 February, for annual accounts that are being submitted in hard copy, or 15 March when the annual accounts are being submitted online. As an exception, the taxable person is obliged to make a correction of incorrect or incomplete tax return in the last tax return from the calendar year to which the error relates, in case the more or less reported tax in the relevant tax period is less than 1% of the declared tax.

Digital tax administration. *Fiscal cash registries.* Taxable persons performing sale of goods and services for which the payments are made in cash are obliged to install and use a fiscal cash registries' system (the system) for purposes of issuing fiscal receipts. The system comprises the cash registry and software system. The software system is further comprised on a general packet radio service (GPRS) terminal and crypto module, which at the end is connected with the Public Revenue Office (PRO). The software system automatically generates and sends daily financial report to the PRO. Taxable persons that are not obliged to have cash registries do not have transactional reporting requirements in North Macedonia. In addition, local banks are obliged to provide the tax authorities with monthly reports on taxable persons' bank accounts.

J. Penalties

Penalties for late registration. For late registration, a legal entity may be fined EUR300–EUR10,000, depending on the size of the legal entity (micro, small, medium and large legal entity) (approx. MKD18,450 to MKD615,000) and the responsible person at the legal entity may be fined EUR50 to EUR500 (approx. MKD3,000–MKD30,000), depending on the size of the legal entity.

For failure to register, the fine is EUR300 to EUR10,000, depending on the size of the legal entity (approx. MKD18,450 to MKD615,000) for the legal entity and the responsible person at the legal entity may be fined EUR50 to EUR500 (approx. MKD3,000–MKD30,000), depending on the size of the legal entity.

Note that fines are payable in the local currency (MKD). However, the VAT law prescribes all of the fines in EUR. The MKD counter value of the penalty is calculated in accordance with the applicable middle exchange rate published by the National Bank on the day when the penalty is imposed.

Also, the exact currency equivalent can be calculated on the day when the penalty is imposed, in accordance with the applicable middle exchange rate published by the National Bank.

Penalties for late payment and filings. For failure to timely file the respective tax return, the legal entity may be fined with EUR300 to EUR10,000, depending on the size of the legal entity (micro, small, medium and large legal entity) (approx. MKD18,450 to MKD615,000) and the responsible person at the legal entity may be fined EUR50 to EUR500 (approx. MKD3,000 to MKD30,000), depending on the size of the legal entity. The same penalties apply if the legal entity fails to pay the VAT into the authorities' bank account into which registered VAT payers must pay their VAT or if the legal entity makes inaccurate VAT accounting entries.

Taxable persons that make a late VAT payment are liable to pay interest on the tax due at a rate of 0.03% for each day of delay.

Penalties for errors. For invoices, they should be issued in a period of five days, as of the day when the supply of goods/services was made. A legal entity may be fined with EUR300 to EUR10,000, depending on the size of the legal entity (micro, small, medium and large legal entity) (approx. MKD18,450 to MKD615,000) and the responsible person at the legal entity may be fined EUR50 to EUR500 (approx. MKD3,000 to MKD30,000), depending on the size of the legal entity. The same penalty applies in cases where the taxable person keeps records incorrectly, issues irregular invoices and does not keep the invoices and other records within the prescribed deadline.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The responsible person at a legal entity that does not file a tax return within the prescribed deadline, presents inaccurate/false information in the tax returns and in that manner makes misrepresentation of their tax position, or submits a tax return but fails to pay the due tax and for the purposes of gaining greater property gain or value may be imposed to a criminal liability – prison in duration of six months up to five years and with a monetary fine. In cases where the tax fraud is of a significant amount, the responsible person will be exposed to criminal liability – prison, in duration of at least four years and a monetary fine. The legal entity will be exposed to a monetary fine. The gains from the tax fraud shall be confiscated by virtue of judicial ruling.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in North Macedonia. See the various subsections above for further details on each type of penalty that can be imposed.

Statute of limitations. The statute of limitations in North Macedonia is 5 or 10 years. The determination of the tax and ancillary taxes, their change and termination are not allowed, if the statute of limitations has expired. The statute of limitations regarding taxes and ancillary taxes begins at the end of the year in which a factual situation has occurred.

The statute of limitations is generally 5 years, but in cases of tax evasion, the statue of limitations is 10 years. In any case, upon expiration of 10 years, the determination of tax and ancillary tax is obsolete.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Merverdiavgift (MVA)
Date introduced	1 January 1970
Trading bloc membership	European Free Trade Association (EFTA)
Administered by	Ministry of Finance (http://www.skatteetaten.no)
VAT rates	
Standard	25%
Reduced	15%, 12%
Other	Zero-rated (0%) and exempt without credit
VAT number format	123 456 789 MVA
VAT return periods	Bimonthly (with the possibility for shorter periods) Annual (for farmers and fishermen; optional for other businesses if taxable turnover does not exceed NOK 1 million)
Thresholds	
Registration	NOK50,000 (approx. EUR4,250) for all taxable persons, aside from charitable and nonprofit organizations (which is NOK140,000 (approx. EUR11,875)
Established	NOK 50,000 (approx. EUR4,250)
Non-established	NOK 50,000 (approx. EUR4,250)
Distance selling	NOK 50,000 (approx. EUR4,250)
Intra-Community acquisitions	Not applicable
Electronically supplied services	NOK50,000 (approx. EUR4,250)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Norway by a taxable person
- Withdrawals of goods from a registered enterprise or an enterprise with a registration obligation for use outside the scope of the VAT Act and withdrawals of services from a registered enterprise or an enterprise with a registration obligation for private use or for purposes not regarding the enterprise
- Purchase of intangible or remote supply services from abroad by a Norwegian taxable person or public body
- The importation of goods, regardless of the status of the importer

The application of delivery terms affects the deemed place of supply of goods. The supply of services in Norway related to goods or real property is deemed to be liable to VAT in Norway.

Effective use and enjoyment. In Norway, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. According to the Norwegian VAT Act § 6-14, the supply of goods and services as part of a transfer of an ongoing business is exempt from VAT (zero-rated). It is an absolute requirement that the ongoing business is continued by the new owner. In addition, the following elements are relevant: the transfer of employees, inventory and fixed assets, etc. Normally, the transfer of one single asset does not qualify for an exemption. The exemption applies only if the new owner continues the business for a certain period subsequent to the transfer. It is not a requirement that the business has its own personnel, HR department, etc.; it is sufficient that the business is capable of operating in a market regardless of whether the business is operated by its own personnel or by outsourcing of operational tasks.

Transactions between related parties. There is no difference between supplies of goods and services for transactions between related parties. If a commonality of interest exists between the supplier and the recipient of goods or services and it must be assumed that this could result in a different consideration being set than would be the case if such commonality of interest did not exist, the basis of calculation may not be set lower than the market value.

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services in Norway, in the course of a business.

The VAT registration threshold is NOK50,000 (approx. EUR4,250) during a 12-month period. However, for charitable bodies and some nonprofit organizations, the 12-month threshold is NOK140,000 (approx. EUR11,875). Special rules also apply to certain partnerships, trading companies and corporations.

The one that is acting as the importer of records (recipient of goods) in the customs declaration is liable to pay import VAT.

Exemption from registration. Nonresident foreign transporters that supply only international, zero-rated transportation services may choose between registering for VAT and thereafter applying for deduction of input tax through their VAT returns or remaining not registered and applying for VAT refunds through the refund regime.

Voluntary registration and small businesses. Norwegian VAT legislation provides an option for voluntary registration for VAT purposes for certain activities. For example, voluntary registration is available for leasing property for use by a taxable business.

There are no special VAT registration rules for small businesses in Norway. Normal VAT registration rules apply.

Group registration. The Norwegian VAT Act allows "collaborating companies" to form a VAT group. Group registration may apply if one or more companies own at least 85% of the capital in each company and if the companies are collaborating. Special issues arise for groups of companies with foreign presence.

To form a VAT group, an application must be made to the tax authorities.

Members of a VAT group are regarded as one taxable person liable to payment of VAT. All the participating companies are jointly and severally liable for the correct payment of VAT.

Transactions between companies within a VAT group are generally not subject to VAT. However, the withdrawal of taxable goods or services from a taxable part of the group's business may be subject to VAT. There is no minimum time period required for the duration of a VAT group.

Holding companies. Holding companies can be included in a VAT group in Norway, provided that the 85% ownership requirement is met.

Cost-sharing exemption. The VAT cost-sharing exemption has not been implemented in Norway.

Fixed establishment. To have a fixed establishment in Norway, there must be a permanent establishment of a certain size, consisting of people and technical resources who together have the ability to deliver and receive services. The requirement for duration means that the temporary presence of persons and/or resources will not be sufficient. The presence of consultants, repairers, installers, etc., who come on "visits" to Norway to carry out their assignments in the country is not enough to create a permanent establishment. As a starting point, it is required that both the necessary persons and the resources are present as an independent collaboration ("together"). The presence of only the "resources" is not normally sufficient. For example, the rental of goods, where all storage, delivery, service, etc., is handled by third parties, is not enough for there to be a permanent place of business. On the other hand, the criterion relates only to the persons and resources necessary to carry out and receive deliveries. The fact that administrative support functions are "outsourced" to third parties will not, for example, affect the status of a permanent establishment.

The criterion for "permanent establishment" must not be taken too literally, and the question of whether there is a permanent establishment will, after all, depend on a specific overall assessment on a case-by-case basis. The key question is whether it appears to be rational and natural to define the establishment in question as a supplier or recipient place for taxable deliveries. In the Directorate's view, the criteria cannot normally be interpreted to mean that all the necessary resources and persons must be permanently present. For example, it may be acceptable that some of the overseas personnel "commute" to and from abroad without this depriving the establishment in Norway of the character of a permanent establishment if there are other key people permanently present and the company otherwise has the necessary technical resources to be a fixed establishment.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Norway. A non-established business must register for VAT if it makes taxable supplies of goods or services in Norway exceeding the registration threshold. Nonresident foreign transporters that supply only international, zero-rated transportation services may choose between registering for VAT and apply for refunds of input tax on VAT returns or remain unregistered and apply for VAT refunds through the refund scheme.

Tax representatives. If a non-established business is required to register for VAT in Norway, it must appoint a resident tax representative, unless it maintains a place of business or a registered office in Norway. The requirement to have a local representative has been abolished for Norwegian-registered foreign enterprises (NUF) domiciled in a European Economic Area (EEA) country that has an assistance agreement with Norway for the collection of VAT. This applies to enterprises domiciled in Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Faroe Islands and Greenland. The requirement to have a local representative has also been abolished for enterprises domiciled in the United Kingdom (UK) on the same terms as for EEC countries.

Reverse charge. The reverse-charge mechanism in Norway applies on purchases of services that are capable of delivery in Norway from a remote location (i.e., for business-to-business (B2B) supplies). Examples include electronically provided services, consultancy etc. The entity that purchases the service has an obligation to calculate and pay the VAT in Norway.

Domestic reverse charge. *Climate credits.* The domestic reverse charge must be calculated by the buyer of climate credits. Examples of climate credits can be carbon credits. Businesses or public companies that are not subject to the VAT regulations must also calculate VAT on the purchase of climate credits. However, this obligation only arises if the total purchase in a term exceeds NOK2,000 (EUR182) excluding VAT.

Gold. The domestic reverse charge must be calculated by the buyer of gold with a purity of at least 325 thousandths (of gold in an alloy). Examples of gold can be gold bars, gold dust, etc. The reverse-charge duty does not apply to the sale of gold where the price is based on function, design, etc., and not fineness and weight. Examples can be watches, etc.

Digital economy. *VAT on e-commerce and services (VOEC).* There is a special scheme in Norway for e-commerce and the business-to-consumer (B2C) supply of services that are capable of delivery in Norway from a remote location (known as the VAT on E-Commerce and services (VOEC)).

Nonresidents who supply services that are capable of delivery in Norway from a remote location to final consumers in Norway (B2C supplies) are required to register for VAT and charge VAT on services supplied to Norwegian consumers. A simplified VAT registration scheme, which is intended to be less burdensome in terms of administration, is available for foreign companies required to register for VAT. The suppliers may either register for VAT in Norway through the VAT register or through the simplified scheme. The simplified scheme has fewer administrative burdens than the VAT register.

Nonresident providers of B2C services that are capable of delivery in Norway from a remote location are obliged to register for VAT when turnover exceeds NOK50,000 (approx. EUR4,250) during a 12-month period. However, nonresident providers can also voluntarily register for VAT via the VOEC scheme from its first sale.

For companies that are registered for the simplified VAT scheme, an obligatory quarterly declaration must be submitted stating the company's identification number, total revenue and 25% VAT (currency NOK).

The government announced that from 1. July 2021 the limited VAT accountability for nonresident suppliers was abolished under the VOEC scheme.

Nonresident suppliers (businesses and marketplaces) of low-value goods, goods with value below NOK3,000, to consumers in Norway must calculate and collect VAT on B2C sales to Norway.

The suppliers may either register for VAT in Norway through the VAT register or through the simplified scheme. The simplified scheme has fewer administrative burdens than the VAT register does.

For goods with value at or above NOK3,000, foodstuffs, restricted goods and goods subject to excise duties, the simplified scheme (VOEC) is not available. These goods are subject to border collection of VAT (import VAT), excise duties and customs duties. Carriers might also charge the consumer an additional fee for calculating and paying the duties.

The NOK3,000 threshold of the VOEC scheme applies per item – not per invoice or transaction. The value of the item at "point of sale" is decisive. Additional costs and fees – e.g., shipping and insurance costs – are excluded when determining if the sale is within the NOK3,000 threshold (but to be included when calculating the VAT).

The consignments to Norwegian consumers should be marked with a VOEC identification number and relevant information to ensure correct customs clearance.

There are no other special rules in Norway for e-commerce supplies.

Online marketplaces and platforms. If electronic services are supplied through a mediator (i.e., an online marketplace or platform), the supplier is considered to sell services to the intermediary and the intermediary, in turn, is considered to transfer services to the buyer (two transactions).

The difference between the supplier and the intermediary is based on an overall assessment of whether "the delivery takes place through the use of an intermediary." It is not decisive whether underlying agreements between the parties classify the relationship as involving a subcontractor, intermediary, agent or commissioner, etc. as to who is contractually responsible for the content of the service is not necessarily decisive when assessing who must be registered. When deciding who the supplier is pursuant to the VAT Act, the most important factor is who is responsible for the actual delivery, i.e., who is responsible for transferring the files to the end user or gives the end user access to the digital content. Who collects payment from the recipient must also be taken into consideration. This provision means that those who sell electronic services through an intermediary cannot themselves be registered, pursuant to section 2-1 third paragraph.

Vouchers. In Norway, a distinction is made between "single-purpose voucher" (SPV) and "multi-purpose voucher" (MPV). SPV is a coupon where the place of delivery and tax amount for the underlying goods or services are known at the time of issue. In such cases, the goods or services in question shall be considered delivered when the coupon is issued, and VAT will be calculated on the goods or services. If the coupon does not turn out to be redeemed, it will not affect the tax treatment. MPV includes coupons that are not SPVs. For such vouchers, the underlying goods or services are not considered to have been delivered at the time of issue, and no value-added tax shall be calculated on the underlying product.

Registration procedures. The taxable person must be registered in the Central Coordinating Register for Legal Entities before moving forward with the VAT registration. The Coordinated Register Notification Part 1 is a common form for registration in the Central Coordinating Register of Norway.

The tax authorities have launched a new service that will simplify the registration process in the VAT register, replacing the previous form Coordinated Register Notification Part 2.

Every enterprise registered in the Central Coordinating Register will be given a unique nine-digit organization number. This number is used as a means of identification for the entities by most official registers containing business related information, such as the Register of Employers, the VAT register, etc. The taxable person, its accountant, auditor or advisor are entitled to apply for registration. It is preferable to register the business online.

Enterprises that do not have a place of business or domicile in Norway and are not obliged to be registered with a representative will normally not have any administrative employees with the Norwegian National Identity Number that gives them access to the existing administrative digital portal Altinn. If that is the case, the registration form (Coordinated Register Notification Part 1) could be submitted on paper.

Registration for VAT is done through a digital portal. The portal provides an online digital process for businesses to apply for an ordinary VAT registration, VAT group registration, voluntary VAT registration for the letting of real property, pre-registration and registration via fiscal representative. The VAT registration will normally be completed the same day as the application is submitted via the portal.

To register the business in the Central Coordinating Register for Legal the company will normally have to submit the following documents/information with the application:
- Certificate from the company register in the business's country of origin in original or a copy certified by public authority, attorney at law, associate attorney at law or auditor. The certificate must be in English or a Scandinavian language or translated to Norwegian or English by a legal authorized translator.
- For the person(s) who can sign on behalf of the company, according to the company certificate, the following details are needed: copy of passport or other identification document issued by public authority, which also must be certified; address and telephone number of the business.
- What kind of goods and/or services will be sold, and which date the sale will start in Norway.

Deregistration. Different rules apply to deregistration and closures of different types of entities and enterprises, but all deregistrations and closures must be notified using the Coordinated Register Notification Part 1 form or the digital platform. If VAT liable turnover falls under NOK50,000, without the business being deleted, the taxable person can remain registered in the Norwegian VAT register for two years.

Changes to VAT registration details. Changes to a taxable person's VAT registration details may be submitted through the ordinary Coordinated Register Notification form or the digital platform. The taxable person is obliged to ensure that the registration details are always correct. Failure to submit correct information to the tax authorities may be penalized.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 25%
- Reduced rates: 15%, 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

In Norway, the term "exempt with credit" is also used for zero-rated supplies. This means that no VAT is chargeable, but the supplier may recover input tax related to the supplies.

Examples of goods and services taxable at 0% (i.e., exempt-with-credit)

- Exports
- Supplies to foreign ships, and aircraft and ships involved in foreign trade
- Books and newspapers (including e-newspapers and e-journals)
- Transfer of a business as a going concern
- International transportation services (goods and passengers)

Examples of goods and services taxable at 15%

- Food (excluding alcohol and tobacco, and supplies in restaurants)

Examples of services taxable at 12%

- Domestic passenger transportation services (excluding the leasing of vehicles as such)
- Television licenses
- Hotel accommodation
- Museums
- Amusement parks
- Galleries
- Larger sport events

The terms "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Insurance
- Lease of residential property
- Medical services (but not including alternative medical treatment, cosmetic surgery and cosmetic treatment)
- Educational services
- Real estate transactions
- Specified cultural and sporting events

Option to tax for exempt supplies. Norway operates an option to tax in respect of the following types of supplies:

- Letting out buildings or hiring out plants for use in taxable activity by an enterprise or in municipal or county municipal activity
- Letting out agricultural properties of at least five dekar (1 dekar is 1,000 m2) and agricultural land without buildings
- Associations of which the object is to build and maintain forest roads
- Developers who, for nonbusiness purposes, build water or sewage plants under private auspices
- Businesses and public enterprises that make railway installations available against consideration for an enterprise that is VAT registered

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. The time of payment does not generally affect the time of supply. If a customer makes an advance payment, the general rule is that the tax point remains the date of delivery of the goods or the date of performance of the services.

The supplier may defer the time of supply by issuing an invoice. In general, an invoice may be issued up to one month after the date of delivery of goods or performance of services. The invoice date then becomes the tax point.

Sales documents issued within the first 15 working days of the month, can state the last day of the preceding month as the document date, provided that the goods or services are delivered at this time.

For services that are delivered on the basis of metered consumption (for example, electricity and telecommunications), sales documentation may be issued for longer periods, up to a maximum period of one year.

For services that are delivered on the basis of a tender or an equivalent pre-agreed price, the parties may agree on the sales documentation, unless the agreed invoicing deviates materially from the actual progress of the service delivery.

Sales documentation for certain services, such as passenger transportation or leases, may be issued in advance.

Deposits and prepayments. VAT can generally not be charged on deposits and prepayments. As a general rule, a supplier cannot claim VAT of an invoice/bill of sale issued prior to the time of supply – some exceptions apply. If a customer makes an advance payment, the general rule is that the tax point remains the date of delivery of the goods or the date of performance of the services.

Continuous supplies of services. Deliveries, regardless of whether they are goods or services, invoiced monthly may be invoiced up to the 15th working day of the month following the month of delivery. Services delivered on a recurring basis, and goods delivered in connection therewith, must be invoiced no later than one month after the end of the ordinary VAT period.

Goods sent on approval for sale or return. The VAT must be charged when the goods are delivered. If the goods are returned to the seller, a credit-note should be issued by the seller.

Reverse-charge services. VAT payable through the reverse-charge mechanism is due on the date of the invoice if the invoice is issued in accordance with the generally accepted accounting principles in the country of the service provider.

Leased assets. Leased assets, regardless of the type of lease, are to be invoiced on a regular basis, at the latest one month exceeding the VAT period. The tax point for supplies of leased assets is usually the invoice date.

Imported goods. The time of supply for imported goods is the official date of importation.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Norway, VAT paid on imports of goods and VAT self-assessed for reverse-charge services received from outside Norway.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice. Consequently, VAT may not be deducted as input tax before a VAT invoice is received. Input tax that is not properly documented may not be deducted. The input tax deduction must be reported in the VAT period in which the invoice is dated.

A deduction of input tax may be granted only if the payment is made through a bank or similar financial institution, unless the total payment is less than NOK10,000 (approx. EUR850).

The time limit for a taxable person to reclaim input tax in Norway is three years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not for use in a business that is subject to VAT (for example, goods acquired for private use). In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Tobacco and alcohol
- Personal expenses
- Business entertainment
- Restaurant meals

- Purchase and maintenance of passenger vehicles, with certain exemptions for taxi and car-lease companies
- Gifts and handouts for advertising purposes if the value is at least NOK100 (approx. EUR8,5) inclusive of VAT

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Purchase, lease and hire of vans and trucks not for private use
- Fuel for vans and trucks not for private use
- Conferences
- Business use of home telephones and mobile telephones
- Passenger transportation services that are not for private use

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

Input tax incurred on purchases that are used for both taxable and exempt supplies must be apportioned to reflect the supplies that carry the right to deduction and those that do not carry such right. The apportionment may also be calculated based on the ratio of taxable supplies to exempt supplies in the preceding financial year if the preceding financial year is representative of the normal pattern of trading.

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Norway. Special methods are allowed in Norway. However, taxable persons must document the applied calculation method and present it in case of an audit by the tax authorities.

Capital goods. Capital goods are those assets that are procured with a certain value and duration in a business. In Norway capital goods are the following:

- Machinery, inventory and other fixed assets where the value of input tax of the capital good is higher than NOK50,000 (approx. EUR4,250)
  Or
- Real estate that has been subject of new, extension or redevelopment where input tax amounts to NOK100,000 (approx. EUR8,500) or higher

Input tax incurred on the capital goods is deducted when the capital goods are acquired. However, the amount of input tax on capital goods depends on the use of the capital good in a 10-year period for real estate and 5-year period for other capital goods. The use of the capital good must therefore be assessed each year in the adjustment period. The initial deducted input tax is adjusted if the use of the capital good changes from VAT deductible to nondeductible purposes (or vice versa).

In Norway, the capital goods adjustment does not apply to any services.

Refunds. If the amount of VAT recoverable in a bimonthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund claim is triggered automatically if the VAT return shows a VAT credit. Refunds are generally processed within three weeks after the date on which the VAT authorities receive the VAT return. The VAT authorities pay interest on refunds that are paid late. As of 1 July 2023, the annual interest rate is 11.75%.

Pre-registration costs. A VAT-registered entity is entitled to deduct input tax on goods and services that were procured up to three years prior to registration in the VAT register (retrospective tax settlement), provided that the procurements are directly related to the taxable activity. The

retrospective tax settlement must be claimed no later than three years after registration. Special limitation rules apply for retrospective tax settlement related to "capital goods."

Bad debts. A taxable person can reverse the calculated output tax if it must be regarded as indefinitely unrecoverable from the recipient of the supply. The debtor (i.e., the recipient of the supply) must not have the ability to pay off the supplier's receivable and the claim must be regarded as indefinitely unrecoverable. It is not enough that the debtor lacks the willingness to settle the receivable. There are strict conditions that need to be met for the VAT to be defined as indefinitely unrecoverable and therefore reimbursed by the tax authorities as a "bad debt."

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Norway.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Norway is recoverable. The Norwegian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Norway. A non-established business may claim Norwegian VAT to the same extent as VAT-registered businesses.

Norway does not apply the reciprocity principle to refunds. Consequently, it does not exclude claimants based on the country where they are established. For example, foreign entrepreneurs providing transport services directly to and from Norway are not obliged to register for VAT, but they are entitled to receive a refund of VAT paid on purchases of goods and services in Norway.

A claimant must submit the following documentation to obtain a VAT refund:

- Application Form RF 1032
- Under the general rule, the original VAT invoices and import documents. If the applicant only has an electronic accounting system, this must be stated in the application. In such case, printouts will be accepted. Original invoices will be returned once the application has been processed
- A power of attorney if the claimant uses the services of a third party to recover the VAT
- A certificate of taxable status obtained from the competent tax authorities in the country in which the claimant is established. The certificate, which is valid for 12 months from the date of issuance, must be completed, signed and stamped by the local tax authorities
- If the claim relates to goods that are located in Norway at the time of submission of the claim form, an explanation of the basis on which the refund is requested
- The deadline for submitting applications is 30. September following the claim year. This deadline is strictly enforced. The forms must be completed in Norwegian, Danish, English or Swedish
- The minimum claim period is a calendar quarter, and the maximum claim period is one calendar year. The minimum claim amounts are NOK5,000 (approx. EUR425) for a quarter and NOK500 (approx. EUR42,5) for an annual claim
- Applications for refunds of Norwegian VAT may be sent to the following address:

  Skatteetaten
  Postboks 103
  N-1501 Moss
  Norway

- Claims for VAT refunds are generally paid within six months

Late payment interest. In Norway, interest is not paid on late refunds to non-established businesses.

H. Invoicing

VAT invoices. Under the general rule, invoices and credit notes must be issued by the supplier for all sales and exports. A Norwegian taxable person must generally provide an invoice including VAT for all taxable supplies made. Invoices must support claims for input tax made by Norwegian taxable persons and VAT refunds claimed by non-established businesses.

Credit notes. A credit note may be used to reduce the VAT charged and reclaimed on a supply. The document should be marked "credit note" and it must refer to the original invoice.

Electronic invoicing. Electronic invoicing is allowed in Norway, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Norway. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Norway.

Electronic invoicing is permitted, provided that the electronic invoice is in a non-editable format. The term "electronic invoicing" here means a noneditable file, f.eks.pdf., generated by the ERP system and sent to the client as an attachment to an email.

However, note that the term "electronic invoicing" in Norway differs from the term described above. According to the Norwegian Bookkeeping Standard 4 (NBS4), electronic invoices are data files sent by the invoice issuer (ERP system) directly into the invoice recipient's ERP system. The file is processed automatically. The pdf document is considered an electronic copy of the paper invoice.

Simplified VAT invoices. Simplified VAT invoicing can be used by retailers in Norway, for supplies made cash sale to private consumers (for private use). Such supplies can be documented without specification of the buyer and rather by cash register receipt. The purchase amount must not exceed NOK40,000 (approx. EUR3,400) including VAT, and the payment must not be in cash. When the payment exceeds the above amount or is paid in cash, the purchaser's name and address must appear on the invoice.

Self-billing. Self-billing is allowed in Norway. It is only allowed for certain supplies, for example, an entity that has a bookkeeping obligation in Norway can issue an invoice for the purchase of goods or services from a seller that does not have a bookkeeping obligation.

Further, when a sale is completed with a part exchange, the invoice can be issued by one of the parties. A joint-number series can be used for such sale documents.

Additionally, there are specific regular invoicing exemptions for the agriculture industry, handicrafts and for purchase where the buyers themselves dispose of information only on the scale, volume, weight, quality, etc.

Proof of exports. Goods and services exported from Norway or supplied from the mainland (Norway) to the Norwegian areas of Jan Mayen and Svalbard are exempt from VAT with input tax credit. To qualify exported goods as VAT-free, suppliers must prove the goods have been exported. The documentation requirement for goods is a printed copy of the Customs Single Administrative Document where an attestation from the transporter or the Customs has been inserted

Foreign currency invoices. If an invoice is issued in a foreign currency, the VAT must be stated in the domestic currency, which is the Norwegian kroner (NOK), using the official exchange rate for the date of the invoice. No other exchange rate may be used for VAT purposes. Other amounts shown on the invoice may be stated in other currencies.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Norway. As such, full VAT invoices are required. However, there are simplified invoicing rules for the system for VAT on e-commerce and electronic services (VOEC). See the subsection *Digital economy* above.

Records. Compulsory record reporting must be kept as long as there is a need to check the reporting material. Storage should be in a format that maintains the ability to read the material. Further, the material must be adequately secured against unjustified change, deletion or loss.

In Norway, examples of what records must be held for VAT purposes includes primary documentation and secondary documentation. Primary documentation is used as a basis for the actual bookkeeping process, e.g., incoming and outgoing invoices, cash book balances, bank vouchers, salary slips, specification of mandatory financial reporting. Secondary documentation is often additional documentation with important information, which does not directly lead to any transactions in the accounts. Examples of secondary documentation include sales agreements, order slips and other agreements of importance for the enterprise.

In Norway, VAT books and records can be held outside the country. Generally, it is up to the entity itself to decide where the ongoing accounting is carried out, as long as the retention requirements are met. As a main rule, records must be stored in Norway under the whole retention period. However, entities that conduct operations abroad may keep records related to this activity in that country if they are obligated to do so by the law of the country where the operations are conducted. The accounting material must be available for auditing by the tax authorities in Norway without any delay throughout the retention period. It is allowed to store the electronic accounting material in the Nordic countries, provided notification is made to the Directorate of Taxes. No application is required. However, for storage in other countries, an application is required. No specific guidelines have been given for the determination whether the storage in other countries will be permissible in any given case.

Record retention period. The main rule states that primary documentation must be kept for five years after the end of the fiscal year. Secondary documentation must be kept for three years and six months after the fiscal year ending period. There are several exceptions from these rules. One important exception is the expanded documentation rules for capital goods that are subject to VAT adjustments, where specific documentation must be kept up to 15 years from the end of the financial year of procurement. Import documents must be kept for 10 years.

Electronic archiving. Electronic archiving is allowed in Norway. Documentation that is necessary for the preparation of compulsory financial reporting and compulsory specifications, which is available electronically, must stay accessible as such for at least three and a half years after the end of the financial year. Entities with less than NOK5 million in turnover (excluding VAT) are excluded. Entities that are in the process of liquidations must keep their documentation for six months after the liquidation is completed.

I. Returns and payment

Periodic returns. In general, Norwegian taxable persons file bimonthly VAT returns. However, farmers and fishermen must file returns annually. Businesses with taxable turnover of less than NOK1 million may opt to file annual returns. VAT groups submit a single, joint VAT return bimonthly. Import VAT is also reported via the VAT return.

To ease cash flow, businesses that receive regular VAT refunds may request shorter VAT return periods. Taxable persons must contact the appropriate VAT office to register for annual returns or for permission to use shorter VAT return periods.

For bimonthly VAT returns, this must be reported within 1 month and 10 days after the end of the VAT period.

Periodic payments. For bimonthly VAT returns, the VAT due for each period must be paid in full within 1 month and 10 days after the end of the VAT period. For bimonthly reported VAT, this means that the first term of the VAT report (January and February) is reported 10 April, etc. Return liabilities must be paid in Norwegian kroner (NOK). The payment must be made to the tax authority's bank account by the due date of the submitted VAT return. All payments of VAT due must be made by bank transfer.

Electronic filing. Electronic filing is mandatory in Norway for all taxable persons. It is obligatory to report VAT returns electronically. The opportunity to apply for an exemption for VAT returns by paper has been discontinued. The electronic VAT return form is filed via Altinn portal (https://www.altinn.no/en/forms-overview/tax-administration/value-added-tax-vat-return-general-industry-/).

Once the VAT return is submitted, the payment information will be provided in the Altinn portal, i.e., account number and KID (client identification number).

A new VAT return was introduced as of 2022. The new VAT return is based on standard Norwegian SAF-T VAT codes. The VAT return can either be submitted digitally ("system-to-system" via API technology) or manually via the Norwegian tax authority's portal.

Payments on account. Payments on account are not required in Norway.

Special schemes. *Recipients of remote services.* Recipients of remote services who are not registered for VAT in Norway are obliged to report reverse-charge VAT through the government web portal (www.altinn.no) on a separate VAT return for non-registered entities (Form RF-0005). The return is submitted quarterly, and payments are done 1 month and 10 days after the end of the VAT period. The threshold is for purchases exceeding NOK2,000 (approx. EUR170) excluding VAT, per quarter year. The buyer must be a public sector enterprise or business that operates in or is affiliated to Norway. This also applies to foreign enterprises or businesses.

Secondhand goods. Where secondhand goods, works of art, collectors' items or antiques are purchased for resale, including supplies on commission or at auction, the basis of calculation for the resale may be set as the difference between the purchase price and the sales price for the individual items. The goods must be purchased from a seller who does not charge VAT on the sale or who does not specify VAT in the sales document.

If purchases or resales are combined and the prices of the individual items are not known, the basis of calculation of the resale shall be the difference between the purchase price and the combined sales price of the items for the whole VAT period. If such purchases or sales amount to more than 80% of the purchases or sales made during the VAT period, the gross profit on other secondhand goods, etc., for which the sales price exceeds the purchase price may also be calculated as a whole and per VAT period. If, in a given VAT period, the value of the purchases exceeds that of the sales, the difference may be included in the total value of the purchases in subsequent VAT periods.

Annual returns. Annual returns are not required in Norway.

Supplementary filings. No supplementary filings are required in Norway. It has been proposed to implement a VAT listings filing (sales and purchase notification) from 2024. In the National Budget for 2023 the Ministry of Finance expressed that no VAT listings will be introduced in the nearest future. *At the time of preparing this chapter, no further developments have been announced.* For more details, see the subsection *Digital tax administration* below.

Correcting errors in previous returns. In general, amounts reported incorrectly should be corrected by filing either a corrected (replaces the previous return) or supplementary return for the

same period the mistake was made. Errors and omissions in former VAT returns may be corrected by the taxable person on its own initiative within three years without risk of penalty tax being imposed.

Digital tax administration. *Standard Audit File for Tax* (*SAF-T).* SAF-T is mandatory in Norway. All entities with a bookkeeping obligation in Norway are required to submit accounting data electronically using the xml format, when requested by the Norwegian tax authorities. SAF-T is a standard data format for providing accounting data. Companies are required to convert the requested accounting data to a SAF-T xml file and submit this through the government web portal (www.altinn.no). The primary purpose is to make tax audits more effective and efficient. SAF-T is mandatory for all entities with a bookkeeping obligation in Norway. However, exceptions are made to entities with a turnover of less than NOK5 million and entities with less than 600 accounting transactions per year. Note that if SAF-T exempt entities have electronically available data, e.g., an ERP system, SAF-T will still be mandatory.

J. Penalties

Penalties for late registration. Any entity that willfully or negligently fails to register for VAT could be subject to fines or imprisonment. Penalties and interest will also be assessed if, because of late registration, a taxable person submits a late VAT return or pays VAT late.

Penalties for late payment and filings. Penalty interest is imposed when an entity is late in delivering the compulsory VAT report or has conducted obvious mistakes. The interest rate is announced twice a year in a decree issued by the Ministry of Finance. As of 1. July 2023, the annual interest rate is 11.75%. An additional penalty of up to 60% of the tax due for a period may be imposed on taxable persons that willfully or negligently contravene the provisions of the VAT Act. However, the normal penalty rate is 20%.

Penalties for errors. The penalties for errors in Norway are the same as those for late payment and filings (see above).

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The penalties for fraud in Norway are the same as those for late payment and filings (see above). If criminal charges apply for fraud, fines may apply as well as imprisonment of up to two years.

Personal liability for company officers. VAT representatives are jointly responsible for submitting the VAT return and paying any VAT due (joint and several liability).

In the event of bankruptcy, those in charge in the company may be held liable for outstanding VAT in case the negligence is proved against them in conducting business.

Statute of limitations. The statute of limitations in Norway is five years. Normally, the Norwegian tax authorities can go back up to five years in time to review returns and identify errors and impose penalties. However, for taxable persons who voluntarily correct errors in previous VAT returns, the tax authorities can go back up to 10 years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	ضريبة القيمة المضافة
Date introduced	16 April 2021
Trading bloc membership	Gulf Cooperation Council (GCC)
	Greater Arab Free Trade Area (GAFTA)
Administered by	Oman Tax Authority (OTA) (https://tms.taxoman.gov.om/portal/web/taxportal/)
VAT rates	
Standard	5%
Other	Zero-rated (0%) and exempt
VAT number format	Alpha-numeric (10 characters), with two letters "OM" at the front indicating the country code (e.g., OMXXXXXXXXXX)
VAT return period	Quarterly
Thresholds	
Registration	OMR38,500
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply (including deemed supply) of goods or services made by a taxable person in Oman
- The receipt of goods and services by a taxable person in Oman from a supplier who does not have a place of residence in Oman and is not subject to tax in Oman

- The importation of goods from outside the GCC implementing states into Oman (*however, at the time of preparing this chapter, none of the GCC Member States treat one another as an implementing state for VAT purposes*)

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Oman, the place of supply for electronically supplied services and telecommunication services is determined under the place of actual use and enjoyment rules. However, the VAT Executive Regulations state that the place of actual use and enjoyment shall be as follows:

- Place of use and enjoyment for electronically supplied services:
  - Place of residence of customer for taxable customers
  - Place of use and enjoyment for nontaxable customers shall be determined in accordance with the following:
    (a) The fixed location in cases where the service requires the customer to be at a fixed location
    (b) The international symbol for the electronic chip used by the customer to receive the services
    (c) The internet protocol (IP) address of the device the customer is using or any other method that identifies the customer's geographical location
    (d) The customer's address as stipulated in the tax invoice, or the documents used to send the invoices
    (e) Customer's bank account details
    (f) Other information of a commercial nature
- Place of use and enjoyment for telecommunication services:
  - The fixed location in cases where the service requires the customer to be at a fixed location
  - The country that owns the international symbol of the electronic chip used by the customer, for services supplied through mobile networks
  - If either of the cases above do not apply, then the place of supply shall be the place of residence of the customer, which the supplier shall determine based on information provided by the customer in accordance with usual commercial security procedures

As per the latest amendment to the VAT Executive Regulations, the place of supply for telecommunication services, and in particular roaming services, the place of supply would be determined where the data chip is issued and used by the customer, rather than in the place of use and actual enjoyment.

For further details, see the subsection *Digital economy* below.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Oman, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The part of activity being transferred is capable of operating by itself
- The supply includes all elements of the transferred activity, fully or partially, including tangible and non-tangible assets, and may include debt
- The transferee uses the assets to carry the same activity that the transferor is engaged in and the transferee must be licensed to carry out this activity

- The transferor shall be a taxable person, and the transferee shall be a taxable person or become taxable as a result of the transfer
- There must not be a series of consecutive transfers of the asset
- The transferor and transferee shall jointly and severally notify the tax authority of the transfer in the form prescribed for this purpose within a period of one month from the date of supply
- The transferor must provide an invoice to the transferee which includes all the requirements of a tax invoice and specifies all the supplies resulting from the transfer of the activity, and mention that it is not subject to VAT in line with Article 18 of the law

Transactions between related parties. In Oman, for a transaction between related parties, the value for VAT purposes is calculated at the market value. Based on the VAT Executive Regulations, the term "market value" means the value of the consideration without tax for the supply as if it took place between two persons independent from each other and within fair competitive conditions, compared to similar supplies' values occurring on the date of that supply.

C. Who is liable

A "taxable person" in Oman is a person who conducts an activity independently for the purpose of generating income and is registered with the tax authority or is required to register.

A person's obligation to register for VAT in Oman is determined based on their residence status. A person who has a place of residence in Oman must register with the tax authority in either of the following two cases:
- If the total value of supplies at the end of any month in addition to the 11 months immediately preceding it, exceeds the mandatory registration threshold (OMR38,500).
- If the total value of supplies, which is expected to be achieved at the end of any month in addition to the 11 months immediately following it, exceeds the mandatory registration threshold (OMR38,500).

Any person who does not have a place of residence in Oman must register with the tax authority from the date it is obliged to pay tax in accordance with the provisions of the Oman VAT law.

Exemption from registration. A taxable person whose value of taxable supplies exceeds OMR38,500 but whose supplies are exclusively zero-rated may apply to the tax authority for an exemption from VAT registration (also known as registration exception). However, the tax authority has the right to collect any VAT due, as well as administrative penalties, for the period of exemption from registration if the taxable person was not entitled to the exemption.

Voluntary registration and small businesses. Every taxable person who has a place of residence in Oman and makes taxable supplies and is not obliged to register under the mandatory registration criteria may apply for a voluntary registration in either of the following two cases:
- If the total value of supplies or expenses at the end of any month in addition to the 11 months immediately preceding it, exceeds the voluntary registration threshold (OMR19,250).
- If the total value of supplies or expenses expected by the end of any month in addition to the 11 months immediately following it, exceeds the voluntary registration threshold (OMR19,250).

For companies with an Omani commercial registration certificate, the VAT registration should be carried out online through the taxpayer portal. For individuals or entities without a commercial registration, an online excel form is available on the Oman tax authority website, which may be submitted via email.

Group registration. Two or more persons may register and may be treated subsequently as a tax group, provided the following conditions are met:
- Each person has a place of residence in the Sultanate
- All members are legal persons

- Each member must be a taxable person and registered for VAT (as per the requirements of the Oman VAT law)
- One person, whether a member of the group or not, has control over all other members of the tax group
- None of the persons is a member of another tax group
- None of the persons is a person registered with the authority operating a special zone

The term "control" for VAT purposes is defined as direct or indirect control of other person's activities or commercial matters, or owns more than 50% of the voting rights, or more than 50% of the capital of the other legal person

The persons in the tax group must appoint one of them as the representative of the group. A registration application for the tax group must be submitted by the tax representative on the form prepared for such purposes, provided it includes the general details and documents for registration in respect of the members of the group, in addition to the following details and documents:

- A copy of the agreement concluded between the group members to appoint a tax representative and evidence of the representative's approval of the appointment
- The tax identification number for each member of the group

There is no minimum time period required for the duration of a VAT group.

All members of the VAT group in Oman are jointly and severally liable for VAT debts and penalties.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Oman, as per the definition in the Oman VAT law as, "the fixed place of the activity other than the workplace, through which any foreign person conducts its activity in the Sultanate partially or in full either directly or through an affiliated agent."

Non-established businesses. If a person that does not have a place of residence in Oman and no other taxable person is obliged to pay the VAT due on the supplies in Oman (i.e., via the reverse-charge mechanism), the non-established business must register for VAT. There is a nil registration threshold for non-established businesses.

Non-established businesses must apply for VAT registration through downloading the Excel-based application form from the Oman tax authority website and making a submission via email.

Tax representatives. A nonresident person has the option to appoint a tax representative after obtaining the approval of the tax authority. The tax representative must represent the taxable person in its obligations and rights related to the tax.

A taxable person who has no place of residence in Oman may appoint a tax representative provided the following conditions are met:

- The tax representative is appointed under a written and valid agreement
- The tax representative has a place of residence in the Sultanate
- The tax representative is registered for tax in the Sultanate
- Other conditions determined by the authority

Reverse charge. For certain transactions, the liability to account for VAT in Oman shifts from the supplier to the customer, under the reverse-charge mechanism. The reverse-charge mechanism must be applied when a taxable person in Oman receives a supply of services from a nonresident person and those goods or services are subject to VAT in Oman.

Domestic reverse charge. There are no domestic reverse charges in Oman.

Digital economy. Supplies of telecommunications (wired and wireless) and electronic services are subject to Oman VAT to the extent that the use and benefit of such services takes place in Oman.

Telecommunication services are defined in the VAT legislation, and include those supplied through transfer, broadcasting, transmission or reception of signals, symbols, signs, scripts, visible and invisible pictures, sounds, data or information of any nature by wired systems, radio, light or any other electromagnetic or electronic systems, etc.

The place of supply of wired and wireless telecommunication services is the place of the actual usage or enjoyment of these services. The place of the actual usage or enjoyment shall be determined as follows:
- In the place of residence of the customer, in cases where the customer is taxable
- In the place of actual usage and enjoyment of those services, in cases where the customer is not taxable

For further details, see the subsection *Effective use and enjoyment* above.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for VAT in Oman, regardless of the value of their supplies.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT in Oman. Instead, the customer is required to self-account for the VAT by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in Oman.

Online marketplaces and platforms. The supply of online marketplace or platforms for the sale of goods or services is an electronic service for VAT purposes in Oman and follows the same place of supply rules as indicated above (place of supply rules depend on whether the customer is a taxable or nontaxable person). Generally, businesses who supply online marketplace services to taxable persons in Oman (B2B) would not have a registration obligation as the VAT should be accounted for by the taxable customer under the reverse-charge mechanism. A registration obligation is triggered if the supply has a place of supply in Oman, the customers are nontaxable (B2C), and the registration obligation arises regardless of the value of supplies.

Depending on the extent of operations of the online marketplaces and platforms in Oman, a fixed establishment may be created. For further details, see the subsection *Fixed establishment* above.

Registration procedures. An application for VAT registration must be submitted to the tax authority in the prescribed form available on the taxpayer portal. A resident taxable person who has a commercial registration number can submit the application electronically whereas other taxable persons, including non-established businesses, are required to use the manual application form available on the tax authority website.

Registration applications must be submitted to the tax authority on the form prescribed for such purposes and should include the following details and documents:
- General information of the applicant
- The nature of activity or activities carried out
- Commercial registration number (if any)
- Income tax identification number (if any)
- Excise tax identification number (if any)
- Customs identification number (if any)
- Details of actual or expected annual supplies
- Details of the actual or expected annual expenses

- Customs documents proving the activity or part activity of the applicant falling within the customs regime
- Suspension statuses in accordance with the common customs law (if any)
- Documents proving that the activity or part of the activity of the applicant is carried out within the special zones
- Bank account details
- Any other details or documents determined by the authority
- Bank guarantee for nonresidents

Deregistration. In the case of deregistration, the registered person should apply to the tax authority to cancel its registration in any of the following cases:
- Discontinuation of activity (i.e., commercial, industrial, professional, artisanal or service activities that may or may not be taxable under the Oman VAT law)
- Discontinuation of taxable supplies (supplies taxable at the standard or zero-rate of VAT under the Oman VAT law)
- If the value of the supplies falls below the voluntary registration threshold

A registered person may also request the cancellation of its registration if the value of its supplies falls below the mandatory registration threshold but exceeds the voluntary registration threshold.

The tax authority may reject an application for cancelation of registration if it does not meet the conditions for deregistration, and it must notify the taxable person of the decision to reject the application and the reason for such a decision.

Changes to VAT registration details. Any changes to the registration details for a registered taxable person already submitted to the tax authority at the time of obtaining VAT registration (e.g., change of principal officer or business address) should be reported within 30 days from the change in circumstance. The tax authority will issue a registration certificate containing the new information. The taxable person may notify the tax authority of the changes in the form available for this purpose, on the tax authority portal.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Basic food items
- Medicines and medical equipment approved by Ministry of Health (MOH)
- Investment grade gold, silver and platinum
- International transport of goods or passengers and the supply of related goods and services
- Supply of means of transport by sea, air and land, adapted for the transport of goods and passengers for commercial purposes and the supply of related goods and services
- Supply of rescue aircraft and ships
- Supply of oil and gas and oil derivatives
- Export of goods and services outside the GCC region including those that would be exempt if supplied domestically

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Certain financial services (e.g., provision of loans and advance, supply and issuance of shares, bonds and other securities, and life insurance services)
- Health care services and related goods and services
- Education services and related goods and services
- Supply of undeveloped land (bare land)
- Resale of residential real estate
- Local passenger transport
- Rental of real estate for residential purposes

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Oman.

E. Time of supply

The time when VAT becomes due is known as the "tax point" or "time of supply." The general time of supply for the supply of goods and services is the earliest of any of the following dates:

- Date of the supply
- Date of issuance of tax invoice
- Date of partial/full receipt of consideration

Further clarification as to what constitutes "date of supply," is the earliest of any of the following dates:

- Date of placing the goods at the disposal of the customer, in respect of the supply of goods without transport or dispatch
- Date of starting the transport or dispatch of goods in respect of the supply of goods with transport or dispatch
- Date of completion of the installation or assembly of the goods in respect of the supply of goods supplied with installation or assembly
- Date of actual completion of the performance of services or receipt by the customer and accepting it explicitly or upon issuance of a completion of services certificate by the customer
- Date of disposal of goods, for purposes other than business activity, whether with or without consideration
- Date of changing the use of goods to use for nontaxable supplies.
- Date of retaining of goods after ceasing to carry on the activity
- Date of supplying goods without consideration, unless the supply is related to the activity, such as gifts or free samples
- Date of deregistration of the taxable person, in respect of supplies made because of deregistration

Deposits and prepayments. The receipt of a deposit or prepayment creates a tax point where this forms part of the total payment of a particular supply if it precedes the issuance of a tax invoice.

Continuous supplies of services. For supplies that include the consecutive issuance of invoices or payments, the tax is due on the date of payment specified in the invoice or on the date of payment, whichever is earlier, and it is due at least once every 12 consecutive months.

Goods sent on approval for sale or return. For the supply of goods sent on approval for sale or return, the time of supply is the earliest of the date the customer expressly accepts the goods, or on a date not exceeding one month from the date the goods were transferred to them or put at their disposal.

Reverse-charge services. For the supply of reverse-charge services, the time of supply rule is that the taxable person who has received the services must declare and pay the due tax in the VAT return that relates to the tax period at the date of supply for which the purchase took place.

Leased assets. For operating lease contracts, the tax is due on the date of payment specified in invoice or date of payment, whichever is earlier, and at least once every 12 consecutive months.

Imported goods. For imported goods, the tax is due on any of the following dates, depending on the circumstances:
- Date of import of goods
- Date the goods entered the first port of entry in accordance with the provisions of the GCC common customs law
- Where the goods are placed under customs duty suspension in accordance with the common customs law, the date the imported goods are released from such a suspension

Note that an import VAT deferment scheme is available, subject to application and approval by the tax authority.

Other supplies. *Vending machines.* For supplies made from vending machines, the time of supply is the date of collecting the cash from the machine.

Vouchers. Single-purpose vouchers, which have determined place of supply and value of tax due, have a time of supply upon issuance. Multi-purpose vouchers, which have no place of supply or value of tax determined at issuance, have a time of supply at redemption.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred on the purchase of goods and services supplied to it for business purposes and where the VAT is specifically not disallowed for recovery under the law. Recovery is by way of deducting input tax against output tax, which is the VAT charged on supplies made by the business. Input tax includes VAT accounted for on imports of goods and self-assessed through the reverse-charge mechanism.

The time limit for a taxable person to reclaim input tax in Oman is three years. Input tax should be deducted in the same tax period in which the right to deduction arose. However, the taxable person may postpone the deduction to another tax period by notifying the tax authority. The right to deduct input tax expires after three years from the end of the tax period during which the right to deduct was established.

Nondeductible input tax. Input tax may not be recovered in respect of certain expenses specifically listed as nondeductible. Input tax may not be recovered in the below cases:
- If it is paid on goods and services used for purposes other than the taxable person's economic activity
- If it is paid on goods prohibited from trade in Oman
- If the VAT is paid on supplies or imports for the purposes of making exempt supplies in Oman

Examples of items for which input tax is nondeductible
- Any goods or services used for the purpose of entertainment services.
- Any motor vehicles and related goods and services that are available for personal use. Motor vehicles mean any vehicle that is designed or adapted for carrying not more than 10 passengers, including the driver. Motor vehicles do not include vehicles used in a vehicle rental business to customers or vehicles registered as an emergency vehicle.
- Any provision of food and beverage catering services.

Examples of items for which input tax is deductible (if related to taxable business use)

- Motor vehicles
- Mobile phones
- Business samples/gifts (subject to conditions)
- Business travel expenses (including accommodation)

Partial exemption. Input tax related to goods and services used to provide supplies that are subject to VAT and other supplies that are exempt, may be deducted in accordance with the proportion of costs related to the supplies subject to the VAT.

The standard partial exemption method consists of the following two-stage calculation:
- Attribution of input tax exclusively used in making either taxable or exempt supplies.
- Apportionment of non-attributable input tax using the standard input-based calculation, which will calculate the percentage of recoverable input tax. This percentage is based on the respective values of VAT incurred wholly to make taxable supplies and VAT incurred to make wholly exempt and outside-the-scope supplies. The percentage should be rounded to three decimal places.

The percentage calculated must be multiplied by the amount of total non-attributable input tax incurred to establish the recoverable portion of that input tax.

The calculations referred to above must be undertaken in respect of each tax period where input tax incurred relates to making exempt supplies or to activities that are not in the course of business. At the end of each tax year, the taxable person must undertake the annual calculation outlined above, taking into account the amounts for the full tax year and any adjustment should be included in the first tax period of its subsequent tax year. The amount calculated for the tax year is compared to the input tax amount recovered in all the tax periods making up the tax year, and an adjustment to the recoverable tax must be made in the tax period.

Approval from the tax authorities is not required to use the partial exemption standard method.

A taxable person may use an alternative (i.e., special) method to calculate partial exemption. Such alternative methods may be used provided the following conditions are met:
- The alternative method to calculate partial exemption gives an acceptable apportionment
- The method is based on actual use of the goods and services
- The method must include an annual adjustment of the exemption

A taxable person must obtain the tax authority's approval to use an alternative method to calculate partial exemptions.

Capital goods. Capital assets include material (tangible) assets (e.g., machinery, land and buildings) and immaterial (intangible) assets (e.g., patents, trademarks and royalties), which form part of the business assets of a taxable person, allocated for long-term use as a business instrument or means of investment. The following are also considered to be capital assets for the purposes of VAT:
- The acquisition or purchase of land, buildings or both land and buildings
- The construction of any building
- Large assets held primarily for sale in the ordinary course of business Input tax incurred on the purchase of a capital asset should be adjusted over a period of:
- Ten years for long-term assets (e.g., assets permanently attached to land)
- Five years for other capital assets

Businesses are entitled to deduct input tax on purchase, importation or development of capital assets at the time the input VAT is incurred and in accordance with the intended use of the assets.

The input tax should be deducted in line with the intended use of the capital assets. Input tax incurred on capital assets intended for wholly taxable use can be deducted in full, while input tax on capital assets intended wholly for exempt or nontaxable business purposes may not be deducted. Where an asset is intended or adapted to be used partially for a business purpose and partially for a nontaxable business purpose, then input tax shall be apportioned according to the expected use.

An adjustment to input tax deducted on capital assets is required when the use of the capital assets changes due to the following:
- Change of use of capital asset from taxable activity (e.g., supply of short-term services accommodation) to nontaxable activity (e.g., residential accommodation)
- Non-attributable capital assets change in line with the business's annual apportionment (e.g., a bank's head office building)
- Sale, disposal or assignment of capital assets during its useful life, resulting in a supply different from the businesses use of the asset (e.g., a bank selling its office building)

Change in use does not include the following cases:
- Capital assets intended for a certain taxable activity and later changed to a different taxable activity
- Capital assets acquired for a taxable activity purpose; however, they are not actually used for a period of time

The adjustment period commences from the beginning of the year during which the capital assets were purchased, obtained or constructed. Input tax incurred on the purchase of the capital asset should be adjusted in the relevant tax period based on the expected taxable use of the asset on a "fair and reasonable basis" based on the actual use of the asset. The input tax must be adjusted at the end of each tax year that falls within the adjustment period according to the following calculation:
- Adjusted tax = total input tax on capital assets x (initial recovery percentage – annual recovery percentage)

Any adjustment (positive or negative) should be done in the first tax period following the end of that tax year. If the capital asset is not used to make any taxable supplies in any tax year, the initial deduction percentage and the annual deduction percentage shall be zero percent (0%).

Where a taxable person sells, disposes of or surrenders a capital asset or ceases to be eligible to be registered for tax during the adjustment period, a final adjustment must be carried out, as follows:
- (Input tax incurred at the time of capital asset purchase) x (the number of years remaining for adjustment period) x (final adjustment percentage – initial recovery percentage) / number of years of adjustment period

Refunds. A taxable person can apply to the tax authority to refund the excess deductible tax for any tax period using the taxpayer checklist found on the online tax portal, during the prescribed deadline for submitting the tax return for that period, provided the deductible excess tax in that period exceeds OMR100.

Otherwise, a refund application may be submitted for the tax year, regardless of the value of the deductible excess tax, and during the deadline prescribed for submitting the tax return for the first tax period following that tax year. In all cases, the application must be submitted within a period of five years from the end of the tax period in which the right arose, otherwise the right will be forfeited.

On 25 October 2023, the Oman Tax Authority (OTA) issued Executive Decision No.521/2023, which introduced a schedule to be attached to the Oman VAT Executive Regulations outlining

the additional scenarios for VAT refunds and the related terms and conditions. The schedule introduced three new refund schemes summarize below:

- Refund of VAT for nonprofit charitable organizations:
  - Nonprofit charitable organizations recognized under the relevant Omani laws qualify for a refund of VAT paid on goods and services directly used for charitable purposes.
- Refund of excess VAT on imports by nontaxable persons:
  - Nontaxable persons in Oman may apply for a refund of VAT amount paid on imports exceeding the amount of import VAT due to the OTA. This circumstance can arise if there has been a downward revision in the value of the goods post-customs assessment or if an incorrect classification led to overpayment of VAT at the point of importation. The refund should be supported with documentation proving an amendment to the customs declaration and proof of reclaiming excess customs tax, if initially levied.
- Refund of import VAT on goods that are subsequently re-exported:
  - Nontaxable persons in Oman may apply for a refund of import VAT paid on goods that are subsequently re-exported in accordance with the provisions of the GCC Common Customs Law, and where the customs duties are refunded. The refund should be supported with documentation evidencing the initial VAT payment, the customs declaration for the re-exportation and proof of reclaiming excess customs tax, if initially levied.

Additional conditions for the above-described refund scenarios include:

- The refund must be submitted on a quarterly basis
- The refund amount must not be less than OMR15
- The OTA is required to decide on a refund application within 30 days upon receipt of all necessary and complete documentation. If an answer is not provided within this timeframe, the application will be deemed rejected.
- Upon approval, the OTA shall process the refund amount within 15 days from the date of the decision notification.

Pre-registration costs. A taxable person may deduct the input tax incurred on goods supplied to the taxable person or imported by the taxable person prior to the effective date of registration, as per the following conditions:

- The goods are supplied to, or imported by, the taxable person within a period not exceeding three years, counting back from the effective date of registration, and the goods are still available for use on the effective date of registration.
- The taxable person has the right to deduct input tax on these goods - in accordance the law and regulations.

Bad debts. A taxable person may adjust the value of the tax due if the consideration was not fully or partially collected, provided the following conditions are met:

- The unpaid consideration is a result of supplies within the taxable person's activity
- The taxable person has listed this unpaid consideration on each supply recorded in its accounting books and records
- The value of the supply recorded in its books not including tax is over OMR5,000
- The taxable person has declared and paid the tax due on the supply to the authority
- The period between the tax payment due date mentioned on the invoice and date of the adjustment is no less than 12 months; if no tax payment due date is stated in the invoice, it will be taken as the tax invoice date
- The taxable person has written off the value of the consideration for the supply as a bad debt
- The supply is not made to related parties
- The taxable person has notified the customer in writing of the amount adjusted and included the wording "This is the amount of input tax to be adjusted on the tax return for the period within which the date of this notice falls."

In all cases, the taxable person may adjust the value of the tax on supplies within three years from meeting conditions required for bad debts.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Oman.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Oman is recoverable.

Input tax is recoverable in Oman in the following special cases:
- On condition of reciprocity, tax paid by any foreign government, military, diplomatic and consular bodies and missions, international organizations, heads and members of the diplomatic and consular corps accredited by Oman
- Tax paid by a person that does not have any place of residence in the Sultanate or any GCC state and is nontaxable
- The tax paid by any person who has a place of residence in any GCC State and is a taxable person in that State and does not have a place of residence in Oman and is not a taxable person in Oman
- The tax paid by tourists visiting Oman on goods purchased in Oman and carried by them in their personal luggage at the time of their departure outside the GCC States

At the time of preparing this chapter, for VAT purposes in Oman, GCC Member States will also be considered a non-GCC Member State until all GCC states implement a VAT system and there is an electronic services system (ESS) implemented between the States.

Refund of VAT paid by non-established businesses. Input tax paid in Oman by any person who does not have a place of residence in Oman or in any of the implementing GCC States can be refunded provided the following conditions are met:
- The individual is not registered for tax (or required to register) in Oman or in any of the implementing GCC Member States
- The individual does not have a place of residence in Oman or in any of the GCC Member States and does not supply goods or services for which it is required to pay tax in Oman or in any of the GCC Member States
- The applicant is tax registered in its country of residence if this country applies a VAT or a similar tax system
- The tax incurred in Oman by the individual is for the purposes of economic activity, and the tax is deductible in Oman
- The condition of reciprocity must be met in the tax rules in the applicant's country of residence
- The total value of the tax claimed on any tax refund request should not be less than OMR100
- The tax should not be incurred on any of the following goods and services:
  - Petroleum products
  - Tobacco or e-cigarette products
  - Alcoholic drinks
  - Telecommunications services
  - Motor vehicles
  - Goods (fully or partially) consumed and used in Oman

A tax refund application can be submitted by a person who does not have a place of residence in the Sultanate or in any of the GCC implementing Member States using the form provided by the tax authority, provided that the request includes the following details and documents:
- A copy of purchase invoices including the number and date of the invoice and other supporting documents to the invoices
- In relation to each invoice: names, addresses and tax identification numbers of suppliers in the Sultanate

- Value of the tax on each invoice and in total
- The applicant's bank account details
- A tax registration certificate or other statement issued by the tax administration of the country of residence of the applicant, showing the applicant's business address and tax registration number, provided that the certificate or statement is issued within three months of the date of the tax refund application

Refund of VAT to tourists. Tourists to Oman may claim a refund of the VAT paid on purchases of goods upon departure from Oman provided all the following conditions are met:

- The purchased goods have not been consumed in Oman
- The total purchased goods on each invoice must not be less than OMR25, not including tax
- The purchased goods should be for personal use
- The purchased goods should be removed from Oman within three months from the date of the purchase
- The purchased goods must be transported among the personal luggage of the tourist
- The purchased goods must not include the following:
  - Food and beverages
  - Oil and gas or derivatives of oil and gas
  - Tobacco and similar products

H. Invoicing

VAT invoices. A taxable person must issue a VAT invoice when it makes a supply of goods or services, including zero-rated, exempt and deemed supplies, or when it receives full or part of the consideration prior to the date of supply. A VAT invoice should be issued for supplies made to both resident and nonresident persons. Tax invoices can be issued in Arabic or in English, provided that an Arabic translation is provided upon the tax authority's request. Tax invoices must be issued within 15 days from the date of supply (i.e., the earliest of delivery of good/service or receipt of full or partial payment).

Credit notes. Where, after the issuance of the VAT invoice, the VAT amount is to be adjusted (upward or downward) then a VAT debit or credit note should be issued. The VAT debit or credit note is treated as a VAT invoice. The issuance of credit notes is subject to the same requirements as a valid tax invoice. The credit note should make a clear reference (invoice number and date) to the original tax invoice to which it relates.

Electronic invoicing. Electronic invoicing is allowed in Oman, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Oman. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Oman. The requirements related to electronic invoicing are the same as those for paper invoicing.

Note that there are no electronic invoicing requirements in Oman at present. In Oman, "electronic invoicing" means the invoice is issued through ERP systems or the invoicing is linked to the tax authority portal. Currently, only the former takes place.

Similar to neighboring GCC countries, the OTA is evaluating the introduction of electronic invoicing. The latest amendments to the VAT Executive Regulations issued in October 2022 included provisions allowing the OTA to make electronic invoicing a mandatory requirement for future tax invoices. *At the time of preparing this chapter, no specific timelines or requirements have been officially communicated by the OTA.*

Simplified VAT invoices. A simplified VAT invoice may be issued in either of the following situations:

- The nature of the supplies does not require the issuance of a full tax invoice
- The value of supplies excluding tax is less than OMR500

The taxable person must apply for approval from the tax authority to issue simplified VAT invoices following the guidelines published in the tax portal.

Self-billing. Self-billing is allowed in Oman. A VAT registered customer may issue a VAT invoice on behalf of the taxable supplier, subject to fulfilling the below conditions:
- VAT invoices should be issued in accordance with the specific requirements for a valid VAT invoice.
- There is a written agreement between the parties that includes a description of the supplies to which this agreement applies.
- The supplier does not issue a tax invoice for the same supply.
- Both parties must notify the other party if they are no longer registered for VAT purposes.
- The customer provides the supplier with a copy of the tax invoice issued on its behalf and that the supplier approves it.
- The tax invoice includes the phrase "the taxable person is liable to pay any tax due on the supply."
- Each party notifies the other party in writing should they wish to cease this agreement.

Use of this scheme requires pre-approval from the tax authority.

Proof of exports. Until the implementation of the electronic services system across all the GCC Member States, supplies of goods shipped from Oman to other GCC states will be treated as an export of goods, which should be subject to the zero-rate of VAT, subject to the following conditions being met:
- The goods are physically exported to a place outside the GCC within (90) days from the date of supply.
- The goods are not used, consumed or changed in any way before the actual export, except in the manner necessary to prepare the goods for export.

A taxable person should maintain records and documents related to supplies of exported goods and services. Although the law has not explicitly stated the documents, this typically includes:
- Commercial documents (such as tax invoice, purchase orders, etc.)
- Transport documents
- Customs documentation

Foreign currency invoices. For the purposes of Oman VAT, VAT invoices can be issued in the domestic currency, which is the Omani rial (OMR) or any other currency. If the invoice is issued in a foreign currency, the VAT must be converted to OMR based on the average purchase and sale price of the currency published by the Central Bank of Oman at the date the tax is due.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons. As such, full VAT invoices are required. However, if the conditions to issue simplified invoices are met, simplified invoices can be issued for supplies to nontaxable persons (see the *Simplified invoicing* subsection above).

Records. In Oman, examples of what records must be held for VAT purposes include:
- Daily records in which the details of daily transactions are recorded according to their chronological and sequential order and maintaining all relevant documents that enable the control of the validity of these transactions
- The master record that monitors the opening of accounts and the transactions based on this account if there is a separate account for each type of supplies (taxable or exempt)
- The inventory record, where inventory items, the budget and the total count are recorded
- Records and documents related to supplies of imported and exported goods and services
- Records and documents related to intra-GCC supplies of goods and services, when applicable
- Records and documents related to all customs transactions
- All documents proving taxable supplies at zero percent (0%) rate

- Tax invoices, tax credit notes, tax debit notes issued or received
- Custom documents and other documents (e.g., shipping documents) related to import and export of goods
- Tax returns (including all supporting workings) and records of output tax in the case of tax declared under the reverse-charge mechanism or deferment of import tax
- Records that include information necessary to determine the correct tax treatment

The taxable person's records or books should be maintained in OMR. However, foreign currency records can be maintained after receiving written approval from the tax authority.

The taxable person may keep accounting records and books, invoices and documents in any language, if they are made available in the Arabic language upon the request of the authority.

At the time of preparing this chapter, there is no guidance in the VAT law or from the tax authorities on whether the records need to be kept locally in Oman or can be kept outside the country.

Record retention period. Records should be maintained by the taxable person for 10 years (or 15 for real estate-related transactions) following the end of the tax year in which the tax return is filed.

Electronic archiving. Electronic archiving is allowed in Oman. Records can be archived electronically provided they are true copies of the original documents.

I. Returns and payment

Periodic returns. A taxable person must submit a VAT return electronically within 30 days following the end of the tax period.

The VAT return filing frequency is quarterly for all taxable persons.
- First tax period: January 1 to March 31
- Second tax period: April 1 to June 30
- Third tax period: July 1 to September 30
- Fourth tax period: October 1 to December 31

The first tax period starts from the effective date of registration until the end of the tax period. In all cases, the following tax period begins from the day following the end of the previous tax period.

Taxable persons are expected to file nil returns for tax periods with no taxable transactions.

Periodic payments. Payment of VAT due by a taxable person in respect of a tax period must be made at the latest by 30 days following the end of that tax period. The taxable person making the payment must provide details of the tax registration number of the taxable person and the tax period to which it relates. VAT due may be paid by any of the following means:
- Submitting bank checks in the name of the tax authority
- Depositing the amount in the account of the tax authority created for this purpose
- Issuing a written order to the bank to transfer the amount from the taxable person's account to the tax authority's account and notifying the tax authority. The VAT due is not considered paid in this case unless the amount is credited in full to the tax authority's account
- Any other means determined by the tax authority

Electronic filing. Electronic filing is mandatory in Oman for all taxable persons. All tax returns, financial statements, records, documents and others must be filed electronically to the tax authority through the tax authority's online portal. As an exception, such returns may be submitted by hand or through registered mail.

Payments on account. Payments on account are not required in Oman.

Special schemes. *Profit margin scheme for used goods.* A taxable person may calculate VAT on any supply of used (secondhand) goods by reference to the profit margin scheme in the following situation:

- The activity of buying or selling used goods is within the scope of the taxable person's usual activity
- The taxable person obtains approval from the authority to use the profit margin mechanism to calculate the tax on the form prepared for such purposes
- The used goods are physically located in Oman
- If the used goods are purchased from any of the following persons:
  - A nontaxable person in the Sultanate
  - A taxable person who calculated the tax on these used goods according to the profit margin mechanism under the approval of the authority
  - A taxable person who is not allowed to deduct input tax on the goods

The profit margin is the difference between the purchase price of the goods and the selling price of the goods, and the profit margin shall be deemed to be inclusive of VAT. A taxable person may not elect to calculate VAT on the profit margin in respect of the goods (as outlined above) if a VAT invoice or other document is issued for the supply, mentioning an amount of VAT chargeable on the supply.

Where a taxable person has charged VAT in respect of a supply under the profit margin scheme, the taxable person must issue a VAT invoice that clearly states the phrase "tax calculated under the profit-margin mechanism" in addition to all other information required to be stated in a VAT invoice except the amount of VAT. A "self-issued profit margin invoice" should be issued when a taxable person purchase used goods from a nontaxable person.

Annual returns. Annual returns are not required in Oman.

Supplementary filings. No supplementary filings are required in Oman.

Correcting errors in previous returns. A taxable person in Oman can file a revised VAT return if it becomes aware of an error or omission in its VAT return. The revised VAT return should be filed electronically in the portal within 30 days of discovering the error or omission. A revised VAT return filed within the specified time limit is regarded as the original tax return. It is not permissible to revise the VAT return after three years from the date of its submission. In all cases, the taxable person is not allowed to revise the VAT return if the tax authority has initiated a tax inspection in relation to that return period.

Digital tax administration. There are no transactional reporting requirements in Oman.

J. Penalties

Penalties for late registration. Any taxable person who has not applied for VAT registration within the set time frame is liable to a penalty of imprisonment for a period not less than one year and not exceeding three years, and/or a fine of not less than OMR5,000 and not exceeding OMR20,000, or both. The court, in the case of recurrence, may double the penalty and increase the imprisonment to the maximum of the legal threshold of punishment but not exceeding half this threshold.

Penalties for late payment and filings. If a taxable person deliberately fails to submit a VAT return for any tax period, it is liable to a penalty of imprisonment for a period not less than two months and not exceeding one year, or a fine of not less than OMR1,000 and not exceeding OMR10,000, or both. The court, in the case of recurrence, may double the penalty and increase the imprisonment to the maximum of the legal threshold of punishment but not exceeding half this threshold.

For late payment of VAT, a surcharge is imposed at a rate of 1% on the value of tax not paid. The surcharge applies to every month of the payment being overdue or part of a month from the end of the specified period for settlement until the settlement date.

Penalties for errors. Deliberately including inaccurate data or information in a refund application or deliberately issuing an invoice stating tax other than the tax imposed in accordance with the provisions of the law is liable to a penalty of imprisonment for a period not less than two months and not exceeding one year, or a fine of not less than OMR1,000 and not exceeding OMR10,000, or both. The court, in the case of recurrence, may double the penalty and increase the imprisonment to the maximum of the legal threshold of punishment but not exceeding half this threshold.

Refraining from including the actual data of the taxable amount and tax due in the VAT return is liable to a penalty of imprisonment for a period not less than one year and not exceeding three years, or a fine of not less than OMR5,000 and not exceeding OMR20,000, or both. The court, in the case of recurrence, may double the penalty and increase the imprisonment to the maximum of the legal threshold of punishment but not exceeding half this threshold.

The late notification or failure to notify changes to a taxable person's VAT registration details to the tax authorities (within the set deadline) may result in imprisonment of two months to one year, or a fine of OMR1,000 to OMR10,000, or both. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any taxable person who fails to report the correct data as to the taxable amount and tax due in the return or submits forged tax returns, documents or records to evade payment of tax, in part or full is liable to a penalty of imprisonment for a period not less than one year and not exceeding three years, and/or fine of not less than OMR5,000 and not exceeding OMR20,000, or both. The court, in the case of recurrence, may double the penalty and increase the imprisonment to the maximum of the legal threshold of punishment but not exceeding half this threshold.

Personal liability for company officers. The responsible person of the company can be held personally liable for not complying with the provisions of Oman VAT law and Executive Regulations.

Statute of limitations. The statute of limitations in Oman is three years. The tax authority cannot generally adjust returns after three years from the date of submission. This period may be extended to five years in cases of proven fraud. Taxable persons are not allowed to amend a tax return after three years from the date of its submission.

K. Transitional provisions

Implementation of VAT in other GCC Member States. GCC countries that have already implemented VAT are treated as non-implementing states if they do not treat Oman as an implementing state in their local tax legislation and they are not fully compliant with the provisions of the GCC VAT Agreement. The supply of goods and services from non-implementing states is considered as made from outside the GCC territory and the person's residence in such countries is treated as non-GCC residence.

Electronic services system in all GCC Member States. Intra-GCC supplies involving the shipment of goods from Oman to another GCC Member State will be considered as an export of goods until the establishment of the electronic services system in all GCC Member States.

Contracts silent on VAT. Contracts silent on VAT that have been entered into prior to the VAT implementation date in Oman but that straddle such date, should, in general, be treated as VAT inclusive.

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A. At a glance

Name of the tax	Sales tax (ST) (for services SST for Sindh, PST for Punjab, KST for Khyber Pakhtunkhwa and BST for Balochistan, ST and federal excise duty (FE) for Islamabad)
Local name	Sales tax
Date introduced	1 November 1990
Trading bloc membership	None
Administered by	Federal Board of Revenue (http://www.fbr.gov.pk) Sindh Revenue Board (http://www.srb.gos.pk/) Punjab Revenue Authority (https://pra.punjab.gov.pk) Khyber Pakhtunkhwa Revenue Authority (https://kpra.kp.gov.pk/) Balochistan Revenue Authority (http://bra.gob.pk/)
Sales tax rates	
Standard	18% for goods under the federal law. For services, 13% in Sindh, 15% in Islamabad, Khyber Pakhtunkhwa and Balochistan and 16% in Punjab.
Reduced	Goods 1-16% and Services 1-15%
Other	Zero-rated (0%), higher rates, fixed rates and exempt
Sales tax number format	National tax number format 1111111-1 with prefix S, P, K or B denoting Sindh, Punjab, Khyer Pakhtunkhwa and Balochistan
Sales tax return periods	Monthly, quarterly and annual
Thresholds	
Registration	
Manufacturers	PKR8 million
Retailers	If retailer falls under the definition of Tier-1 Retailer

Importers	None
Exporters	None
Wholesalers, dealers and distributors	None
Recovery of sales tax by non-established businesses	No

B. Scope of the tax

Sales tax applies to the following transactions:
- Taxable supply of goods made in Pakistan in the course of a taxable activity carried on by a registered person
- Taxable import of goods into Pakistan
- Rendering of services specified by federal or provincial laws to be taxable

In Pakistan, the provinces have the right to impose sales tax on services. All four provinces of Pakistan have set up their own revenue board/authority and enacted legislation regarding the administration, levy and collection of sales tax on services. The provincial tax authorities are as follows:
- Sindh Revenue Board for Sindh Province
- Punjab Revenue Authority for Punjab Province
- Khyber Pakhtunkhwa Revenue Authority for Khyber Pakhtunkhwa
- Balochistan Revenue Authority for Balochistan

Islamabad Capital Territory, however, continues to empower the Federal Board of Revenue (FBR) to administer the tax on its behalf. In view of the separate provincial legislation in the four provinces, many service providers are required to file five separate sales tax returns and make five separate sales tax payments.

The following services are listed in the federal and provincial legislation as being taxable services. However, note that the following list is not exhaustive. Most of the following are similar in all jurisdictions:
- Telecommunication
- Advertisements
- Banking companies and nonbanking financial institutions
- Insurance companies
- Services provided or rendered by persons engaged in the contractual execution of work or furnishing supplies
- Construction services
- Shipping, customs and freight forwarding agents, stevedores and ship chandlers
- Services rendered by money exchangers
- Airport services
- Management services, including fund and asset management services
- Property developers
- Services provided by accountants and auditors and legal practitioners
- Technical, scientific and engineering consultants
- Rent a car and automobile rental services
- Surveyors
- Call centers
- Business support services
- Program producers and production houses
- Event management services
- Labor and manpower supply
- Public bonded warehouse
- Fumigation service

- Maintenance or cleaning service
- Janitorial service, etc.
- Hotels, restaurants, marriage halls, lawns, clubs and caterers
- Franchise services
- Services provided by architects or town planners
- Services provided by management consultants, etc.
- Taxicab aggregator services/ride hailing services
- Training services

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for sales tax in every jurisdiction where it has customers that are not taxable persons. In Pakistan, no services are subject to the "use and enjoyment" provisions.

Note, in respect to services, every provincial law has provided rules for place of taxation. The sales tax law of Sindh has levied tax on services originating or consumed in Sindh, whereas all other provinces provide principal for taxation based on consumption or availing the services in their jurisdiction. Due to such conflicting provisions, there are some instances of double taxation on services that originated from a province and terminated in another province. All tax authorities are under negotiations to agree on a concise approach; however, presently, matters of double taxation are pending litigations.

Transfer of a going concern. Normally, the sale of the assets of a sales tax-registered or sales tax-registrable business will be subject to sales tax at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of sales tax. In Pakistan, a TOGC is treated as zero-rated where the sale or transfer of ownership of a taxable activity or part thereof from one taxable person to another registered person as an ongoing concern.

Transactions between related parties. In Pakistan, for a transaction between related parties, the value for sales tax purposes is calculated at the open market value. Where the person providing the service and the recipient of the service are associated persons, and the service is provided for no consideration or for a consideration that is lower than the price at which the person provides the service to other persons who are not associated persons, the value of the service shall mean the price at which the service is provided to such other persons who are not associated persons. In case there is reason to believe that the value of a service has not been correctly declared in the invoice or for any special nature of transaction it is difficult to ascertain the value of a service, the price the service would fetch in an open market transaction freely entered between persons who are not associated persons or the price a similar service would fetch in an open market transaction, would be considered as the transaction value.

C. Who is liable

A taxable person is a business that is required to register for sales tax. Taxable persons include the following:

- Manufacturers
  - Who have an industrial gas or electricity connection
  - Who are not located in a residential area
  - Whose taxable turnover in the preceding 12 months exceeded PKR8 million
- Retailers that are liable to pay sales tax excluding retailers that do not meet the requirement for registration and must pay sales tax through their electricity bills

- Importers
- Wholesaler's dealers or distributors
- Exporters who intend to obtain a sales tax refund against their zero-rated supplies
- Businesses that provide taxable services

Sales tax registration is required for every taxable person. Supplying taxable goods or rendering of taxable services without sales tax registration is tax fraud.

Importers must pay additional sales tax at a rate of 3% above the normal sales tax rate payable at the import stage. The 3% tax is considered as a minimum value addition tax and can be claimed as input tax and may be carried forward in the subsequent tax periods. However, it is not refundable, except if used for making of zero-rated supplies. The 3% tax does not apply to the following goods:

- Raw materials and intermediary goods imported by a manufacturer for in-house consumption excluding compressor scrap (Pakistan Customs Tariff [PCT] heading 7204.4940), motor scrap (PCT heading 7204.4990) and copper cable cutting scrap (PCT heading 7404.0090)
- Petroleum products falling under Chapter 27 of PCT as imported by a licensed Oil Marketing Company for sale in the country
- Registered service providers importing goods for their in-house business use for furtherance of their taxable activity and not intended for further supply
- Cellular mobile phones or satellite phones
- Liquefied natural gas (LNG)/re-gasified liquefied natural gas (RLNG)
- Secondhand and worn clothing or footwear (PCT Heading 6309.000)
- Gold in unworked condition
- Silver in unworked condition
- Goods as specified in the Third Schedule on which tax is paid on retail price basis
- Plant, machinery and equipment falling under Chapters 84 and 85 of the First Schedule to the Customs Act of 1969 as are imported by a manufacturer for in-house installation or use
- Electric vehicles (four-wheelers), CKD kits for small cars/SUVs, with 50 kWh battery or below and LCVs with below 150 kWh battery *(with effect until 30 June 2026)*
- Electric vehicles (four-wheelers) small cars/SUVs, with 50 kWh battery or below and LCVs with below 150 kWh battery in CBU condition *(with effect until 30 June 2026)*
- Electric vehicles (two- and three-wheelers and heavy commercial vehicles) in CBU condition *(with effect until 30 June 2025)*
- Motor cars of cylinder capacity up to 850cc

Tier-1 Retailers. Retailers who meet any of the following conditions are required to register for sales tax as Tier-1 Retailers, and are also required to integrate their retail outlets with the tax department's systems for real time reporting:

- Retailers operating as a unit of a national or international chain of stores
- Retailers operating in air-conditioned shopping malls, plaza or center excluding kiosks
- Retailers whose cumulative electricity bill in the preceding 12 consecutive months exceeds PKR1.2 million
- A wholesaler-cum-retailer engaged in bulk import and supply of consumer goods on wholesale basis to the retailers, as well as on retail basis to the general body of the consumers
- A retailer who has acquired point-of-sale equipment for accepting payment through debit or credit cards from banking companies or any other digital payment service provider authorized by the State Bank of Pakistan
- A retailer whose deductible withholding tax under Sections 236G or 236H of the Income Tax Ordinance, 2001 (XLIX of 2001) during the immediately preceding 12 consecutive months has exceeded the threshold as may be specified by the board through notification in the Official Gazette. *At the time of preparing this chapter, this is proposed to be added but subject to final legislation.*
- Any other persons or class of persons as prescribed by the board

Tier-1 Retailers are required to charge sales tax at standard rate, i.e., 18% on their taxable supplies, and are required to file the monthly sales tax return. Such retailers are entitled to adjust any input tax paid or payable on their purchases. However, a reduced rate of 15% is available on supplies of finished articles of textile, textile made ups, leather and artificial leather.

Retailers who do not meet the above conditions are not required to be registered for sales tax purposes; however, sales tax is charged/and collected through monthly electricity bills, issued by the electric companies for such retailers, at the rate of 5% of their total electricity bill, where the monthly bill does not exceed PKR20,000 and where the bill exceeds the limit, at the rate of 7.5%. Such retailers are not entitled to adjust any input tax, nor are they required to file the monthly sales tax return.

Sales tax withholding agents. Sales tax withholding rules apply to taxable goods and services supplied to the following persons, which are referred to as withholding agents:
- Federal and provincial government departments
- Autonomous bodies
- Public sector organizations
- "Companies" as defined in the Income Tax Ordinance 2001 and "persons" registered as exporters
- Persons registered with the respective sales tax authority that consumes services from unregistered persons
- Persons registered for sales tax that are recipients of advertising services
- Registered persons manufacturing lead batteries
- Registered persons purchasing cane molasses
- Online marketplace

For further details see the *Sales tax withholding* subsection below, under *Section I. Returns and payment.*

Exemption from registration. Persons who are involved in the supply of exempt goods are not required to register for sales tax. However, a person involved in the supply of goods or services that are subject to sales tax at the 0% (zero) rate are required to register for sales tax.

Voluntary registration and small businesses. The federal sales tax law in Pakistan does not contain any provision for voluntary sales tax registration.

However, under the provincial sales tax laws in Pakistan, a person who is not required to be registered may apply for voluntary registration with the relevant provincial sales tax authorities and may obtain registration. In the case of voluntary registration, the voluntarily registered person is obliged to fulfill all the applicable requirements that are applicable for all registered persons, such as filing a sales tax return, etc.

Group registration. Group sales tax registration is not allowed in Pakistan.

Fixed establishment. In Pakistan, there is no legal definition of a fixed establishment for sales tax purposes. However, if a person owns, rents, shares or in any other manner occupies a space in Pakistan from where it carries on an economic activity whether wholly or partially; or carries on an economic activity through any other person such as an agent, associate, franchisee, branch, office or otherwise in Pakistan, or through virtual presence or a website or a web portal or through any other form of e-commerce, by whatever name called or treated, but does not include a liaison office, such place or presence would be treated as place of business in Pakistan and such person would be treated as resident.

In a case where such person is providing taxable services from a place of business in Pakistan, the person would be required to register for sales tax registration. Registration requirements would be the same as outlined below. For registration for an office address located in Pakistan, a national tax number and a local bank account in Pakistan are mandatory.

Non-established businesses. Non-established businesses (i.e., those that do not have a place of business in Pakistan) are not required to register for sales tax. Generally, for services, the recipient pays the respective sales tax under the reverse-charge mechanism *(see below)* and for goods, sales tax is paid at import stage by the importer on record. However, if it is confirmed that such a person has a place of business in Pakistan (either physically or virtually) and is conducting taxable activity, they would be required to register for sales tax. *However, at the time of preparing this chapter, no mechanism for registering non-established businesses involved in rendering services has been introduced by the tax authorities.*

Tax representatives. Tax representatives must be authorized by a taxable person to represent them before the tax authorities. Only the following persons are authorized to represent a taxable person:

- Tax practitioners registered under Income Tax Rules, Sales Tax Rules and the Customs Act of 1969
- A person who has retired or resigned after putting in satisfactory service in the sales tax or customs or federal excise departments for a period of not less than 10 years in a post(s) not inferior to that of an assistant commissioner
- Advocates practicing under the Legal Practitioners and Bar Councils Act, 1973
- A person holding a bachelor's or master's degree in commerce
- An accountant
- A person working in the employment of the taxable person on a full-time basis and holding at least a bachelor's degree

Reverse charge. A resident service recipient receiving taxable services from a nonresident, unregistered service provider is liable to pay the applicable sales tax via the reverse-charge mechanism with the respective provincial tax authority. Payment of sales tax under the reverse-charge mechanism is the liability of the resident service recipient. However, it can otherwise be agreed between a service provider and a service recipient. Adjustment of sales tax paid under the reverse-charge mechanism is specifically barred under the provincial tax law of Punjab; however, in Sindh, where subject to certain conditions, the adjustment of input tax paid under the reverse-charge mechanism is allowed. In the Islamabad Capital Territory, payments to nonresident person in respect of franchise services only are subject to the reverse-charge mechanism. The tax laws of Khyber Pakhtunkhwa and Balochistan are silent on adjustment of input tax paid under reverse charge mechanism. In practice, most taxable persons claim input tax.

New rules (effective from 1 October 2023) have been introduced by the Sindh Revenue Board and the Punjab Revenue Authority. The new rules outline that certain banks and financial institutions must act as "collecting agents." The collecting agents are required to collect sales tax when residents in their respective provinces are making payments to nonresident service providers for IT and advertising services. The collecting agent is required to withhold and deduct sales tax at rates of 3% and 5% on IT services, and 13% and 16% on advertising services in Sindh and Punjab, respectively. *At the time of preparing this chapter, the Sindh Revenue Board amended the collecting agent rules, exempting companies that are active taxpayers and making payments to nonresident service providers for the aforementioned services from the deduction of sales tax.*

Domestic reverse charge. The reverse-charge mechanism as mentioned above may also be applicable on interprovincial transactions, i.e., where service provider is a nonresident/unregistered person in the jurisdiction where service recipient is located.

Digital economy. Under the provincial sales tax laws, where a taxable person is carrying on an economic activity through a virtual presence or a website or a web portal or through any other form of e-commerce, etc., in the respective provincial jurisdictions is treated as having a place of business in the respective provinces of Pakistan.

This means that nonresident providers of electronically supplied services for both business-to-business (B2B) and business-to-consumer (B2C) supplies are required to register and account for sales tax on supplies made in Pakistan, under the provincial sale tax laws.

There are no other specific e-commerce rules for imported goods in Pakistan.

Online marketplaces and platforms. Services provided through online marketplaces are currently taxable under the provincial sales tax laws of certain provincial tax authorities. However, 1% of the gross value of supplies is required to be withheld under the Sales Tax Act 1990, provided that the supplier is a person other than the active taxable person. This requirement became effective from 1 September 2021.

Registration procedures. The application for sales tax registration needs to be submitted online through the FBR web portal (http://www.fbr.gov.pk). An online application is required to be filed providing data such as registered office address, email address, cell phone number, bank accounts, utility bills details, etc., through the computerized system, along with supportive documents such as the following, as applicable:

- Computerized National Identity Card (CNIC) of all owners, members, partners and directors
- CNIC of the representative, if any
- Passports of nonresidents
- Registration or Incorporation Certificate, along with Form III or Form A as prescribed under the Companies Act of 2017
- Partnership deed
- Bank account certificate issued by the bank in the name of the business
- Lease or rent agreement, along with CNIC of the owner of the premises
- Ownership documents of the premises, such as registered sale deed or registered transfer deed, latest utility bills (e.g., electricity, gas, landline telephone and post-paid mobile phones)
- List of machinery
- Maintenance of bank account certificate
- Distribution certificate from the principal showing distributorship or dealership
- Balance sheet/statement of affairs/equity of the business
- Particulars of all branches
- Particulars of all franchise holders
- GPS-tagged photographs of business premises and utility meter (in case of nonmanufacturers)
- GPS-tagged photographs of machinery and industrial electricity or gas meters installed along with manufacturing premises (in case of manufacturer)

The sales tax registration process with FBR has now been simplified, and if all the documents have been furnished, the sales tax registration number is provided. After registration, the applicant or the authorized person must visit a National Database and Registration Authority (NADRA) e-Sahulat Center immediately after registration for biometric verification. In the case of manufacturers, the FBR may require post-verification through field offices, or a third party authorized by the FBR. Taxable persons who are already registered with the FBR and are applying for sales tax registration with provinces may opt for e-enrollment. Once e-enrollment is completed, automatically the entire data of the taxable person that is present in the FBR database is transferred to the provincial tax authorities and the taxable person obtains the sales tax registration number with the respective provincial tax authority.

However, taxable persons who are not registered with FBR and are applying for sales tax registration with the provincial tax authorities must fill out an online application on the web portal, and after submitting it, a designated user ID and password are issued to the taxable person via email.

Deregistration. A business that ceases operations or whose supplies become exempt from sales tax must apply for cancellation of its sales tax registration. The business should apply to the

Commissioner of Inland Revenue having jurisdiction for cancellation of its registration on a prescribed form. The Commissioner of Inland Revenue, consequent upon the filing of deregistration application, may conduct a detailed audit and scrutiny of the taxable person's records and create tax demand if applicable. Upon satisfaction that there is no due tax liability unpaid by the taxable person, the Commissioner of Inland Revenue may issue an order of deregistration or cancellation of the registration of such business.

Changes to sales tax registration details. Every registered taxable person is required to update their particulars as stated in the registration profile. To update/change the registration profile, a registered person is required to file an online form on the respective portal of the federal tax authority or the relevant provincial tax authority. A registered person is required to indicate any change in particulars of registration within a period of 14 days to the federal tax authority and the Punjab Revenue Authority and within 15 days to the Sindh Revenue Board and the Balochistan Revenue Authority. There is no time limit mentioned for applying change and the particular applications prescribed for the Khyber Pakhtunkhwa Revenue Authority. Failure to update registration profile within the prescribed time limit may trigger penal implications.

D. Rates

The term "taxable supplies" refers to supplies of goods and services and to imports that are liable to a rate of sales tax, including the zero rate.

The sales tax rates for goods are:
- Standard rate: 18%
- Reduced rates: 1%, 1.5%, 2%, 5%, 6%, 7%, 8%, 10%, 15%, 16%
- Zero-rate: 0%
- Other rates: 16% FED on goods in sales tax mode

In certain cases, a fixed amount of sales tax is levied on a supply of goods, e.g., on import and local supply of mobile phones and bricks. The standard tax rate of 18% is imposed on the value of the supply of goods or at the import stage. However, in certain cases, the value of the supply of certain goods is based on the manufacturer/importer's maximum retail price (not the transaction value/trade price). Exported goods are zero-rated (i.e., taxed at 0%). For businesses operating in certain export-oriented sectors, the reduced rate applies to goods they import and to local supplies of goods provided to them.

A further tax at the rate of 4% (with certain exceptions) is chargeable on the supply of goods to persons who have not obtained sales tax registration.

The sales tax rates for services are:
- Standard rates: 13%, 15%, 16%
- Reduced rates: 0%, 2%, 3%, 5%, 8%, 10%, 15%
- Other rates: 19.5% (telecommunication services)

Most services are taxed at 16% in Punjab, 15% in Islamabad, 13% in Sindh and 15% in Khyber Pakhtunkhwa and Balochistan. However, telecommunication services are taxed at 19.5% all over Pakistan.

Examples of zero-rated supplies of goods

- Exports
- Supplies to diplomats, diplomatic missions, privileged persons and privileged organizations
- Certain stationery goods such as erasers and exercise books, subject to certain conditions and limits
- Petroleum crude oil
- Milk (PCT heading 04.01) and fat-filled milk (PCT heading 1901.9090)

- Local supplies of raw materials, components, commodities, parts and plant and machinery to registered exporters authorized under the Export Facilitation Scheme of 2021 notified by the board with such conditions, limitations and restrictions as specified therein
- Imports or supplies made by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act
- Supplies of locally manufactured plant and machinery subject to certain specifications, to manufacturers in the Gwadar Free Zone, subject to the conditions and restrictions

Examples of goods taxed based on the manufacturer's retail price

- Fruit juices and vegetable juices
- Ice cream
- Aerated water or beverages and drink syrups
- Cigarettes
- Toilet soap, detergents, shampoo, toothpaste and shaving cream
- Perfumery and cosmetics
- Powder drinks and milky drinks
- Tea
- Toilet paper and tissue paper
- Spices sold in retail packaging bearing brand names and trademarks
- Shoe polish and shoe cream
- Cement sold in retail packaging
- Mineral/bottled water
- Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube lights, electric fans, electric irons, washing machines and telephone sets
- Household gas appliances, including cooking range, ovens, geysers and gas heaters
- Foam or spring mattresses and other foam products for household use
- Paints, distempers, enamels, pigments, colors, varnishes, gums, resins, dyes, glazes, thinners, blacks, cellulose lacquers and polishes sold in retail packing
- Lubricating oils, brake fluids, transmission fluid and other vehicular fluids sold in retail packing
- Storage batteries excluding those sold to automotive manufacturers or assemblers
- Tires and tubes, excluding those sold to automotive manufacturers or assemblers
- Motorcycles
- Auto rickshaws
- Biscuits in retail packing with brand name
- Tiles
- Auto parts in retail packing, excluding those sold to automotive manufacturers or assemblers

Examples of goods taxable at the reduced rates (1%–16%)

- Pharmaceuticals
- Natural gas supplied to fertilizer manufacturers
- Imported personal computers and laptops
- Electronic vehicles
- Motor cars up to 850cc
- Supplies of finished articles of textile, textile made ups, leather and artificial leather by Tier-1 Retailers (see the subsection, *Tier-1 Retailers,* above)
- Retail outlets as they are integrated with board's computerized system for real-time reporting of sales

The term "exempt supplies" refers to supplies of goods that are not liable to sales tax and that do not qualify for an input tax deduction.

Examples of exempt supplies of goods

- Local supply of raw agricultural products, including eggs, meat of bovine animals, sheep and goat and fresh vegetables (except ware potatoes and onions)
- Newspapers and books
- Educational and scientific materials
- Supplies (excluding electricity and natural gas) made to hospitals run by the federal or provincial government or charitable operating hospitals of 50 beds or more, or to teaching hospitals of statutory universities of 200 or more beds
- Various items of machinery and equipment for marble, granite and gemstone extraction, and processing industries

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Pakistan.

E. Time of supply

The time when sales tax becomes due is called the "time of supply" or "tax point." In general, the time of supply is when goods are delivered, or services are performed.

In the case of services in the provinces of Sindh, Punjab, Khyber Pakhtunkhwa and Balochistan, the time of supply is when the service is provided to the recipient, an invoice is raised, or consideration is received, whichever is earlier.

Deposits and prepayments. There are no special time of supply rules in Pakistan for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. The Provincial Sales Tax on Services Act stipulates that where a service is provided over a period of time and payment for the service is made on a periodic basis, it shall be treated as comprising two or more separate and distinct services, each corresponding to the part of the service to which each separate part of the consideration relates.

Even though the Sales Tax on Goods Act is silent on continuous supplies of goods, the same procedure as stated above is also applied in practice. Accordingly, sales tax, invoices and payments should be made on a monthly basis for a continuous supply (e.g., electricity and telecommunications).

Goods sent on approval for sale or return. Goods delivered or made available to the recipient would be considered to be a taxable supply. In the case of a return of taxable goods, there is a procedure for issuing debit/credit notes by the seller and buyer so as to adjust the sales tax charged and reported on such goods in the sales tax return.

Reverse-charge services. Under the provincial sales tax law on services, the liability to pay the applicable tax on services under the reverse-charge mechanism falls on the person receiving the service. The applicable sales tax is required to be paid in the month when the services were received.

Leased assets. Taxable goods that are supplied on lease terms, without transfer of ownership and risks and rewards attached to the goods, are not considered as a supply for sales tax purposes, and as such no sales tax is due.

Imported goods. The time of supply for imported goods is the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of sales tax by taxable persons

A taxable person may recover input tax, which is sales tax charged on taxable goods and taxable services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is sales tax charged on supplies made. For manufacturers and

service providers (with certain exceptions), the registered person may not claim input tax greater than 95% of the output tax for that tax period. However, any excess may be carried forward.

Input tax includes sales tax paid on goods and services purchased in Pakistan and on goods imported into Pakistan, and federal excise duty levied and collected using the sales tax mechanism.

The provincial sales tax laws provide certain restrictions on the adjustment of sales tax. Input tax must generally be claimed in the month in which the invoice is issued. However, for electricity and gas supplies, the input tax must be claimed in the month in which the invoice is paid. A separate refund claim should be made for input tax that is not claimed in the aforesaid tax periods.

The time limit for a taxable person to reclaim input tax in Pakistan is any of the six succeeding tax periods.

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

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

Through the amendments to the federal sales tax law, a new provision has been added in Section 73 of the Sales Tax Act which states that a sales tax-registered person would make taxable supplies only to a person registered for sales tax under the Act. If the following assigned sales limits are exceeded, any sales made to the customers who have not obtained sales tax registration but are required to would be subject to disallowance of related input tax as attributable to such excess sales, i.e., exceeding the below threshold:
- Supplies to unregistered customers PKR100 million in a financial year
- Supplies to unregistered customers PKR10 million in a month

However, the above provision would not apply on supplies made to government bodies not engaged in making of taxable supplies, foreign missions, diplomats, privileged persons and any person not engaged in supply of taxable goods.

Moreover, input tax attributable to supplies made to non-registered persons, on a pro rata basis, for which sale tax invoices do not bear the national identity card number or national tax number of the recipient, as stipulated under the tax invoice requirement, would also be disallowed.

Examples of items for which input tax is nondeductible

- Purchases used for nonbusiness purposes
- Business gifts
- Business and staff entertainment
- Purchase of vehicles and parts of such vehicles
- Building and construction materials (excluding prefabricated materials), paints, electrical and sanitary fittings, pipes, wires and cables used in or permanently attached to immovable property
- Electrical and gas appliances, furniture, furnishings, office equipment (excluding electronic cash registers) but excluding such goods acquired for sale or resale
- Goods or services on which sales tax has not been deposited by the respective supplier
- Services subject to a reduced rate of sales tax or fixed amount of tax

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchases of goods or services used or consumed for making taxable supplies
- Purchase of plant and machinery
- Insurance

- Advertisements
- Other goods and services consumed for business activities

Partial exemption. Goods or services utilized in supplying both taxable and exempt goods/services must be apportioned using a tax fraction formula (i.e., the value of taxable supplies over the value of total supplies), to the extent that only the input tax relating to taxable supplies can be claimed in any given tax period. This adjustment is provisional, and the taxable person is required to make a final adjustment at the end of each financial year based on taxable and exempt supplies made during the course of that year.

Approval from the tax authorities is not required to use the partial exemption standard method in Pakistan. Special methods are not allowed in Pakistan.

Capital goods. Under the federal sales tax law, input tax incurred on capital goods/fixed assets is claimable in the relevant tax period. However, under certain provincial sales tax laws, input tax paid on capital goods is recoverable in 12 equal monthly installments. There are no special input tax recovery rules for capital goods.

Refunds. If the amount of input tax in a sales tax period exceeds output tax in the same period, the excess credit is refundable. In practice, refunds are generally available to taxable persons that are engaged in making zero-rated supplies.

Pre-registration costs. Sales tax paid on stocks acquired prior to registration are claimable. Local purchase of taxable goods acquired during a period of 30 days before making an application for registration are treated as input tax. In the case of imports, the tax paid during a period of 90 days before making an application for registration shall be treated as input tax.

Bad debts. In the case of bad debts, the sales tax charged and deposited by the supplier can be adjusted through the issuance of debit/credit notes by stating that the supply has been canceled, if the note is issued within 180 days from the date of the relevant supply.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Pakistan.

G. Recovery of sales tax by non-established businesses

Input tax incurred by non-established businesses that are not registered for sales tax in Pakistan is not recoverable.

H. Invoicing

Sales tax invoices. A taxable person must generally provide a sales tax invoice or cash memo for all taxable supplies made. Tier-1 Retailers must integrate their retail outlets with the board's computerized systems for real-time reporting of sales. A sales tax invoice is generally necessary to support a claim for input tax credit.

Credit notes. A credit note may be used to reduce the sales tax charged and reclaimed on a supply of goods or services if a valid adjustment is made. The document must be clearly marked "credit note," and it must detail the reason for the adjustment and must refer to the original sales tax invoice for the supply.

Electronic invoicing. Electronic invoicing is mandatory in Pakistan, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Pakistan. However, recently all importers, manufacturers and wholesalers (including dealers and distributors) of fast-moving consumer goods are required to integrate with the FBR electronic invoicing system with immediate effect. In addition, retailers are required to integrate their point of sale (POS) systems with the FBR's

system for real-time reporting of retails sales. *At the time of preparing this chapter, the date for integration has not been notified.*

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Pakistan. The requirements related to electronic invoicing are the same as those for paper invoicing.

Any taxable person where electronic invoicing is not mandatory can opt to use the electronic invoicing system by seeking prior authorization in writing from the relevant Commissioner of Inland Revenue. Such approval must be obtained before issuing electronic invoices.

Simplified sales tax invoices. Simplified sales tax invoicing is not allowed in Pakistan. As such, full sales tax invoices are required.

Self-billing. Self-billing is allowed in Pakistan. It is only allowed for self-consumption of goods for private use or nontaxable business use. These are treated as a taxable supply and subject to sales tax.

Proof of exports. Exports of goods are zero-rated for sales tax. However, to qualify as tax-free sales, export supplies must be supported by evidence that the goods have left Pakistan. The required evidence includes the following documents:
- A copy of the goods declaration for export authenticated by customs
- Copy of house and master bill of lading and airway bill or railway receipt
- The original invoices
- A stock or inventory statement
- Any other business records related to the exported goods

Foreign currency invoices. If a sales tax invoice is issued in a foreign currency, the amounts must be converted to the domestic currency, which is the Pakistani rupee (PKR). The conversion must be calculated in accordance with the open market exchange rate.

Supplies to nontaxable persons. Every registered person is required to issue a valid sales tax invoice, regardless of whether the recipient is a registered or unregistered entity or is the final consumer.

Records. In Pakistan, examples of what records must be held for sales tax purposes include records of goods purchased, imported and supplied (including zero-rated and exempt supplies) at their business premises or registered office. These records include, but are not limited to, tax invoices for both purchases and sales, credit/debit notes, double entry sales tax accounts, bank statements and utility bills, etc.

In Pakistan, sales tax books and records can be held outside of the country. Tax records can be held in and outside of Pakistan. Wherever they are held, the records must be available at any time by the request of the tax authorities.

Record retention period. The record retention period varies under each Federal/Provincial law, which varies from six to 10 years.

Electronic archiving. Electronic archiving is allowed in Pakistan.

I. Returns and payment

Periodic returns. All taxable persons other than specific retailers must file monthly returns. The return must be filed by the 18th day of the month following the end of the return period.

Periodic payments. Periodic payments against provision of services on a periodic basis are treated as separate and distinct payments. Periodic payments are only applicable to supplies of services, not goods. Accordingly, all payments of tax (for both supplies of goods and services)

must be made by the 15th day of the following month in which the payment is made. The taxable person must fill its tax payment details on the respective sales tax portals to generate a payment slip ID (PSID), which can then be used to pay the amounts due in any of the designated banks or through electronic payment methods.

Sales tax withholding. Special rules have been prescribed with respect to sales tax withholding by the federal and provincial tax authorities. The federal withholding rules apply to the purchase of goods and services (acquired in the Islamabad Capital Territory). The provincial withholding rules apply to the taxable services acquired within the territorial jurisdiction of the respective province. These rules apply to taxable goods and services that are supplied to the following persons, which are referred to as withholding agents:

- Federal and provincial government departments
- Autonomous bodies
- Public sector organizations
- "Companies" as defined under the Income Tax Ordinance, 2001 and "Persons" registered as exporters
- Persons registered with the respective sales tax authority that consumes services from unregistered persons
- Persons registered for sales tax that are recipients of advertising services

The withholding agents listed in the first three bullets above withhold one-fifth (20%) of the sales tax with respect to acquired taxable goods or services as shown in the sales tax invoice and make payment of the balance to the registered person. Under federal law, the supplier/service provider needs to be an "active taxable person," i.e., should have an active status on the FBR system. Otherwise, 5% of the gross value of supplies should be withheld by the withholding agent.

Sales tax registered persons who are recipients of advertising services from persons based in Pakistan or abroad must withhold sales tax and pay the balance to the service provider. The sales tax withheld is the amount indicated in the sales tax invoice issued by the service provider. If the sales tax amount is not indicated, the withheld amount must be calculated by applying the tax rate.

Withholding agents are required to withhold 20% of the sales tax amount mentioned on the invoice for taxable services acquired from the provinces of Sindh and Balochistan. The federal withholding provisions are not applicable when the registered supplier, being an active taxable person, has supplied goods or rendered services (except for advertisement services) to another registered customer.

The Punjab law requires withholding agents to withhold the entire amount of sales tax from the payments made for taxable services received from taxable persons whether registered or unregistered. However, Punjab law indicates that no sales tax withholding is required in cases where taxable services in the province of Punjab have been acquired from corporate, PRA-registered persons who are active taxable persons. Nonetheless, under the provincial sales tax laws, where taxable services have been acquired from an unregistered person, then sales tax is required to be withheld at the applicable rate.

Under Khyber Pakhtunkhwa law, a withholding agent is required to withhold 50% of the sales tax as shown on the sales tax invoice issued by a service provider (KPRA-registered or otherwise). One hundred percent withholding is required on services of advertising, reduced rate services, services provided to federal or provincial government departments or public sector institutions and services provided by unregistered and non-active but KPRA-registered service providers. Generally, when a registered person fails to submit sales tax returns for a consecutive two tax periods, such a person would be considered as a non-active taxable person.

Electronic filing. Electronic filing of sales tax returns is mandatory in Pakistan for all taxable persons. The returns are filed on respective web portals of each tax authority. A registered person is required to upload all the sales invoices issued in a respective month on the tax authority portal by the 10th day of each month. After that, the registered taxable person selects the purchase invoices from the portal to claim input tax. If there is a liability of sales tax, the same is paid/deposited by generating *challan* from the web portal of the respective tax authority. Consequently, after confirmation of payment, the return is submitted on the respective portal of the relevant tax authority.

Payments on account. Payments on account are not required in Pakistan.

Special schemes. A special sales tax regime applies to Tier-1 Retailers. For further details, see the *Tier-1 Retailers* subsection above, under *Section C. Who is liable*). No other special schemes are available in Pakistan.

Annual returns. Every private or public limited company that is registered for federal sales tax purposes is required to file an annual sales tax return. The return for a financial year must be filed by 30 September of the following financial year. The information included in the annual sales tax return is the supplies/services provided during the year, adjustments and summary of sales tax paid, refunded or adjusted in the monthly sales tax returns.

Supplementary filings. No supplementary filings are required in Pakistan.

Correcting errors in previous returns. A taxable person may, subject to approval of the relevant tax authority, file a revised return within 120 days of filing of a return to correct any omission or wrong declaration made. The tax authority, after verifying the records, may allow the taxable person to file the revised sales tax return. In the provincial sales tax return, approval for filing a revised sales tax return is generally not required in the case where the payable amount is more than the amount already paid.

Digital tax administration. *Real-time reporting.* The federal government requires Tier-1 Retailers to integrate their systems with that of the FBR to monitor their sales on a real-time basis. All sales are to be reported through an accredited electronic fiscal device (EFD). However, such retailers are still required to maintain/retain records as required by law.

J. Penalties

Penalties for late registration. A penalty of PKR10,000 or 5% of the tax due, whichever is greater, is assessed for failure to register for sales tax. Failure to register within 60 days after beginning a taxable activity may be punishable by a term of imprisonment of up to three years, if the person is convicted by a special judge, or by a fine of up to the amount of tax involved, or both.

A penalty of up to PKR1 million can be levied if a person fails to register under the Act and if registered fails to integrate its business for monitoring, tracking, reporting or recording of sales, production and similar business transaction with the board or its computerized system.

Penalties for late payment and filings. A penalty of PKR10,000, under both federal and provincial sales tax laws, is assessed for the late submission of a sales tax return. However, if the return is filed within 10 days after the due date, a penalty of only PKR200 or 300 per day applies.

A penalty is assessed for the late payment of sales tax for the greater of PKR10,000 or 5% of the tax due, but the penalty is restricted to PKR500 per day for each day of default if paid within 10 days after the due date. Failure to pay the tax within 60 days after a notice for payment is issued by a sales tax officer may be punished by imprisonment for up to three years if the person is convicted by a special judge, or by a fine of up to the amount of tax involved, or both.

In addition to any penalty, interest (the default surcharge) is chargeable for the following offenses:

- Late payment of sales tax
- Overclaimed input tax
- Incorrect claim for a sales tax refund
- Incorrect application of the zero rate

The rate of the default surcharge is currently fixed at 12% in the federal jurisdiction. It remains the same (i.e., the Karachi Interbank Offered Rate [KIBOR] plus 3% per annum) under the respective provincial sales tax laws. However, for tax fraud, the default surcharge is payable at a rate of 2% per month.

Under the federal sales tax law, the tax officer is authorized by the Commissioner of Inland Revenue to conduct an audit of the taxable person's records once in a year.

If an assessment order has been passed by the tax authorities and an appeal is filed before the Commissioner of Inland Revenue (Appeals), the taxable person has the option to protect bank accounts from any coercive recovery proceedings by the tax officials (known as "obtaining automatic stay") and does this by depositing 10% of the amount of tax due with the tax authorities. Where the automatic stay is granted to the taxable person, the tax officials cannot issue any recovery notice to the taxable person until the appeal is decided by the Commissioner of Inland Revenue (Appeals). Similar options also exist under the Provincial Sales Tax Law of Sindh and Punjab, however, the amount to deposit at the time of filing an appeal is 25% instead of 10% of the tax due amount as assessed by the provincial tax officers.

Penalties for errors. The following defaults are subject to penalties:

- Failure to issue a sales tax invoice: PKR5,000 or 3% of the tax due, whichever is greater.
- Unauthorized issuance of a sales tax invoice: PKR10,000 or 5% of the tax due, whichever is the greater.
- Failure to notify changes related to the taxable person's details or taxable activity: PKR5,000.
- Repeated erroneous calculation in the return of sales tax: PKR5,000 or 3% of the tax due, whichever is greater.
- Failure to maintain records: PKR100,000, PKR10,000 or 5% of the tax due, whichever is greater. This range of penalties is based on the differences in the province sales tax laws. Under the Pakistan sales tax law, the federal government has the jurisdiction of sales tax on goods, whereas the provinces have the jurisdiction of sales tax on services. There are five sales tax acts on services (this is made up of four provincial tax authorities and one for Islamabad, which also falls under the federal government's domain). The Sindh province sales tax law states a penalty which may extend to PKR100,000 or 5%, whichever is higher on a failure to maintain records, whereas the Punjab province sales tax law states for the same offense a penalty of PKR10,000 or 5%, whichever is higher.

The late notification or failure to notify the tax authorities of changes to a taxable person's sales tax registration details may attract a penalty in the range of PKR5,000 under federal law and up to PKR100,000 under relevant provincial laws. For further details, see the subsection *Changes to sales tax registration details* above.

Penalties for fraud. A penalty of PKR50,000 or PKR25,000 or 100% of the tax due, whichever is greater, is assessed for tax fraud, falsifying records, making false statements and declarations, denial or obstruction of access to records and similar offenses. In addition, a person may be punished by imprisonment for up to three years if convicted by a special judge or may be liable for a fine of up to the amount of tax involved, or both.

A penalty of PKR500,000 or 200% of the amount of tax involved (whichever is higher) can be levied on any person who is integrated with the board or its computerized system but conducts transactions to avoid monitoring or tracking, reporting or recording of such transactions.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in sales tax declarations and reporting in Pakistan. However, note that they can be held liable and subject to imprisonment for other violations (see the subsection *Penalties for fraud* above).

Statute of limitations. The statute of limitations in Pakistan is five to eight years. The time limit is five years from the end of the financial year in which the relevant date falls. This is effectively the preceding six financial years. Under the Provincial sales tax law of Sindh, the tax authorities can go back eight years.

Panama

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto a la transferencia de bienes corporales muebles y la prestación de servicios (ITBMS)
Date introduced	22 December 1976
Trading bloc membership	Association Agreement between Central America and the European Union
Administered by	General Directorate of Revenues *(Dirección General de Ingresos [DGI])* (https://dgi.mef.gob.pa/)
VAT rates	
Standard	7%
Other	10%, 15%, exempt
VAT number format	National Tax Registry Number (RUC) and check digit (DV)
VAT return period	Monthly, quarterly
Thresholds	
Registration	USD36,000 (annual)/USD3,000 (monthly)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods made in Panama by a taxable person
- The leasing of movable goods located in Panama
- Provision of services
- The importation of goods from outside Panama, regardless of the status of the importer

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Panama, no services are subject to the "use and enjoyment" provisions. The Panamanian tax system is based on the "territorial principle," whereby only services rendered within the Panamanian territory are subject to VAT. Under the territorial tax principle, only supplies of goods located and services performed in Panamanian territory will be subject to VAT in Panama.

Transfer of a going concern. Transfer of going concern rules do not apply in Panama. VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Panama, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person for VAT purposes is an entity or individual that performs commercial, industrial or financial activities or supplies services, provided its income is greater than USD36,000 per year or has a monthly average greater than USD3,000; non-domiciled persons and importers are liable regardless of their income. Taxable persons that are designated as withholding agents for VAT must appoint a legal representative. All individuals or entities must register as taxable persons, and there is no separate and exclusive registry for VAT taxable persons.

Exemption from registration. All entities and individuals carrying out taxable operations in Panama must be registered as taxable persons before the General Directorate of Revenue and there is no separate VAT registration. Filing of VAT returns will depend not on registration but on whether they meet the minimum threshold or if the operations carried out by the company are within the exemptions established by law.

Voluntary registration and small businesses. The Panamanian Fiscal Code and its relevant regulations do not contain any provision for voluntary VAT registration.

Group registration. Group VAT registration is not allowed in Panama.

Fixed establishment. In Panama, there is no legal definition of a fixed establishment for VAT purposes. However, the legal definition of a permanent establishment should be applied for VAT instead. This is when natural or legal persons domiciled abroad are considered to carry out operations in Panama through a permanent establishment when, directly or through a proxy, employee or representative, possess in Panamanian territory any fixed place of business or any center of activity where it develops, totally or partially, its activity. It is also considered that said natural or legal persons domiciled abroad carry out operations through a permanent establishment in Panama when they have a management headquarters, branch, offices, factories, workshops, facilities, warehouses, stores, or other establishments in Panama.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Panama. A non-established business must register for VAT if supplies goods in Panama. To register, a non-established business must file a registration form. A foreign corporation must also submit a copy of its articles of incorporation, legalized by the Panamanian Consul, together with an official translation in Spanish. It is important to highlight that to carry out the sale of goods within Panama, the tax authorities may require an operation notice, for which the company must register before Panamanian Public Registry. Non-established businesses rendering services in Panama are subject to withholding of VAT. The Panamanian recipient would deem that the VAT is included in the invoice and make the withholding. The amount withheld may be offset as an input tax. The non-established business would not receive a refund.

Tax representatives. Tax representatives are not required in Panama.

Withholding agents. Entities with annual purchases of goods and services in an amount equal to or greater than USD3 million will be considered VAT withholding agents. A VAT withholding agent is required to withhold 50% of the VAT included in the invoice or equivalent document submitted by the supplier. Panamanian tax authorities issue an annual publication that contains a list of VAT withholding agents identified according to the new criterion set out in the Decree. The list contains 552 companies, including construction companies and banks, among other businesses. The withholding agents identified in the list are subject to the withholding obligation.

Reverse charge. VAT on services performed within Panama by a foreign individual or foreign entity to a Panamanian entity or individual must be collected and paid by the Panamanian recipient entity or individual based on a reverse-charge mechanism. Panamanian recipients must deem that VAT is included in the invoices from their non-established counterparty and make a VAT withholding to be paid within 10 days to the tax authorities. The amounts withheld may be considered input tax and used to offset output tax of the Panamanian party. The amount that the Panamanian party is required to withhold is calculated according to the following formula: the amount included in the invoice multiplied by 0.065421.

Domestic reverse charge. There are no domestic reverse charges in Panama.

Digital economy. There are no special rules or regulations regarding VAT for the digital economy. The ordinary VAT rules should be applicable based on the characterization of the transactions being carried out digitally.

It is important to consider that Panamanian tax legislation is governed by the principle of territoriality; therefore, transfers of movable property and services are subject to the payment of VAT, provided they are made within Panamanian territory regardless of where the money is received.

In this sense, if nonresidents are providing electronically supplied services for business-to-consumer (B2C) supplies by means located within national territory (i.e., Panama), then the provision of such services would be subject to VAT, which would trigger the obligation of VAT withholding for the local taxable person receiving the service. This withholding is made through the reverse-charge mechanism (see the *Reverse charge* subsection below). Where the local consumer is not able to perform the withholding, then the nonresident would be required to register in Panama to comply with the applicable tax obligation.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT on their supplies in Panama. Instead, the customer is required to self-account for the VAT due by way of the reverse charge (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in Panama.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Panama.

Registration procedures. The Panamanian tax authorities issue a national tax registry number (*Registro Único del Contribuyente [RUC]*) , which is the taxable person ID number (it applies to VAT and income tax, among other taxes). The RUC can be registered in person with the Panamanian tax authorities or online (https://dgi.mef.gob.pa/ and via the computer tax system e-Tax 2.0). To register as taxable persons in Panama, a company or individual must complete and present the following documentation:

- For professional and independent individuals:
  - Copy of ID
  - Copy of last paid utility bill of a public service to prove the domicile of the taxable person

- Legal entities:
  - Certificate of registration issued by the public registry
  - Copy of legal representative's ID
  - Copy of last paid utility bill of a public service to prove the domicile of the taxable person

If the taxable person's information changes, the Panamanian tax authorities should be notified. However, most information can be updated through the tax authority portal.

Once registered, a RUC and check digit (*digito verificador[DV]*) are issued to the taxable person. The RUC is the unique taxable person registry, and the DV are both applicable to all corporations, including those that do not generate taxable income in Panama due to their activities.

Deregistration. Entities that are no longer taxable persons for VAT purposes (because of the income threshold) need to file a request explaining the legal ground on why it will no longer be considered as taxable persons for VAT purposes.

Changes to VAT registration details. Any changes to a taxable person's VAT registration details must be updated online on the Panamanian tax authority website. Additional information will have to be submitted to justify the change, e.g., articles of incorporation (to update the name of the company) or receipt of any invoice (to update the address). There is no specific time period for such notifications.

D. Rates

The term "taxable supplies" refers to all supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 7%
- Special rates: 10%, 15%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a special rate or an exemption.

Examples of goods and services taxable at 10%

- Alcoholic beverages, such as liquors and beers
- Hotels and other lodging services

Examples of goods and services taxable at 15%

- Cigarettes, cigars and other tobacco products

The term "exempt supplies" refers to supplies of goods that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods

- Supplies made by agricultural producers
- Unprocessed fish, meat and game supplied by nonindustrial fishermen and hunters
- Exported goods
- Medical and pharmaceutical products
- School materials
- Supplies of goods made in a free zone in Panama
- Supplies of movable goods within an authorized customs warehouse
- Oil and related products (motor oil is subject to VAT)
- Groceries
- Hand tools, fertilizers, insecticides, fungicides and similar products used in agriculture

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Panama.

E. Time of supply

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

For the sale of goods, the tax point is when the invoice is issued or the goods are supplied, whichever is earlier.

For services, the tax point is the date on which the invoice is issued, the date on which the services are rendered or the date on which total or partial payment is made, whichever is earlier.

For recurring annual services, the tax point is when total or partial payment is made. For a lease of movable property, the tax point is when the parties to the lease enter into the contract.

For supplies of goods made by a company to a manager or legal representative of the company for its personal consumption, the tax point is when the goods are delivered or when the goods are posted, whichever happens first.

Deposits and prepayments. There are no special time of supply rules in Panama for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Panama for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Panama for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Panama for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in Panama for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is when the customs return is filed.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods supplied for business purposes. A taxable person generally recovers input tax by offsetting it against any output tax due. Output tax is VAT charged on services and supplies made. Input tax includes VAT charged on goods and services supplied in Panama and VAT paid on imports. A valid tax invoice or customs document must generally accompany a claim for input tax credit.

The time limit for a taxable person to reclaim input tax in Panama is in the following month where the transaction generating VAT was executed, which is the moment when the VAT monthly return should have been filed.

Nondeductible input tax. If a taxable person provides services or goods to a VAT exempt customer (e.g., certain government institutions), the VAT paid on the purchases or imports of goods and services related to sales to such tax-exempt customer may not be recognized as input tax, thus, the VAT will become a cost for the seller. Similarly, the VAT paid on supplies to produce VAT-exempted sales should be considered a cost.

Examples of items for which input tax is nondeductible

- VAT paid on supplies required by public energy generating companies

Examples of items for which input tax is deductible (if related to a taxable business use)

- VAT paid on import of inventory
- VAT paid for services received

Partial exemption. The VAT paid by a taxable person relating to exempt supplies cannot be considered as an input tax (as it cannot be offset against an output tax), but a cost that should be borne by the taxable person and it will be deductible for income tax purposes.

When taxed and exempt transactions are jointly carried out, the deduction of the input tax must be made in the proportion in which the income corresponds to taxable transactions in relation to the total income, excluding the tax itself.

Approval from the tax authorities is not required to use the partial exemption standard method in Panama. Special methods are not allowed in Panama.

Capital goods. There are no special input tax recovery rules for capital goods. If a capital good is used for both taxable and exempt supplies, the business must apportion the input tax by using partial exemption *(see above)*. The business should carry out a proportion calculation and apply the percentage of the taxable and exempt revenues over the total revenues for the declared period, excluding the tax itself.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable, the taxable person receives an input tax credit. The credit may be carried forward to offset output tax in the subsequent VAT period. If it is not possible to offset the input tax credit in the following period, the taxable person may use the excess as a credit in the following period. VAT credits are not refundable.

A frequent exporter that regularly has VAT credits may request a document called a "cancellation certificate" from the VAT authorities to help ease cash flow. The exporter may sell the cancellation certificate to other taxable persons that can offset it against their own VAT liabilities.

Law 52 of 2012 grants certain taxable persons' privileges for input tax deduction. This provision applies to manufacturers of foods or medicines and to businesses involved in the agriculture sector whose revenues exceed USD300,000. These taxable persons do not charge VAT, but they may not offset input tax against other tax liabilities.

Pre-registration costs. Input tax incurred on pre-registration costs in Panama is not recoverable.

Bad debts. The output tax can only be deducted for bad debts if the following requirements are met:

- The values are properly recorded for and have been declared as taxable transactions.
- The insolvency of the debtor or the prescription of the debt is verified to prove the insolvability of the debtor (e.g., cessation of payment or bankruptcy).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Panama.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Panama is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a VAT invoice for all taxable services and supplies of goods made, including exports. An invoice is necessary to support a claim for input tax credit. Special fiscal equipment authorized by the tax authorities or the electronic invoicing system

of Panama must be used. There are taxable persons who, according to their activity, may be exempt from issuing invoices through fiscal equipment. However, they must issue equivalent documents with the minimum documentation requirements according to local legislation.

Credit notes. A VAT credit note may be used to reduce VAT charged (within 180 days) and reclaimed on a supply if the value is reduced for any reason (for example, the price changes or goods are returned as a result of a discount or bonus). A credit note must generally contain the same information as a tax invoice and make a reference to that original invoice.

Electronic invoicing. Electronic invoicing is mandatory in Panama for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Panama.

Individuals and companies, (i) are authorized by the tax authority upon request, for the implementation of electronic invoices; or (ii) are under the obligation to implement the use of electronic invoices when they are exempted by the tax authority (due to its volume or nature of operations) from the use of fiscal equipment.

The electronic invoices will be issued under the following principles:
- The electronic invoices, as invoices issued by fiscal equipment, will be admissible in courts.
- The electronic invoices will have to be signed electronically by the issuer and supported by an electronic certificate issued by an authorized service provider.
- The technical specifications established by the Decree will have to be followed, i.e., following the process to issue the electronic invoice, as well as the format. For example, electronic invoices will carry a unique identification number, (i.e., the Unique Electronic Invoice Code [*Código Único de Factura Electrónica]*).
- To issue the electronic invoice, the issuer will have to obtain an authorization for its use by a qualified authorized provider (responsibilities and obligations) that will verify that the invoice complies with all the technical requirements outlined in the technical sheet (issued by the tax authorities) for electronic invoicing. Moreover, the tax authority will also verify the authorization granted by the qualified authorized provider to make sure the invoice complies with all the requirements. Only electronic documents generated in the Free Invoice of the Electronic Invoice System of Panama (*Facturador Gratuito del Sistema de Factura Electrónica de Panamá*) will be exempted to follow this rule, as the invoice is issued directly from the tax authority´s portal.

The following rules apply for electronic invoicing for the various taxable persons:
- Mandatory for all taxable persons who have been assigned a tax ID after 1 January 2022
- Optional for taxable persons who have been assigned a tax ID before 1 January 2022, and as such they can decide whether to stay with the traditional billing method using a fiscal printer or migrate to electronic invoicing
- Mandatory for taxable persons that provide services to the Panamanian government as of 31 October 2022
- Mandatory for all multinational headquartered taxable persons, as per the SEM regimen (*Régimen de Sedes de Empresas Multinacionales [SEM]*), as of 30 June 2023
- Optional for taxable persons that supply certain activities that used to be exempted from using invoicing methods, and as such they can decide whether to stay with the traditional billing method using a fiscal printer or migrate to electronic invoicing as of 2023

At the time of preparing this chapter, the tax authority is contemplating making the electronic invoicing system of Panama mandatory, i.e., making it the only invoicing method in Panama. This is proposed to come into effect from January 2024, and certain activities are due to be exempted from these rules. However, no further details (or formal regulation or guidance) have been published by the tax authorities on this, and therefore electronic invoicing is not live or implemented.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Panama. Full VAT invoices are required.

Self-billing. Self-billing is not allowed in Panama.

Proof of exports. VAT is not chargeable on qualified supplies of exported goods. To qualify, exports must be supported by documents that confirm that the goods have left Panama, such as customs documents, export invoices and copies of bills of lading.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, the amounts must be converted into domestic currency, which is the Panamanian balboa (PAB) or US dollars (USD). However, the electronic invoicing system of Panama does allow the issuance of electronic invoices using a different currency.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Panama. As such, full VAT invoices are required.

Records. In Panama, examples of what records must be held for VAT purposes include tax returns, invoices, accounts and financial statements.

In Panama, VAT books and records must be held within the country.

Record retention period. The general statute of limitation for VAT records in Panama is five years.

Electronic archiving. Electronic archiving is allowed in Panama. Records may only be archived electronically if the archive is compliant with the electronic document law.

I. Returns and payment

Periodic returns. Monthly returns must be submitted on or before the 15th day of the month following the end of the return period. However, sole traders (i.e., independent professionals) must submit VAT returns quarterly, i.e., four times per year.

Periodic payments. Payment of VAT due must be made in full on or before the same date as the VAT return filing deadline (i.e., by the 15th day of the month following the end of the return period). Return liabilities must be paid in PAB or USD.

The VAT can be paid online (if the taxable person has a local bank account), by check in an authorized bank (e.g., *Banco Nacional* and *Caja de Ahorros*) or by debit or credit card on the Panamanian tax authority online platform.

Electronic filing. Electronic filing (using Form 430) is mandatory in Panama for all taxable persons. To file VAT returns electronically, the taxable person will need to request a tax ID number (*número de identificación tributaria [NIT]*), from the tax authorities. This special number is required for all online tax processes on the website of the Panamanian tax authorities (e.g., tax declarations, statements), enabling corporations to be managed remotely.

Payments on account. Payments on account are not required in Panama.

Special schemes. No special schemes are available in Panama.

Annual returns. Annual returns are not required in Panama.

Supplementary filings. *VAT withholding return.* VAT withholding agents need to file Form 4331 monthly (the VAT withholding return), on or before the 15th day of the month following the end of the return period

Correcting errors in previous returns. Any corrections to a previous VAT return should be filed on an amended VAT tax return within the last 12 periods/per return. If the corrections are filed after

90 days of the original VAT return, the taxable person must pay a fine of USD500. The rectification must be requested by filing, before the tax authorities, a document explaining the facts that motivate the rectification. Then, the corrections must be filed both online through the eTax 2.0 and in paper before the tax authorities.

Digital tax administration. There are no transactional reporting requirements in Panama.

J. Penalties

Penalties for late registration. There is no specific penalty in Panama for the late registration of VAT.

Penalties for late payment and filings. If a taxable person does not pay VAT due on time, a fine of USD10 may be applicable and the payment would be subject to late payment surcharge and a monthly interest.

Penalties for errors. A fine of USD10 may be imposed for late filing if no VAT is due as a result of credits in favor of the taxable person. Fines of USD100 to USD500 may be imposed for filing inaccurate VAT tax returns that do not result in a reduction in the tax payment, issuing invoices without being registered with the tax authorities and failure to comply with regulations regarding the carryforward of tax credits. Recidivism is penalized with fines ranging from USD500 up to USD5,000 and temporary closure of the business.

VAT returns may be amended only once per period and within a maximum period of 12 months following the date on which the original VAT return was due. The filing of the amended return costs USD100 for individuals and USD500 for legal entities if the amended return is filed more than three months after the due date for the original VAT return. Tax fraud is punished with penalties varying from 5 to 10 times the amount of undeclared VAT or by imprisonment for a period of two to four years.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. With effect from 1 January 2022, tax evasion is considered as a crime (said disposition has been added to the Penal Code and the Tax Code has been modified). Tax evasion is considered as a crime, whenever someone intentionally avoids taxes (by omitting, hiding, falsifying or deceiving the tax office), for themselves or for a third party for USD300,000 or above in a calendar year.

Tax evasion will be punished with a penalty of two to four years for anyone who, personally or by an interposed person, receives, possesses, deposits, negotiates, transfers or converts money, securities, real estate and other financial resources, knowing that they come from crimes against the National Treasury to hide, cover up or hide their illicit origin, or help evade the consequences legal of such punishable act.

Additionally, it is established that, if the crime has been committed through one or more legal persons, the penalty will be imposed on the legal entity in question and will be a fine of one to three times the amount of the tax defrauded.

On the other hand, crimes against the National Treasury are as follows:

- It will be punished with imprisonment of two to four years for anyone who, on their own or third party, benefits and intentionally incurs tax fraud against the National Treasury and affect the correct determination of a tax obligation to stop paying, totally or partially, the corresponding taxes.
- It will be punished with imprisonment of two to four years and with a fine of one to three times the amount of the tax defrauded, anyone who gets fraudulently an exemption, return, enjoyment or use of improper tax benefits.

Personal liability for company officers. Company directors cannot be held personally liable for errors and omissions in VAT declarations and reporting in Panama.

Statute of limitations. The statute of limitations in Panama is five years. The Panamanian tax authorities have the right to collect VAT in Panama after five years, counted from the first day of the following month in which the tax should have been paid. The statute of limitations is interrupted by any written action by the competent official aimed to collect the tax.

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A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Goods and services tax (GST)
Date introduced	1 January 2004
Trading bloc membership	Asia-Pacific Economic Cooperation (APEC)
Administered by	Internal Revenue Commission (IRC) (http://www.irc.gov.pg)
GST rates	
Standard	10%
Other	Zero-rated (0%) and exempt
GST number format	TIN999999999
GST return periods	Generally monthly; periods of up to six months if annual taxable supplies less than PGK625,000 subject to approval by the IRC
Thresholds	
Registration	PGK250,000
Recovery of GST by non-registered businesses	No

B. Scope of the tax

GST applies to the following transactions:

- Taxable supplies of goods and services, which are connected to Papua New Guinea (PNG) or deemed to be supplied in PNG and made for consideration in the course of a taxable activity by a taxable person that is registered or that is required to be registered for GST
- Reverse charge on services received from abroad that are made to a registered entity in PNG
- Taxable importations of goods into PNG, regardless of the status of the importer

An activity does not need to be carried on for the purposes of making a profit for it to be registered for GST. "Taxable activity" means a business activity that is carried on continuously or regularly by a person, whether or not for a pecuniary profit, and involves or is intended to involve, in whole or in part, the supply of goods and services to another person for a consideration and includes any such business activity carried on in the form of a trade, manufacture, profession, vocation, association or club.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in every jurisdiction where it has customers that are not taxable persons. In PNG, no services are subject to the "use and enjoyment" provisions.

Goods and services are deemed to be supplied in PNG where the supplier is not resident in PNG and meets the following:

- The goods are in PNG at the time of supply
- The services are physically performed in PNG by a person who is PNG at the time the services are performed
  Or
- The services are performed outside PNG for the use or benefit within PNG of a person resident in PNG

Where the third bullet point applies, the reverse-charge provisions apply such that the recipient is deemed to have supplied the service in PNG in the course or furtherance of the recipient's taxable activity.

Transfer of a going concern. Normally, the sale of the assets of a GST-registered or GST-registrable business will be subject to GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In PNG, a TOGC is treated as zero-rated where the following conditions are met:

- There is a supply of a taxable activity, or of a part of a taxable activity where that part is capable of separate operation.
- All of the goods and services that are necessary for the continued operation of that taxable activity or that part of a taxable activity are supplied to the transferee.
- The transferor carries on, or is to carry on, that taxable activity or that part of a taxable activity up to the time of its transfer to the transferee.

Transactions between related parties. In PNG, for a transaction between related parties, the value for GST purposes is calculated at the open market value.

C. Who is liable

GST registration is mandatory if either of the following thresholds is met:

- The total value of supplies (excluding exempt supplies) made in PNG in a month and the 11 months immediately preceding that month in the course of carrying on all taxable activities that exceeds PGK250,000.
- The projected GST turnover, which is the value of taxable supplies made or likely to be made in the current month plus the next 11 months, is reasonably likely to exceed PGK250,000.

Exemption from registration. The GST law in PNG does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A taxable person that has turnover below the registration threshold may apply to register for GST voluntarily if the entity is carrying on a taxable activity.

A taxable person that is a not-for-profit body may apply in writing to the Commissioner General of Internal Revenue to register for GST voluntarily if the entity is carrying on a taxable activity.

Group registration. Subject to certain requirements, two or more companies that have an aggregate of common voting interests of 90% or greater constitute a wholly owned group for the purpose of the GST Act and may apply to the Commissioner General of Internal Revenue to form a GST group. Other entities (e.g., partnerships and trusts) that satisfy common control tests may also apply for grouping. The effect of GST grouping is to treat the group members as a single entity for certain purposes. In general, all GST liabilities and input tax credit entitlements for group members are attributed to a representative member of the group, and the group submits a single GST return. All members of a GST group in PNG are jointly and severally liable for GST debts and penalties.

A registered person carrying on its activities in branches or divisions may apply in writing to the Commissioner General of Internal Revenue for a branch or division to be registered as a separate registered person. Certain requirements must be met relating to the nature of the activities and accounting systems of proposed GST branches. In addition, a branch of a registered entity may not be registered as a GST branch if the entity is a member of a GST group. There is no minimum time period required for the duration of a GST group.

Fixed establishment. In PNG, there is no legal definition of a fixed establishment for GST purposes. There is no reference to fixed or permanent establishment in the PNG GST Act.

Non-established businesses. GST applies to taxable supplies and to taxable importations made by non-established businesses. Branches of non-established businesses carrying on taxable or other activities in PNG are required to register and charge GST with respect to their supplies.

Tax representatives. When a taxable person dies, or is placed into liquidation or receivership, or becomes bankrupt or incapacitated, the person appointed as personal representative, liquidator, receiver or agent is deemed to be the "specified agent" and carries on the taxable activity from the date of appointment. The specified agent is not personally liable for any liabilities incurred before the date of appointment. The agency period ends when another person is registered in respect of the taxable activity or when the appointment ceases, whichever is the earlier.

Reverse charge. If a service is deemed to be supplied in PNG under the provisions of the GST Act, reverse-charge provisions can apply if all the following conditions are met:
- The supplier is a non-established business.
- The supplier does not make the supply through an enterprise that it carries on in PNG.
- The recipient is registered (or is required to be registered) for GST.

If a resource company makes exempt supplies, the reverse-charge provisions apply.

Domestic reverse charge. There are no domestic reverse charges in PNG.

Digital economy. For business-to-business (B2B) transactions, the customer is expected to reverse charge the GST liability where the principal is deemed to make the supply in PNG. A PNG GST input tax credit arises for the customer, assuming the supply is acquired for the principal purpose of conducting taxable activities.

For business-to-consumer (B2C) transactions, the individual will generally not be GST-registered (or required to be registered), as the individual will generally not be carrying on taxable activities.

Nonresidents that provide electronically supplied services do not need to register for GST in PNG on the basis that the services are performed outside PNG.

There are no specific e-commerce rules for imported goods in PNG.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in PNG.

Registration procedures. After a company is registered with the Investment Promotion Authority (IPA), it should apply to the Internal Revenue Commission (IRC) for a taxation identification number (TIN). The Form TIN1 application requires various details of the enterprise, and the company must attach a copy of the IPA registration, including extract and proof of identity of the authorized signatory. There is no online filing facility, however, a scanned email copy should be acceptable.

Deregistration. A taxable person that ceases to carry on business may request in writing that the Commissioner General of Internal Revenue cancel its GST registration. A taxable person must notify the PNG IRC that it is no longer entitled to be registered within 21 days after ceasing operations. A taxable person that is no longer required to be registered may apply to cancel its registration. However, the Commissioner General of Internal Revenue is not required to cancel the registration if a business has been registered for less than 12 months.

Changes to GST registration details. Any changes to a taxable person's name, address, constitution or nature of its principal activity must be notified within 21 days to the IRC through a Form TIN1 application identifying the changes made. There is no online filing facility; however, a scanned email copy should be acceptable.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GST, including the zero rate.

The GST rates are:
- Standard rate: 10%
- Zero-rate: 0%

The standard rate of GST applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Sale of going concerns
- Supplies of goods and services to foreign aid providers
- Supplies of goods and services to nonprofit bodies, which are religious, charitable or community organizations carrying on charitable activities approved by the Commissioner General of Internal Revenue, provided that the supplies or goods are not used for profit-making taxable activities
- International travel
- Exported goods and services

The term "exempt supplies" refers to supplies of goods and services that are not liable to GST and do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Certain fine metals
- Medical services
- Educational services

- Public transport and taxis
- Newspapers
- Supplies of housing or motor vehicles by employers to employees
- Specific exemptions as notified in the National Gazette

Option to tax for exempt supplies. The option to tax exempt supplies is not available in PNG.

E. Time of supply

As defined in the GST Act, a supply of goods and services is generally deemed to take place at the earlier of the time of issuance of an invoice by the supplier or the recipient or the time of receipt of any payment by the supplier with respect to the supply.

Deposits and prepayments. There are no special time of supply rules in PNG for deposits and prepayments. As such, the normal time of supply rules apply (as outlined above).

Continuous supplies of services. Where goods or services are supplied progressively or periodically, those goods or services are deemed to be supplied successively. Each successive supply is deemed to take place at the earliest of when payment for that supply becomes due, is received or any invoice relating only to that payment is issued.

Goods sent on approval for sale or return. There are no special time of supply rules in PNG for supplies of goods sent on approval for sale or return. As such, the normal time of supply rules apply (as outlined above).

Reverse-charge services. For reverse-charge services, the recipient is required to account for the services in the period in which the services are paid for. If the consideration is not in money, the services need to be accounted for in the period in which the services are performed.

Leased assets. Where goods are supplied under a hire or lease agreement, they are deemed to be successively supplied for successive parts of the period of the agreement. Each of the successive supplies is deemed to take place when a payment becomes due or is received, whichever is the earlier. The treatment is the same irrespective of the type of lease (i.e., whether ownership of the underlying asset is transferred or not).

Imported goods. GST is payable for imported goods at the time of importation. A deferral scheme may apply. Under the scheme, GST on importations is deferred such that where the importer is entitled to a full GST input credit for the import GST, the import GST liability will be offset against that credit.

Goods imported temporarily into PNG under the provisions of the Customs Act are zero-rated for GST purposes and import duty is not applied to these goods. In general, the importer must provide a security bond of 10%. The bond paid for temporary imports is intended to be refunded when the goods are re-exported out of the country. Goods are classified as temporary imports if they are re-exported within 12 months.

If imported goods remain in the country for more than 12 months, the goods are deemed to be permanent imports and the bond is forfeited. The applicable GST can then be claimed as an input credit (subject to the normal rules).

F. Recovery of GST by taxable persons

A registered entity may recover input tax credits with respect to creditable acquisitions. These credits correspond to the GST included in the consideration for goods and services that a registered entity acquires for creditable purposes. A registered entity generally recovers input tax by offsetting them against GST payable on taxable supplies.

Input tax credits correspond to GST included in the consideration for goods and services acquired in PNG, GST paid on importations of goods and GST paid under reverse-charge arrangements.

In general, valid tax invoices or customs documents must be retained to support claims for input tax credits.

The time limit for a taxable person to reclaim input tax in PNG is eight years after the end of the taxable period. This is unless a written application has been made before the end of the eight-year period.

Examples of items for which input tax is nondeductible

- Housing or motor vehicles provided to employees
- Entertainment or leisure club facilities
- Acquisitions made for purpose of making exempt supplies
- If no valid tax invoice is held

Examples of items for which input tax is deductible (if related to a taxable business use)

- Imports
- Trading stock
- Business occupancy costs
- Repairs and maintenance

Partial exemption. GST on acquisitions of goods and services used to make exempt supplies or on acquisitions that are not used for business purposes (for example, goods acquired for private use) are not eligible to be claimed as an input credit. Where an acquisition is used for both taxable and exempt supplies, only the proportion of GST that relates to taxable supplies may be claimed as an input credit. The apportionment is generally required to be calculated on a monthly basis with an annual reconciliation of total input and output tax to be done within 60 days of the taxable person's fiscal year. Where the input credits calculated on the annual basis differ from the total of the monthly calculations any excess input credits based on the annual calculations are refundable. Where the total of the monthly input credits exceeds the annual calculation, the excess is payable at the time the annual reconciliation is due. Approval from the tax authorities is not required to use the partial exemption standard method in PNG. Special methods are not allowed in PNG.

Capital goods. There are no specific rules applicable to capital goods. Where the acquisition of capital goods is solely for the purpose of making taxable supplies, the input tax is allowable as an input credit in the taxable period in which the supply was made to the person or the period in which the GST input tax was paid or invoiced in the case of imported capital goods. Where capital goods are used for making both taxable and exempt supplies, the same rules for claiming input credits on other goods apply.

Refunds. If the amount of input tax credit in a period exceeds the GST payable in the same period, the excess amount is technically refundable to the taxable person. However, in practice, it is often necessary to first satisfy the IRC that the refund is valid. The excess can be requested to be applied against GST liabilities in a subsequent period or against other tax liabilities, except for salary or wages tax.

Pre-registration costs. GST paid on acquisitions made by a person within six months prior to incorporation of a company may be claimed as an input credit by the company after it is registered. The acquisition must have been made by a person who becomes a member, officer or employee of the company and that person must have been fully reimbursed for the consideration paid. The acquisition must also have been for the purpose of a taxable activity to be carried on the company. The input credit is claimable in the taxable period in which the reimbursement is made.

Other than in the above circumstances, GST in respect of pre-registration acquisitions may not be claimed as input credits.

Bad debts. Where a registered person accounts for GST on the accruals basis and writes off all or part of an amount previously reported as a taxable supply, the person is entitled to claim a deduction for the amount of the GST included in the amount written off as a bad debt in the period in which the debt is written off.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in PNG.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in PNG is not recoverable.

H. Invoicing

GST invoices. In general, a registered person must provide a tax invoice for all taxable supplies made if requested to do so by the recipient of a supply. A tax invoice is not required for supplies with a GST-inclusive amount of PGK50 or less. In general, a tax invoice is necessary to support claims for input tax credits.

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

Electronic invoicing. Electronic invoicing is allowed in PNG, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in PNG. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in PNG. The requirements related to electronic invoicing are the same as those for paper invoicing.

To use electronic invoicing in PNG, an approval is required by the Commissioner. The approval may be as follows:

- Expressed to apply generally or to such registered person or class of registered persons as the Commissioner may specify
- Limited to such cases or be subject to such conditions as the Commissioner thinks fit to impose
- Withdrawn or varied by the Commissioner at any time on the giving of such notice as is reasonable in the circumstances

To facilitate the electronic transfer of tax invoices, the Commissioner may approve the use of symbols, abbreviations or other notations to represent any particulars normally required to be shown on a tax invoice.

Simplified GST invoices. Where the consideration for the supply is less than PGK200, neither the name nor address of the recipient nor the quantity or volume of the goods and services supplied is required to be shown on the invoice. Also, where the consideration for the supply is less than PGK50, no tax invoice is required to be issued.

Self-billing. Self-billing is allowed in PNG. With prior approval of the Commissioner, the supplier and recipient can agree that the supplier does not issue a tax invoice and instead the recipient issues a document with the words "buyer-created tax invoice – IRC approved" in a prominent place.

Proof of exports. Exports of goods are zero-rated (GST-free). To qualify as GST-free, goods must be entered for export under the Customs Act and the Commissioner General of Internal Revenue must be satisfied that the goods have been exported to a place outside PNG. Zero-rating applies if the goods are exported within 28 days unless unforeseeable circumstances delay the shipment of the goods.

Foreign currency invoices. All invoices must be expressed in the domestic currency, which is the Papua New Guinea kina (PGK). The exchange rate at the time of supply is required to be used. Where the consideration is agreed in a foreign currency, that can also be shown on the invoice.

Supplies to nontaxable persons. There are no specific rules for GST invoices for supplies made to private consumers. However, where the consideration for the supply is less than PGK50, no tax invoice is required to be issued.

Records. Records must be held in English unless approval of the Commissioner is obtained. In PNG, examples of what records must be held for GST purposes include books of account (manual or electronic) recording receipts of payments of income or expenditure, vouchers, bank statements, invoices, tax invoices, credit notes, debit notes, receipts and such other documents as are necessary to verify the entries in the books of account.

In PNG, GST books and records can be held outside of the country. However, this is only allowed with approval by the Commissioner. Otherwise, records must be held within the country. Non-established businesses are only required to keep records in PNG if they make supplies in PNG. If they make supplies in PNG, they will need approval from the Commissioner to keep the records outside of PNG. To obtain approval, it would be necessary to demonstrate that the records would be able to be produced on request by the Commissioner.

Record retention period. All relevant records must be kept for at least seven years after the end of the taxable period to which they relate and may be kept in electronic format. The seven-year period may be extended if the Commissioner gives notice in writing of audit activity.

Electronic archiving. Electronic archiving is allowed in PNG. Copies of invoices are required to be kept in PNG, unless otherwise approved by the Commissioner. Records may be kept in manual, mechanical or electronic format.

I. Returns and payment

Periodic returns. GST liabilities are reported in a GST return. A registered person must file the GST return in the required form on or before the 21st day of the following tax period (a calendar month).

Government departments and state-owned entities. If a taxable person makes a GST-taxable supply to a specific government entity (as listed in the GST Section 65A Notice) that entity is required to withhold the GST amount and remit that directly to the IRC. In the GST return for that month, it will still be required to report the total sales, including GST, and the amount withheld will still be included in the calculation of the amount payable or refundable for the month. The amount withheld will need to be disclosed in line 16 of the GST return. Then the actual payment to the IRC should be reduced by the amount withheld. If the amount withheld is greater than the amount calculated as payable for the month, no payment should be made for the month.

Periodic payments. GST liabilities must be paid in PGK by the 21st day following the tax period. The payment should be made by electronic funds transfer.

Electronic filing. Electronic filing is allowed in PNG, but not mandatory. The IRC has introduced a basic electronic filing option. To use the electronic filing option, the taxable person must scan

the signed paper return form and attach it to an email with details of the electronic funds transfer to confirm payment.

Payments on account. Payments on account are not required in PNG.

Special schemes. *Secondhand goods.* Where secondhand goods situated in PNG are acquired by a registered person by way of a sale that is not a taxable supply, the registered person is allowed to claim an input credit equal to the tax fraction (1/11th) of the consideration in money for the supply.

Accrual basis of accounting. When a taxable person registers for GST, it automatically goes on an accrual (or invoice) basis of accounting for GST. For businesses that account for GST on an accrual basis, GST is payable with respect to a taxable supply for the tax period in which the invoice is issued or when any consideration is received for the supply, whichever is earlier.

Cash or payment basis of accounting. Entities with annual turnover that does not exceed PGK1.25 million may account for GST on a cash basis. Cash accounting is also available to certain entities regardless of turnover. These entities include local authorities, not-for-profit bodies and other entities subject to the discretion of the Commissioner General of Internal Revenue. Cash accounting is allowed when the Commissioner General of Internal Revenue grants approval in writing. For entities using cash accounting, GST is payable with respect to a taxable supply in the tax period in which the consideration is received. If only part of the consideration is received in a particular tax period, GST is payable only on that part.

Annual returns. Annual returns are not required in PNG.

Supplementary filings. No supplementary filings are required in PNG.

Correcting errors in previous returns. Where the previously reported output tax was incorrect due to any of the following reasons:
- Cancellation of the supply
- Fundamental change in the nature of the supply
- Change in consideration for the supply
- Return of the goods or services

The output tax adjustment is made in the period in which it became apparent that the output tax was incorrect. Where input tax is claimable in respect of a previous period but has not been claimed, it may be claimed in any later period. Where adjustments are made in respect of prior periods, the relevant adjustments are included in the amounts reported for the GST return for the period in which the adjustments are made. No separate disclosure or approval is required.

Digital tax administration. There are no transactional reporting requirements in PNG.

J. Penalties

Penalties for late registration. The penalty for late registration of GST is a fine not exceeding PGK25,000.

Penalties for late payment and filings. The penalty for late payment is 10% of the unpaid amount at the due date, plus 20% per annum on the unpaid amount from the due date until paid.

Penalties for errors. The penalty for errors is a fine not exceeding PGK25,000.

The late notification or failure to notify the tax authorities of changes to a taxable person's GST registration details may result in a penalty not exceeding PGK5,000 for the first occasion, then a penalty not exceeding PGK10,000 for the second occasion and then a penalty not exceeding PGK15,000 for subsequent occasions. For further details, see the subsection *Changes to GST registration details* above.

Penalties for fraud. Penalty for fraud is a liability to a fine not exceeding PGK25,000.

Personal liability for company officers. Company directors have personal liability if the company defaults on its GST obligations. Directors are jointly and severally liable for the company's GST tax liabilities; and if any liability is outstanding, the directors are liable to a penalty equal to the company's liability. The Commissioner General is not entitled to recover the penalty until the expiration of 30 days after the Commissioner General has given notice to the director. If the liability has been paid within 30 days of the issue of the notice, the penalty will be remitted in full.

Statute of limitations. The statute of limitations in PNG is four years. If a return has been submitted and no assessment has been made, the Commissioner is not able to make an assessment after four years from the return's submission date. If an assessment has been made, the Commissioner is not able to alter the assessment to increase the assessment after the earlier of the return's submission date or the date of the assessment.

A taxable person may object to an assessment within the time specified in the notice of assessment not being less than two months after the date of the notice. The Commissioner may allow further time in particular circumstances.

Where, in the opinion of the Commissioner, a taxable person has knowingly or fraudulently failed to make a full and true disclosure, the Commissioner may make an assessment or alter an assessment at any time.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	1 July 1992
Trading bloc membership	MERCOSUR
Administered by	National Directorate of Tax Revenue (DNIT, acronym in Spanish) (www.set.gov.py)
VAT rates	
Standard	10%
Reduced	5%
Other	Exempt
VAT number format	General tax ID number is used for VAT ID. If the taxable person is an individual, the VAT ID is their tax ID plus its verification number. If the taxable person is a legal entity, it is eight digits plus its verification number.
VAT return periods	Monthly (general period), and biannual (for nonprofit institutions)
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Paraguay by a taxable individual or business
- The importation of goods from outside Paraguay, regardless of the status of the importer

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Paraguay, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Paraguay. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

The only business structure-related transactions that are exempt from VAT are the alienation of shares or quotas of companies and transfers resulting from a reorganization of companies, including within the concept of business reorganization, mergers, takeovers, spin-offs or divisions and business transformation.

Transactions between related parties. In Paraguay, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in Paraguay. The term "taxable supplies" refers to supplies of goods and services that are liable to VAT.

The definition of a taxable person also applies to the following:
- Permanent establishment of a foreign business in Paraguay
- Transparent legal structures (i.e., trusts, investment funds and risk-sharing contracts)
- Undivided successions

Withholding VAT. Companies designated as withholding VAT (WHT) agents must withhold and pay VAT and issue virtual vouchers through the Paraguayan tax authority webpage for any tax withheld. Also, they must submit monthly tax returns indicating information related to purchases, sales and withheld tax. Returns must be filed electronically.

Exemption from registration. The VAT law in Paraguay does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Paraguay does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT).

Group registration. Group VAT registration is not allowed in Paraguay.

Fixed establishment. Paraguayan tax law expresses the rules to determine if the activities carried out locally by entities established in a foreign country constitute or do not constitute a permanent establishment in Paraguay. The term permanent establishment in Paraguay is understood to include, among other things, the following: a) branches or agencies; b) an industrial or assembly plant or workshop or agricultural establishment; c) the mines, quarries or any other place of extraction of natural resources; and d) construction or assembly works whose duration exceeds 12 months.

In addition, a person acting in Paraguay on behalf of a foreign entity, shall be deemed to constitute a permanent establishment in Paraguay if it has and habitually exercises in Paraguay powers to conclude contracts on behalf of the entity, unless its activities are limited to the purchase of goods or merchandise for the entity.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Paraguay. A non-established business is not required to become a taxable person by obtaining a tax ID in Paraguay.

Tax representatives. It is mandatory for all corporate entities (i.e., not individuals) to have their own legal representative in Paraguay.

For non-established corporate entities, if they are to operate in Paraguay, they must have a fixed establishment. If they make supplies that are not physically in Paraguay, then there is no need for a fixed establishment. For example, if a UK company sold a license for software and supplied it to customers in Paraguay, it would not be necessary for that UK company to establish a fixed establishment in Paraguay, to sell the license in Paraguay.

For tax purposes, companies must appoint a legal representative(s) on Tax Form 605 or Tax Form 615. In those forms, the company must complete all the information related to the business, including type of entity, tax obligations and legal representative(s) information, among others.

Reverse charge. Paraguayan tax legislation does not provide "reverse charges" for VAT purposes. VAT on the provision of services by nonresidents is collected by means of WHT. For more details, see the subsection *Withholding VAT* above.

Domestic reverse charge. There are no domestic reverse charges in Paraguay.

Digital economy. Digital supplies of services, goods, e-commerce, etc., are subject to VAT.

For digital business-to-business (B2B) transactions, VAT is applied when the customer located in Paraguay makes a payment to a nonresident business; the Paraguayan customer is obligated to act as the VAT withholding agent for the payment made abroad through virtual vouchers issued by the Paraguayan tax authority webpage.

For digital business-to-consumer (B2C) transactions (understood to be by a consumer to an individual), banking, financial entities, exchange houses, cooperatives, payment processors or similar entities, as well as telephone companies or other entities that mediate for the provision of digital services, that facilitate or manage payments abroad, will act as VAT collection agents. In this sense, when the operations are carried out through credit or debit cards, the card processor will include VAT for digital services in the account statement, so the designated entity will receive the VAT that must subsequently be paid to the Paraguayan tax authority. In this line, the designated entity must act as a collection agent and document this operation through the collection voucher.

Nonresidents that provide electronically supplied services do not need to register for VAT in Paraguay (for both B2B and B2C supplies).

Individuals who are only taxed by personal income tax and VAT are allowed to issue invoices through the Paraguayan tax authority webpage.

There are no other specific e-commerce rules for imported goods in Paraguay.

Online marketplaces and platforms. A digital service is deemed to be rendered in Paraguay, and therefore subject to local VAT, when any of the following is located in Paraguay:
- The IP address of the device used by the customer or country code of the SIM card
- The customer billing address
- The bank account used for the payment
- The billing address of the customer as available to the bank
- The financial institution issuing the credit or debit card with which the payment is made

Where a payment for digital services is made through a financial institution in Paraguay, the financial institution is responsible for collecting and remitting VAT at the standard rate of 10% on the payment, entering into force from 1 January 2021. Such financial institutions, therefore, must act as VAT collection agents when the holders of credit or debit cards contracts for digital services from foreign entities. Such entities are required to provide a VAT receipt. "Financial institutions" include banks, financial entities, exchange houses, cooperatives, payment processors and similar entities, as well as telephone companies and other intermediary entities.

The VAT stated in the credit or debit card statement of the user acquiring the service may be used by the taxable person as a VAT tax credit, to the extent it is linked to income subject to tax. For this purpose, the evidence for the credit will be the card or account statement.

VAT is charged at 10% and INR at 4.5% on the value of the digital services.

In addition, the following digital services are subject to this obligation:
- Digital multimedia content distribution (games, movies, music, videos, among others)
- Processing and storage of data in general, software development or updates or applications in general
- Cable or satellite television
- Marketing and advertising
- Gambling, chance, bets and similar activities
- Educational services provided through technological platforms

Registration procedures. Registration starts through an online process; immediately after registering the taxable person receives a confirmation by email and must present physically (papers in person or through power of attorney) the following documents:
- Public deed of incorporation of the company in Paraguay
- Tax Form 605
- Copy of legal representative's ID card

Deregistration. The following documents are required for deregistration of any Paraguayan taxable person:
- Public deed of liquidation of the company (if the taxable person is a business)
- Certificate of indebtedness with the Paraguayan tax authority
- Cancellation of Tax Validity Number or "*Timbrado*" number (Tax Form 621)
- Cancellation of tax identification number or "RUC" (Tax Form 623)
- Copy of legal representative's personal ID card (if the taxable person is a business – if not, the personal ID card of the taxable individual). If the business or individual decides to deregister from VAT only, they must file Form 615 or 610, respectively.

Changes to VAT registration details. It is the taxable person's obligation to notify the tax administration when there is a change in its tax registration details in Paraguay. Changes related to tax status include address, new local establishment, additional type of business, changes or new representatives, etc. The notification is related to taxable persons in general, not specific VAT registration. The time limit to present any updates is 30 days from the time of the change. The notification must be submitted online.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 10%
- Reduced rate: 5%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate or an exemption.

Examples of goods and services taxable at 5%

- Basic family products
- Pharmaceutical goods
- Sale or housing purposes lease of real estate
- Agricultural products and cattle

A reduced tax base applies to certain supplies, thereby reducing the effective rate of VAT.

Examples of goods and services with a reduced tax base

- Certain imports of goods under specified tax treatment (Decree 1931/19 known as the Tourism Regime), such as: beauty creams, food supplements, video game, consoles and machines, articles and equipment for physical culture, gymnastics or athletics, etc.
- Real estate

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies

- Foreign currency
- Oil by-product fuels
- Interest on public securities
- Interest on bank deposits, books, certificates and shares
- Exportation of goods and exportation freight services
- Transfer of credits
- Transfer of carbonic credits

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Paraguay.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "taxable event." In general terms, the taxable event will occur with one of these events, whichever occurs first: a) delivery of the good or provision of the service; b) perception of the total amount or partial payment of the good or service; or c) expiration of the term foreseen for the payment of the service.

For importations, the taxable event will occur at the time of the numbering of the customs declaration of the goods in the Customs Office or the equivalent act.

Invoices must be issued on the date in which the taxable events occur.

Deposits and prepayments. According to tax regulations, any deposit or prepayments are subject to VAT for both goods and services. As mentioned above, the taxable event for VAT purposes occurs with the perception of the total amount or partial payment of the good or service.

Continuous supplies of services. There are no special time of supply rules in Paraguay for supplies of continuous supplies of services. As such, therefore the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Paraguay for supplies of goods sent on approval for sale or return. As such, therefore the general time of supply rules apply (as outlined above).

Reverse-charge services. Paraguayan tax legislation does not provide for reverse charges for VAT purposes. VAT on the provision of services by nonresidents is collected by means of WHT.

Leased assets. Lease payments and purchase option executions are subject to VAT. There are no special time of supply rules in Paraguay for supplies of leased assets. As such, therefore the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is at the time of the numbering of the customs declaration of the goods in the Customs Office or the equivalent act.

F. Recovery of VAT by taxable persons

The tax is settled by the difference of VAT debit and VAT credit when they are properly documented. This means that a taxable person generally recovers input tax (VAT credit) by offsetting it against output tax (VAT debit).

Input tax includes VAT charged on goods and services supplied in or from Paraguay and VAT paid on imports of goods.

A valid tax invoice or customs document must generally support an input tax credit.

According to Paraguayan tax regulations, there are two different ways for taxable persons to recover VAT related to: 1) exportation of goods and exportation freight services; and 2) local withholding VAT. Both are expressly regulated with formal procedures that must be followed by Paraguayan taxable persons and must include a Certification of VAT Fiscal Credit to be refunded that is issued by auditing firms registered with the Paraguayan tax authority.

The time limit for a taxable person to reclaim input tax in Paraguay is four years. If a taxable person did not file a VAT refund process in the mentioned four-year period, this VAT can only be offset by generating output tax in the local market.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or that are used for nonbusiness purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Business gifts
- Private use of business assets

Examples of items for which input tax can be offset (if related to a taxable business use)

- Purchase, lease and hire of cars, vans and trucks, as well as maintenance charges
- Parking
- Taxis
- Travel expenses
- Conferences and seminars
- Mobile telephone advertising and sponsorship
- Overall acquisition of goods and services directly related to business use
- Independent service providers can offset 30% of input tax incurred on the purchases of food, including nonalcoholic beverages and a number of other specific items (according to Decree No 8175/22)

Partial exemption. Paraguayan taxable persons can offset VAT fiscal credit for input tax incurred on expenses that relate to taxable activities. If the fiscal credit is directly related to exempt activities, the taxable person cannot use it. The only exempt activity that direct input tax can be recovered is freight exportation operations. The VAT fiscal credits are nonrecoverable for all

other input tax incurred in relation to exempt activities. The taxable person must include a Certification of VAT Fiscal Credit to be refunded issued by auditing firms registered with the Paraguayan tax authority.

Where a taxable person makes both taxable and exempt activities, they must evaluate the origin of each fiscal credit. If it directly relates to a taxable activity, the taxable person can get the input tax back in full. If the cost cannot be directly related to a taxable or exempt activity, it has to be proportionally calculated across both activities. The calculation is based on the amount of the last six months' worth of sales (i.e., the turnover of the business in those areas in the last six months). The indirect VAT fiscal credit related to freight exportation operations cannot be recovered.

Approval from the tax authorities is not required to use the partial exemption standard method in Paraguay. Special methods are not allowed in Paraguay.

Capital goods. When a Paraguayan company invests in capital goods, there is an incentive law that applies, and no VAT is charged. To apply this regime, specific requirements established by laws must be met. This means that the business must initially pay the VAT on the purchase of capital goods, then they can offset it against fiscal credits, as long as they are making local supplies in Paraguay.

No special time limits apply to the input tax recovery offsetting in the local market of capital goods.

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

If a taxable person overpaid VAT or paid VAT in error, it may correct the VAT return and use the overpayment to offset output tax in the following tax period or they could start a very formal process in order to reimburse the VAT paid in error.

Pre-registration costs. Input tax incurred on pre-registration costs in Paraguay is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Paraguay. The following conditions must be met in order to recover the debt:

- The bad debts are credits that after 36 months from the date on which they became due, have not been collected
- The credits whose debtors are inhibited from selling goods (this only applies the first year in which the inhibition resolution was enacted)
- The claims of debtors who have been declared in bankrupt by the judicial authority
- The withdrawals granted in concordats approved by the judicial authority
- The bad debts must be recorded in the accounting and tax records

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Paraguay.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Paraguay is not recoverable.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports (exempted). A VAT invoice is necessary to support an input tax credit.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain a brief explanation stating the reason for the adjustment, and it must be cross-referenced to the original VAT invoice number.

Electronic invoicing. Electronic invoicing is mandatory in Paraguay, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Paraguay.

However, from 1 January 2024, legal entities registered as new taxable persons will be mandated to issue electronically all their tax documents, with the exception of the virtual withholding voucher, through the platforms provided by the tax authority.

The tax authority has established a calendar of mandatory electronic invoicing where 10 different groups have been identified with the dates from which they must issue all their tax documents only electronically. Depending on the group, the obligation was implemented from 1 July 2022 until 31 October 2024. The list of taxable persons that make up the groups is available on the SIFEN website (ekuatia.set.gov.py/portal/ekuatia/).

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Paraguay.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Paraguay. Nevertheless, the tax law provides some specific types of sales documentations, such as airline tickets, sales notes, public show tickets, among others. These can only be used for the relevant types of suppliers (i.e., airlines can use airline tickets, micro-businesses can use sales notes and show providers can use public show tickets, instead of full VAT invoices).

Self-billing. Self-billing is allowed in Paraguay; however, it is only allowed in exceptional cases. For example, in cases where the supplier is not VAT registered and is selling an asset, the buyer (who is VAT registered) must issue a self-invoice. It is not generally allowed for other cases, and in practice it is not a very common use self-billing.

Proof of exports. VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by an exportation file that includes the customs authority good formalizations to leave Paraguay.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, all amounts must be converted to the domestic currency, which is the Paraguayan guarani (PYG), using the exchange rate published by the tax authority for recording purposes (local books).

Supplies to nontaxable persons. Full VAT invoicing is mandatory for all transactions. If the buyer does not require an invoice, the seller must complete it with "no name" and an "X" in the RUC space. However, for supplies to nontaxable persons, Paraguayan taxable persons must still issue a full VAT invoice but without the name of the customer.

Records. In Paraguay, examples of what records must be held for VAT purposes include all documentation related to taxes, such as accounting books and records, documents, invoices, purchase and sales invoices, that must be held by taxable persons in Paraguay.

In Paraguay, VAT books and records can be held outside of the country. Although the records can be kept outside the country, the platform and the archives should be accessible locally and all data and support documentation related to account software must be kept by local taxable persons.

Record retention period. The action for collection of the taxes shall expire after five years from 1 January of the year following that in which the obligation should have been fulfilled. For

annual taxes on income or profits, it shall be understood that the taxable event occurs at the close of the fiscal year. It is mandatory to keep tax files during the abovementioned statute of limitation period.

Electronic archiving. Electronic archiving is allowed in Paraguay. This is only if the requirements are met, i.e., they include a digital signature and the documents must be stored for five years in a durable format (e.g., pdf).

I. Returns and payment

Periodic returns. VAT returns are submitted on a monthly basis. The due date for VAT returns depends on the last number of the taxable person's tax identification number.

Periodic payments. The due date for VAT payment depends on the last number of the taxable person's tax identification number. Return liabilities must be paid in Paraguayan guarani. Payment must be made through the Paraguayan tax authority online system (https://marangatu.set.gov.py/eset/login). The VAT payments are the difference between output tax generated through the local sales and the input tax accumulated through the purchase of goods and services. If the input tax is higher than output tax, the difference can be used in the following periods.

Electronic filing. Electronic filing is mandatory in Paraguay for all taxable persons. It must be done online through the tax administration's system [www.set.gov.pyunder (*Sistema Marangatú*)]. This is a software created by the Paraguayan tax authority (https://marangatu.set.gov.py/eset/login). This online/electronic system also allows taxable persons to make tax payments through this system. Taxable persons log on using their own tax ID and password.

Payments on account. Payments on account are generally not required in Paraguay, except for certain taxable persons. The Paraguayan tax authority may require VAT payments on account at the end of the fiscal period. This is only applicable when a taxable person does not submit their tax return or pay taxes online on time. In this case, the tax authorities can claim the overdue tax from the previous tax return as a payment on account. However, while this facility is included in the law, it is not enforced in Paraguay, and it is not common.

Special schemes. *Tourist VAT system.* The Paraguayan tax authority provides a specific list of products that a tourist can buy with a VAT exemption by presenting their passport. The taxable person must be registered in the tourist regime and a copy of the tourist's passport is attached to the VAT exempt invoice.

Secondhand goods. There is a special scheme for the sale of secondhand goods that treats only 30% of such supplies subject to VAT; the remaining 70% is considered VAT exempt.

Annual returns. Annual returns are not required in Paraguay.

Supplementary filings. *Special VAT categories.* The Paraguayan tax authority may require a taxable person to use special books, sales and purchase books, records or forms of accounting for VAT purposes, according to the category of the taxable person. This would only be required to be submitted where the tax authorities request this from a taxable person, which can be done by the tax authorities on demand. The tax authorities may also request copies of invoices from certain suppliers.

Correcting errors in previous returns. The tax law and regulations allow the presentation of a tax return amendment in case of errors or omissions. This presentation must be done online through the tax administration's system [www.set.gov.pyunder (*Sistema Marangatú*)] with an additional tax return that must be used in case of amendments.

Digital tax administration. There are no transactional reporting requirements in Paraguay.

J. Penalties

Penalties for late registration. Penalties are assessed for late registration for VAT. In addition, fines and interest are also applicable if the taxable person owes VAT. The penalty for late registration is approximately USD7.

Penalties for late payment and filings. A default penalty is charged on late payments of VAT. The penalty begins at 4% of the tax due and increases by 2% per month, up to a maximum of 14% (charged for a delay of more than five months). In addition to the default penalty, monthly interest is charged on unpaid tax at a rate of 1.5% per month, calculated on a daily basis.

Penalties for errors. Omission of payments is equivalent to 50% of the whole tax unpaid.

The penalties for late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details are approximately USD7. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A taxable person who intends to achieve an unlawful gain is deemed to commit fraud. Fraud is punished with a fine equal to one to three times the amount of the tax amount related to the fraud or the intention to defraud.

Penalties for severe cases of nonpayment of VAT, infringement of VAT regulations and fraud include criminal sanctions, such as fines and imprisonment.

Personal liability for company officers. In the case that the taxable persons correct any errors or omissions through the corresponding tax return amendment, the representative (for example directors, managers, etc.) cannot be held personally liable.

Statute of limitations. The statute of limitations in Paraguay is five years. This starts from 1 January of the following year from when the tax must be paid. A taxable person can voluntarily correct and pay previous VAT returns for the non-prescribed period (until five years) or prescribed period (more than five years). In this last case, it the taxable person who decides.

Peru

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto General a las Ventas (IGV)
Date introduced	1 August 1991
Trading bloc membership	Andean Community
Administered by	General Tax and Customs Administration (SUNAT) (http://www.sunat.gob.pe)
VAT rates	
Standard	18%
Reduced	10%
Other	Exempt
VAT number format	11-digit taxpayer identification number (RUC)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The sale of movable property in Peru
- The provision of services in Peru
- The use of services in Peru rendered by non-established businesses
- Construction contracts
- The first sale of real property by the builder
- The importation of goods from outside Peru, regardless of the status of the importer

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Peru, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Peru. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Peru, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A taxable person is any business entity that performs any taxable transaction in the course of doing business in Peru. In addition, individuals are liable to VAT if they perform such activities on a "habitual" basis. The Peruvian VAT law does not define "habitual" for transactions performed by individuals; the nature, amount and frequency of the operations must be considered.

No registration threshold applies. The definition of a taxable person applies to branches, agencies and other permanent establishments of a foreign business in Peru.

Exemption from registration. The VAT Act in Peru does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Peru does not contain any provision for voluntary VAT registration or special VAT registration rules for small businesses.

Group registration. Group VAT registration is not allowed in Peru.

Fixed establishment. An entity qualifies as a permanent establishment if the conditions stipulated on 14-B Article of Peruvian Income Tax Law are verified. In general terms, the following cases qualify as a permanent establishment:
- Any fixed place of business through which a company incorporated abroad conducts its business
- Construction projects or similar only if such project continues for more than 183 days within any 12-month period, unless a shorter period has been established in the Double Taxation Avoidance Agreements
- The furnishing of services when they are carried out in the country for the same project for more than 183 days within any 12-month period, unless a shorter period has been established in the Double Taxation Avoidance Agreements
- When a person is acting on behalf of an enterprise incorporated abroad and has, and habitually exercises, an authority to conclude contracts on behalf of such enterprise

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Peru. A non-established business must register for VAT if it performs any of the taxable transactions, such as the sale of movable goods or the provision of services in Peru.

Tax representatives. Any person may be appointed by the company's legal representative to represent the taxable person before the tax administration. For that purpose, the company's legal representative must be registered before the tax administration.

Reverse charge. The reverse charge applies to the import of goods and the use of services rendered by non-established businesses in Peru. Under this mechanism, the importer of goods and the resident user of services is charged with an output tax. This VAT is recoverable by taxable persons as a credit against future output tax charges from the following month of its payment.

Domestic reverse charge. There are no domestic reverse charges in Peru.

Digital economy. For business-to-business (B2B) transactions, the digital service charged to a local taxable person by a non-established business is subject to VAT under the reverse-charge mechanism. Under this mechanism, the local customer accounts for output tax (18%) on the value of the digital service payment, and in the following month the customer may recover this VAT as a credit against output tax. The non-established business is not required to register and account for VAT in Peru or register in any local registry for services provided from abroad.

The sale of intangible goods is subject to VAT if it is performed within Peru. According to Peruvian legislation, it is understood that a sale of intangible goods is performed within Peru when the buyer and the seller are domiciled entities.

For business-to-consumer (B2C) transactions, the operation is not subject to VAT in Peru, provided that the consumer doesn't perform taxable VAT activities on an "habitual" basis. To date, there is no procedure for individuals to pay VAT on B2C transactions (rendered by nonresident entities).

It should be noted that on 4 August 2022, Law No. 31543 was published, which establishes that individuals located in Peruvian territory may acquire certain goods in the Tacna free trade and commercial zone through e-commerce without being taxed with VAT, the municipal promotion tax, and the selective consumption tax (ISC). This regulation is in place until 31 December 2027.

There are no other specific e-commerce rules for imported goods in Peru.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Peru.

Registration procedures. To register for VAT in Peru, a tax identification number (*Registro Unico de Contribuyente* or RUC) must be obtained before SUNAT. To do so, the tax representative must complete the Form 2119 and provide an identification document, as well as the company's electronic record, provided by the Peruvian Public Registry and any document to accredit its residence. The registration process can be done: (i) online (only for individuals) by using the app "Personas SUNAT," (ii) in person at the offices of the Peruvian Tax Administration or (iii) through the Virtual Reception Desk (MPV-SUNAT).

Deregistration. Under Peruvian tax legislation, there is no VAT registration as such. However, taxpayers must register in a "Taxpayer Register" (in Spanish, RUC) in order to be able to comply with its tax obligations before the tax administration (e.g., obtaining a tax ID, filing of tax returns and payment of taxes).

In that sense, when a company stops its business operations in Peru (e.g., due to a transfer of business, bankruptcy), it must request before the tax administration the cancellation of its registration in the RUC. The tax administration will approve the cancellation of the taxable person's

register in the RUC. However, it is important to mention that this situation does not release the taxable person from complying with other tax obligations that might be applicable.

In addition, according to VAT law, a company that stops its business cannot claim any refund of the remaining input tax.

Changes to VAT registration details. Under Peruvian tax legislation, there is no VAT registration as such. However, taxable persons must communicate any change in the data contained in their RUC (e.g., address, business name). In case they do not comply with this obligation, they may be sanctioned by the Peruvian Tax Administration. The deadline for communicating the change of tax domicile is one working day. The deadline for modifying or updating other data registered in the RUC is five working days after the events.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 18%
- Reduced rate: 10%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for an exemption.

The government has reduced the standard VAT rate from 18% to 8% from 13 August 2022 to 31 December 2024, which applies to taxable persons that meet certain requirements. Law 31556 temporarily reduces the VAT rate from 16% to 8% for certain supplies. This results in an effective tax rate for such supplies of 10% (comprised of the reduced 8% VAT rate plus the 2% promotion municipal tax). The reduced VAT rate (10%) objective is to support the economic reactivation of restaurants, hotels and tourist accommodations, which is in force from 1 September 2022 to 31 December 2024.

The following requirements must be met to apply the reduced VAT:
- The taxable persons must be individuals or legal entities that obtain corporate income and are subject to VAT
- The taxable persons must qualify as micro and small companies in accordance with the Promotion of Productive Development and Business Growth Law
- Companies that are not part of an economic group that together do not meet such characteristics, have economic ties with other companies or national or foreign economic groups
- Their main activity, which represents at least 70% of their income, must be related to restaurants, hotels and tourist lodging

Examples of goods and services taxable at 10%
- Accommodation services (hotels and tourist accommodation)
- Restaurants (food and beverage sales)
- Catering services (provision of goods and drinks services)
- Food concessionaries

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services
- Fruits and vegetables
- Educational services
- Public transportation
- Exports of goods

Option to tax for exempt supplies. It is possible to waive exemption of VAT for the sale and importation of goods listed in Appendix I of the Peruvian VAT law (which principally includes some animals, fruits and vegetables), but not for the provision of services. In this regard, the taxable person must communicate its decision to the tax administration and comply with all the requirements and conditions laid down. This request comprises all the exempt goods, not specific categories or goods. After the tax administration is notified, it has 45 days to approve or deny the request. Should the request be approved, the VAT will be applicable as of the first day of the month after the request is approved. The election to waive exemption is definitive.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The following are the rules for determining the basic time of supply for goods and services:

- Sale of movable property within the country: when the goods are delivered or when the invoice (or payment voucher) is issued or should be issued, whichever is earlier
- Provision of services in the country: when the invoice (or payment voucher) is issued or should be issued or when the payment is made, whichever is earlier
- Use of services in the country rendered by non-established businesses: when the invoice (or payment voucher) is registered in the domiciled taxable person's accounting records or when the payment is made, whichever is earlier
- Construction contracts: when the invoice (or payment voucher) is issued or should be issued or when the payment is totally or partially made, whichever is earlier
- First sale of real property sold by the builder: when the payment is either totally or partially made

The following are the rules for determining the time of issuing invoices:

- Sale of movable property within the country: when the goods are delivered or when the payment is made, whichever is earlier
- Provision of services in the country: when the service has concluded, when the payment is partially or totally made or when the deadline established for the payment of the services has expired, whichever is earlier
- Construction contracts: when the payment is totally or partially made
- First sale of real property sold by the builder: when the payment is totally or partially made

Deposits and prepayments. In general terms, prepayments related to taxable transactions are subject to VAT (there are some exceptions, such as guarantees that do not exceed the 3% value). Thus, partial payments received in advance to the delivery of goods are subject to VAT on the date of the transaction and for the amount of the partial payment.

Continuous supplies of services. There are no special time of supply rules in Peru for supplies of continuous supplies of services. As such, therefore the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Peru for supplies of goods sent on approval for sale or return. As such, therefore the general time of supply rules apply (as outlined above).

Reverse-charge services. The reverse charge applies to the import of goods and the use of services rendered by non-established businesses in Peru. The time of supply for the supply of reverse-charge services is the following:

- For the import of goods, on the date they are requested to be released for consumption
- For services provided by non-established businesses, on the date when the proof of payment is recorded in the purchase register or on the date when the remuneration is paid, whichever occurs first

Leased assets. There are no special time of supply rules in Peru for supplies of leased assets. As such, therefore the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for the import of goods is either when goods clear customs or when the goods leave a duty suspension regime. In the case of the import of intangible goods, the time of supply is when the payment is either totally or partially made or when the invoice (or payment voucher) is registered in the domiciled taxable person's accounting records, whichever is earlier.

F. Recovery of VAT by taxable persons

For all the transactions listed in *Section B*, VAT payable is determined on a monthly basis by deducting from the gross tax (output tax) the corresponding VAT credit (input tax).

There is no set time limit for a taxable person to reclaim input tax in Peru. This means that, effectively, the input tax (VAT credit) may be carried forward indefinitely until its complete recovery. The input tax that is not applied for the monthly determination of VAT (output tax minus input tax) can be carried forward to the following months until it is exhausted. The exception to this is acquisitions taxed with VAT that are destined to goods and services export (i.e., sale of goods and services). See the subsection *Exporters* below.

VAT paid on imports of goods or the use of services in the country must be paid directly to the tax administration. For such supplies, VAT payable equals the gross tax and no deduction for VAT credit is allowed. After the VAT is paid, it may be used as VAT credit. As a result, a financial cost may be incurred for the time period beginning with the date of payment and ending on the date on which the VAT credit is used to offset the gross tax on the transactions listed in *Section B.*

The gross tax corresponding to each taxable operation is determined by applying the VAT rate of 18% to the tax base (for example, the value of goods and services or the value of construction contracts). The VAT credit consists of the VAT separately itemized in the payment voucher (or corresponding document) relating to any of the activities listed in *Section B.*

The following are requirements for the use of the VAT credit:
- The acquisition cost is allowed as an expense or cost for income tax purposes, and the acquisition is intended for operations in which the obligation to pay the VAT will arise
- The tax must be stated separately in the payment voucher, and the payment voucher must be completed according to applicable law and registered in the purchase book appropriately

Exporters. Exporters are reimbursed for any VAT paid on the acquisition of goods and services. Exporters can apply such reimbursement as a credit to offset VAT or income tax liabilities. Any balance may be refunded by the tax administration.

General and enhanced early recovery systems. The law provides for a general and enhanced early recovery system for enterprises performing productive activities.

Under the general system, which applies to all productive companies in a preoperative stage, the VAT paid on the acquisition of capital goods is reimbursed through negotiable credit notes.

The early recovery VAT system allows an early recovery of the VAT credit with respect to acquisitions of goods and services, construction contracts, importations and other transactions without having to wait to recover such amount from a client when the corresponding invoice for sales of goods, services or construction contracts, including VAT, is issued to the client.

This regime provides relief of the financial costs (cost of money) with respect to projects that have a significant preoperative stage and if advance invoices transferring the VAT burden cannot be issued periodically to the client.

The enhanced system is restricted to companies that satisfy the following conditions:
- They must file a sworn statement describing its investment project and features, detailing the equipment and services under the project
- They make a minimum investment commitment of USD2 million to projects with a preoperative stage of at least two years as of 31 December 2024; after that, the minimum investment commitment amount will be USD5 million, except for investments to be made in the agricultural sector, which is exempt from this requirement.

Under the enhanced system, VAT paid on construction contracts and on the acquisition of new capital goods and intermediate goods and services can be recovered through negotiable credit notes filed on a monthly basis and taxable persons can request the VAT accumulated for up to six months. The negotiable credit notes can be exchanged by check as requested by the beneficiary. The use of one system does not preclude using the other system for different items.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur). If expenditure relates to both business and nonbusiness activities, only the portion related to the business may be recovered. In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Personal expenses

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising and sponsorship
- Business gifts, if the value does not exceed 0.5% of the taxable person's annual gross revenues, with a maximum limit of 40 tax units, equivalent to PEN198,000 (USD51,360) based on the tax unit approved for year 2023, PEN4,950 (USD1,284)
- Business entertainment expenses, if the value does not exceed 0.5% of the taxable person's annual gross revenues, with a maximum of 40 tax units equivalent to PEN198,000 (USD51,360) based on the tax unit approved for year 2023, PEN4,950 (USD1,284)
- Mobile phones
- Parking
- Fuel
- Taxis
- Travel expenses

Partial exemption. If a taxable person makes both taxable and nontaxable transactions, it may not deduct input tax in full, from output tax. It may deduct only the amount of input tax related to the goods and services used in taxable transactions. For this purpose, taxable persons must maintain separate accounts for taxable and nontaxable transactions, as well as for the services and goods purchased for conducting such transactions. If it is not possible, the amount of input tax subject to deduction in each reporting period must be prorated based on a procedure established by the Regulations of the VAT law.

Approval from the tax authorities is not required to use the partial exemption standard method in Peru. Special methods are not allowed in Peru.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. VAT paid on the acquisition of capital goods may be used as a tax credit (i.e., input tax). A tax credit arising from the acquisition of capital goods may be offset with debit VAT (i.e., output tax) in the month in which capital goods are acquired.

Refunds. If the amount of input tax (i.e., credit VAT) recoverable in a month exceeds the amount of output tax (i.e., debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period. The referred amount may be applied as credit VAT in the following months until it is used up.

Pre-registration costs. Input tax incurred on pre-registration costs in Peru is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Peru.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Peru.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Peru is not recoverable.

Tourists refund scheme. Under Peruvian VAT law, reimbursement of the VAT paid when acquiring goods is allowed if the purchaser is a nonresident tourist who remains within Peru between two and 60 calendar days, and the acquired goods are taken abroad by the nonresident tourist. The nonresident tourist must request the reimbursement when leaving the country and satisfy all requirements in the VAT law and its regulations.

H. Invoicing

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

Credit notes. A VAT credit note may be used to reduce the VAT charged on a supply of goods and services in certain circumstances (e.g,. for rebates, trade discounts, bonuses, returned goods or errant charges). A credit note must refer to the VAT invoice for the original transaction and contain the same basic information.

Electronic invoicing. Electronic invoicing is mandatory in Peru for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Peru. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Peru. The requirements related to electronic invoicing are the same as those for paper invoicing.

Peruvian taxable persons are required to issue electronic invoices for transactions involving the transfer of goods, provision of services and the use of goods. To do so, they can use an electronic issuance system such as the Taxpayer Electronic Issuance System, the SOL Electronic Issuance System, the Supervised Company Electronic Issuance System, among others. The specific obligations for issuance will vary depending on the chosen system.

The same rules for electronic invoicing also apply for other tax documents, such as debit notes and credit notes, among others. The implementation of electronic invoicing took effect from June 2022 for all taxable persons. There are some exceptions from this mandatory requirement for taxable persons whose transactions are carried out in geographical areas without mobile data connection and for new taxable persons registered in the RUC during their first two months.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Peru. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Peru.

Proof of exports. Exported goods and services are exempt from Peruvian VAT. For a service to qualify as an export, it must meet the following requirements:

- It is provided for a consideration from another country, which must be demonstrated with the payment receipt issued and recorded in the sales and income register
- The exporter is a resident taxable person in Peru
- The user or beneficiary of the service is an individual nonresident in Peru
- The use or exploitation of the services provided to the nonresident takes place abroad
- The exporter of services must be previously registered in the Register of Exporters of Services of the Tax Administration (*Superintendencia Nacional de Aduanas y de Administración Tributaria* or SUNAT)

Also, there is a list of operations that qualify as exports, even when they do not meet the above requirements. These operations include the sale of goods, national or nationalized, to establishments located in an international zone of ports or airports; transportation services for passengers or merchandise rendered by national shipping companies within the country to abroad; and the air cargo transportation services carried out within the country to abroad.

For exports of goods, the sale must be performed from a resident in Peru to a nonresident, and the customs documents must provide evidence that the goods have left the country.

Exporters may recover VAT paid on the acquisition of goods and services. Exporters may apply to be reimbursed for VAT paid through credit notes. Credit notes may be used to offset either output tax or income tax liabilities.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, the value must be converted to the domestic currency, which is the Peruvian sol (PEN), to be registered in the Purchase Book, using the sales exchange rate in force according to the time of supply for each transaction

Supplies to nontaxable persons. There are no special rules in Peru for invoices for supplies to nontaxable persons. As such, therefore full VAT invoices are required.

Records. In Peru, examples of what records that must be held for VAT purposes include purchase and sales registers to record their acquisitions and sales transactions.

In Peru, VAT books and records can be held outside of the country. However, there are technically no rules that establish the place in which the taxable person's records must be kept. Likewise, there is no express prohibition to hold the records abroad. As such, both options can be used in practice. However, the legalization of the records in Peru is required before their use.

Record retention period. Taxable persons must store, archive and keep the purchase and sales registers for five years or during the statutory period of limitation for taxes.

Electronic archiving. Electronic archiving is allowed in Peru. The tax administration has progressively implemented the obligation of taxable persons of keeping electronic accounting books and registers for a five-year period or the statutory period of limitation.

I. Returns and payment

Periodic returns. VAT returns must be submitted monthly. Taxable persons must fulfill their tax obligations between the 7th business day and the 16th business day of the month following the date on which the tax obligation arises. Note that there are no specific dates for the VAT filing return or payment deadline. The exact deadline dates are established by tax authorities annually.

Periodic payments. The filing return and payment of VAT is done on a monthly basis in accordance with the maximum due dates established by the Peruvian Tax Administration, based on the last digit of the tax identification number (RUC). Return liabilities must be paid in PEN.

VAT withholding systems must be applied in certain transactions (supply of certain goods and services). Those systems imply an advanced collection of the tax and were designed by the tax administration to prevent tax evasion.

The payment of VAT may be done online by SUNAT Virtual webpage, by debit to an affiliated bank account of an authorized bank, by credit or debit card, by debit on the Obligatory Payment System (SPOT) account opened in the Peruvian National Bank or in person at any of the offices of the authorized banks.

SPOT is applicable to the sale of specific goods and the provision of services that fall under Peruvian VAT. The primary objective of SPOT is to generate funds that allow the VAT payer to meet their tax obligations.

On the other hand, the VAT perception system is applied to the sale of specific goods within the country, including mixed oil gas, carbon dioxide, among others. In this system, perception agents, who are appointed in advance by the Peruvian Tax Administration, are required to withhold a predetermined amount of VAT that will be generated by their customers in future transactions involving these goods. The perception rates are 0.5% and 2%.

The import of goods is also subject to this VAT perception system, wherein the tax is determined by applying a percentage to the CIF customs value plus all taxes levied on the import and other surcharges, where applicable. The applicable tax rate is 3.5%, 5% or 10%, depending on the situation of the importer and/or the goods to be cleared through customs. Like VAT, the amount paid may be used by the importer as a tax credit. However, there are certain cases in which prepaid VAT does not need to be paid; for example, when the import is performed by VAT withholding agents or in the case of certain goods from the system.

Electronic filing. Electronic filing is mandatory in Peru for all taxable persons. VAT returns should be submitted monthly using the Virtual Program No. 00621.Taxable persons use the electronic account known as "CLAVE SOL" (http://www.sunat.gob.pe/) to submit returns. Once the RUC is obtained, the tax administration provides each taxable person the ID and password for CLAVE SOL.

Payments on account. Payments on account are not required in Peru.

Special schemes. No special schemes are available in Peru.

Annual returns. Annual returns are not required in Peru.

Supplementary filings. No supplementary filings are required in Peru.

Correcting errors in previous returns. To correct any errors filed in previous returns, the taxable person must file a rectifying tax return with the correct information online by SUNAT Virtual webpage (tax ID and password are required), using the Virtual Program No. 0621.

The rectifying tax return will be effective immediately after it is filed if the tax obligation determined is equal or greater than the previous tax return. If the tax obligation is less than the previous tax return, the rectifying tax return will be effective within 45 business days after it was filed, and the tax administration does not issue any observation on the veracity and accuracy of the information contained therein.

Digital tax administration. *Sales book.* Taxable persons are obliged to file periodic reports (sales book or *Registro de Ventas*) detailing their electronic invoices issued and account books to the tax administration.

From 1 January 2024 (with specific exceptions), the Peruvian Tax Administration has mandated the use of the Integrated Electronic Records System (SIRE, for its Spanish acronym). It is a digital platform implemented to facilitate the generation of the Purchase Book and the Sales Book from electronic invoicing.

J. Penalties

Penalties for late registration. If taxable persons do not follow the registration procedures, there is a penalty of one tax reference unit (UIT), equivalent to PEN4,950 (USD1,284) based on the tax unit approved for year 2023.

Penalties for late payment and filings. No penalties apply in Peru for late payment of VAT. However, interest will be charged for the unpaid taxes (at a monthly rate of 0.9%). For the late filing of the VAT return, there is a penalty of one UIT, equivalent to PEN4,950 (USD1,284) based on the tax unit approved for year 2023.

Penalties for errors. The penalty for failure to include taxable transactions in the VAT return is 50% of the omitted tax if an amount of VAT is payable. Interest is charged at a monthly rate of 0.9% on late payments or underpayments of VAT. This fine can be reduced by up to 95% under certain conditions.

Some penalties may arise if any omitted tax is determined after the filing of the new tax return.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. However, a taxable person must ensure that the information provided to the tax authorities is correct and updated within the specified time periods. If a taxable person does not meet this obligation, it will commit the infraction stated on numeral 5 of the Article 173 of Tax Code. For further details, see the subsection *Changes to VAT registration details* above.

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

Personal liability for company officers. Legal representatives (i.e., company officers and directors and others designated by the legal entities) are considered jointly and several liable for the nonpayment of taxes, only when due to fraud, gross negligence or abuse of powers.

Statute of limitations. The statute of limitations in Peru is four to 10 years. The action of the tax authorities to determine the tax obligation, as well as the action to demand its payment and apply sanctions, prescribes after four years and after six years for those who have not presented the respective declaration. Said actions expire after 10 years when the VAT withholding, or perception agent has not paid the tax received.

The statute of limitations is calculated from 1 January following the date on which the tax obligation is due.

On the other hand, the action to request or effectuate the setoff, as well as the request in return the amounts paid unduly or in excess, and prescribes after four years, calculated from 1 January following the date on which the right to request in return said amounts has begun.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 1988
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	Department of Finance's Bureau of Internal Revenue (BIR) (http://www.dof.gov.ph or http://www.bir.gov.ph)
VAT rates	
Standard	12%
Other	Zero-rated (0%) and exempt
VAT number format	
VAT-registered person	Nine-digit tax identification number (TIN)
Branch office	Head office's nine-digit TIN, plus a three-digit branch code
VAT return periods	Monthly VAT declarations; monthly or quarterly VAT returns
Thresholds	
Registration	PHP3 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The taxable sale, barter, exchange, use or lease of goods or property by a taxable person
- The taxable sale or exchange of services by a taxable person *(see below)*
- The taxable importation of goods from outside the Philippines
- Deemed sale transactions *(see below)*

The taxable sale or exchange of services includes the following:
- Lease or use of a copyright, patent design or model, plan, secret formula or process, goodwill, trademark, trade brand or other similar property
- Lease or use of industrial, commercial or scientific equipment
- Supply of scientific, technical, industrial or commercial knowledge or information
- Supply of assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of industrial, commercial or scientific equipment or scientific, technical, industrial or commercial knowledge or information
- Supply of services by a non-established business or its employee with respect to the use of property or rights belonging to the nonresident, or the installation or operation of a brand, machinery or other apparatus purchased from such nonresident
- Supply of technical advice, assistance or services rendered with respect to the technical management or administration of a scientific, industrial or commercial undertaking, venture, project or scheme
- Lease of motion picture, other films, tapes and discs
- Lease or use of or the right to use radio, television, satellite transmission and cable television time

VAT applies to deemed sale transactions such as the following:
- Transfer, use or consumption not in the course of business of goods or property originally intended for sale or use in the course of business
- Distribution or transfer to shareholders or investors as a share in the profits of a taxable person or to creditors in payment of debt
- Consignment of goods if an actual sale is not made within 60 days following the date such goods were consigned
- Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In the Philippines, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in the Philippines. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In the Philippines, for a transaction between related parties, the value for VAT purposes is calculated at the arm's-length principle. This is deemed the most appropriate standard to determine transfer prices of related parties.

C. Who is liable

A taxable person is any individual, trust, estate, partnership, corporation, joint venture, cooperative or association that carries out any of the following activities in the course of a trade or business:
- Sells, barters, exchanges or leases goods or property
- Renders services
- Imports goods

In addition, if the importer is exempt from tax, the purchaser, transferee or recipient of imported goods is liable for VAT, regardless of whether such person is a registered taxable person.

Non-established businesses that perform services in the Philippines are deemed to be making sales in the course of a trade or business even if the services are not performed on a regular basis.

In general, a taxable person with gross sales or receipts that have exceeded or that are expected to exceed PHP3 million over a 12-month period must register as a taxable person.

A radio or TV broadcasting franchisee must register if its gross annual receipts from the franchise exceeded PHP10 million in the preceding calendar year.

A professional person is liable for 12% VAT if its gross receipts or fees for the previous 12 months exceed PHP3 million or will exceed this amount in the next 12 months. A professional that is not registered for VAT is liable for the percentage tax at a rate of 3% if its gross receipts for the previous 12 months were equal to or less than this threshold.

Exemption from registration. The VAT law in the Philippines does not contain any provision for exemption from registration.

Voluntary registration and small businesses. It is possible for a taxable person that is otherwise generally not required to register for VAT to become VAT-registered on a voluntary basis.

Any person who elects to register under optional VAT registration shall not be allowed to cancel VAT registration for the next three years.

VAT registration is optional for the following persons:
- A VAT-exempt person with gross sales or receipts that do not exceed PHP3 million.
- A radio or television broadcasting franchisee with gross annual receipts from the franchise that did not exceed PHP10 million in the preceding calendar year.

A taxable person with mixed transactions may opt for VAT to apply to its otherwise VAT-exempt transactions.

The following persons must register as non-VAT persons:
- A VAT-exempt person that is not registered as a taxable person
- An individual engaged in business with gross sales or receipts of PHP3 million or less in a 12-month period
- Nonstock, nonprofit organizations or associations engaged in trade or business with gross sales or receipts of PHP3 million or less in a 12-month period
- Cooperatives, except electric cooperatives
- Radio and television broadcasters with gross annual receipts of PHP10 million or less that do not opt to be registered for VAT
- Enterprises registered with the Philippine Economic Zone Authority (PEZA) and other economic zones or investment promotion agencies (IPAs) that enjoy a preferential tax rate of 5% instead of paying all taxes
- Enterprises registered with the Subic Bay Metropolitan Authority (SBMA) or with other free port zones that enjoy a preferential tax rate of 5% instead of paying all taxes

Group registration. Group VAT registration is not allowed in the Philippines.

Fixed establishment. In the Philippines there is no legal definition of a fixed establishment for VAT purposes. However, a fixed or permanent establishment (as defined under several tax treaties) refers to a fixed place of business in which the business of the enterprise is wholly or partly carried on. Note only transactions transpired in the Philippines will be subject to VAT following the situs of taxation rule.

Non-established businesses. A foreign non-established business (or foreign nonresident not engaged in trade or business in the Philippines) is a foreign business that does not have a branch, headquarters or permanent establishment in the Philippines. A foreign non-established business is subject to VAT for services rendered in the Philippines via a withholding process, but it is not required to register for VAT purposes.

Tax representatives. A foreign non-established business is not required to appoint a tax representative in the Philippines. Any resident who deals with a non-established business and who has control over payment for the supply must act as the VAT withholding agent.

Reverse charge. Under the reverse-charge provision, a taxable person that receives a supply of goods or services must withhold the VAT due from the supplier and pay the VAT. The reverse charge applies in the circumstances described below.

Withholding tax. A resident must withhold 12% VAT before paying to a nonresident or foreign non-established business the consideration for a nonresident's lease of properties or for property rights or services rendered in the Philippines. A VAT-registered withholding agent may claim the VAT withheld by it as input tax on its own VAT return, subject to the rule on allocation of input tax among taxable, zero-rated and exempt sales (see *Section F. Recovery of VAT by taxable persons*). If the withholding agent is a non-VAT taxable person, the VAT paid forms part of the cost of the purchased services and may be treated either as an asset or as an expense, in accordance with general accounting principles.

Under the Tax Reform for Acceleration and Inclusion (TRAIN), payments for purchases of goods and services arising from projects funded by Official Development Assistance (ODA) as defined under Republic Act No. 8182, the "Official Development Assistance Act of 1996," as amended, shall not be subject to the final withholding tax system as imposed in this subsection.

Before paying for each taxable (i.e., local) purchase of goods or services, the government must deduct and withhold a final VAT of 5% representing the net VAT payable by the seller, on account of its purchases of goods or services subject to VAT. Under the TRAIN, beginning 1 January 2021, the VAT withholding system shall shift from final to a creditable system. The remaining 7% is the standard input tax (see *Section F. Recovery of VAT by taxable persons*) for sales of goods or services to the government, instead of the actual input tax directly attributable or apportioned to these sales. If the actual input tax exceeds 7% of the gross payment, the excess may form part of the seller's expense or cost. If the actual input tax is less than 7% of the gross payment, the difference must be treated as an expense or cost.

Domestic reverse charge. There are no domestic reverse charges in the Philippines.

Digital economy. The Philippine House of Representatives introduced House Bill (HB) No. 4122, "Imposing Value-Added Tax on Digital Transactions in the Philippines." Similarly, the Philippine Senate produced its own version, which is Senate Bill (SB) No. 250 with the same title. Under both HB No. 4122 and SB No. 250, any nonresident digital service provider who, in the course of trade or business engages in the sale or exchange of digital services is required to register or account for VAT in the Philippines, provided that their gross sales or receipts of such digital service business for the past 12 months before the date of filing of VAT return, other than those that are exempt from VAT, have exceeded PHP3 million. A VAT-registered nonresident digital

service provider may issue an electronic invoice or receipt in compliance with the invoicing requirements under the Tax Code.

At the time of preparing this chapter, HB No. 4122 has been approved by the House of Representatives, while SB No. 250 has been approved by the Senate. Both bills were referred to the other chamber for further deliberation. Once the final version of the bills is approved by both chambers, it will be recommended to the president for signing into law.

There are no other specific e-commerce rules for imported goods in the Philippines.

Online marketplaces and platforms. Persons who conduct business through online transactions (i.e., online shopping or online retailing, online intermediary service, online advertisement/classified ads and/or online auction) are required to register the business at the Revenue District Office having jurisdiction over the principal place of business/head office (or residence in case of individuals) and comply with other registration requirements. The existing laws and revenue issuances on the tax treatment of purchases (local or imported) and sale (local or international) of goods (tangible or intangible) or services shall be equally applied with no distinction whether the marketing channel is the internet/digital media or the typical and customary medium. Failure to comply with the applicable registration requirements may trigger penal provisions.

The online merchant or retailer is required among others to issue a registered invoice or receipt, either manually or electronically, for every sale, barter, exchange or lease of goods and services. If the customer pays through an online intermediary who controls the collections/payments of customers or markets products/services for its own account and thus considered the retailer/merchant, they are required to issue the invoice/official receipt for the full amount of the sale to the customer.

Payment gateways such as banks, credit card companies, financial institution and bill paying services are obliged to issue validated bank deposit slips or payment confirmations in the name of the merchant-seller. Freight forwarders and online website administrators are likewise obliged to issue, either electronically or manually, the Department of Finance's Bureau of Internal Revenue (BIR) registered official receipt for the service fees paid by the merchant or advertisers.

As outlined above, HB No. 4122 and SB No. 250 aim to impose VAT (at the standard rate at 12%) on digital advertising services or sale of goods using an electronic commerce platform, services rendered electronically or through subscription-based services, as well as imposing VAT on digital service providers.

Registration procedures. A new taxable person must file an application for registration as a VAT-registered taxable person. Corporations and partnerships must file BIR Form No. 1903 (Application for Registration) or BIR Form No. 1905 (Application for Registration Information Update) and physically file it with the Revenue District Office (RDO) having jurisdiction at the place where the head office and branch is located together with the required attachments on or before the first sale transaction. New taxable persons are required to pay an annual registration fee of PHP500 at the Authorized Agent Banks (AABs) of the concerned RDO and submit the requirements for the authority to print (ATP) principal and supplementary receipts/invoices and registration of books of accounts. As soon as all the requirements are submitted, the RDO will issue the Certificate of Registration (Form 2303).

Registration of a business, the issuance of an electronic certificate of registration (COR), ATP, application for an ATP or use of BIR-printed receipts/invoices (BPR/BPI)/employer account enrollent to facilitate the TIN issuance of employees/registration of book of accounts are now required to be done under the online registration and update system (ORUS).

ORUS has also the following new features: online payment of annual registration fee for new business registrants/online verification of taxpayer identification number (TIN)/BIR-registered

business search facility and online inquiry of registration fee payment for BIR internal users and business registration such as registration of a new branch/facility and also updating of registered information.

Deregistration. A taxable person may cancel its registration for VAT in any of the following circumstances:
- The taxable person's written application to the Commissioner of Internal Revenue (CIR) satisfactorily shows that its gross sales or receipts for the following 12 months (other than those that are exempt) will not exceed PHP3 million.
- The person has ceased to carry on its trade or business and does not expect to recommence any trade or business in the next 12 months.
- A change of ownership in a single proprietorship occurs.
- A partnership or corporation is dissolved.
- A merger or consolidation of a dissolved corporation occurs.
- The person registers before a planned business commencement but fails to start its business.

Changes to VAT registration details. In case there has been a change in the taxable person's VAT registration details, it is their obligation to update their record with the BIR District Office where their business is registered by filing a duly accomplished BIR Form No. 1905, specifying therein any change in tax type and other taxable persons' details. No specific time limit applies for such notification. Once fully implemented, updates to a taxable person's VAT registration details may be done online through the BIR ORUS.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

A taxable person that makes zero-rated transactions may use the input tax as credit against VAT liability, or it may file a claim for a refund or apply for a tax credit certificate (TCC).

Examples of goods and services taxable at 0%

- Export sales, including the following:
  - Sales of goods exported from the Philippines to a foreign country
  - Sales of raw materials or packaging materials to a nonresident buyer for delivery to a resident exporter for manufacturing, processing, packing or repacking the buyer's goods in the Philippines
  - Sales of raw materials or packaging materials supplied to an exporter with export sales exceeding 70% of its annual production. Under the TRAIN, the second and third items will be converted into a regular VAT-able transaction (12% tax rate) upon satisfaction of the following conditions:
    (a) The successful establishment and implementation of an enhanced VAT refund system that grants refunds of creditable input tax within ninety (90) days from the filing of the VAT refund application with the Bureau.
- Sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations: provided that the goods, supplies, equipment and fuel shall be used for international shipping or air transport operations

- Services other than processing, manufacturing or repacking goods rendered to a person engaged in business conducted outside the Philippines or to a non-established business not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)
- Transport of passengers and cargo by domestic air or sea vessels from the Philippines to a foreign country
- Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels
- Services rendered to persons engaged in international shipping or air transport operations, provided that these services shall be exclusive for international shipping or air transport operations
- Services of contractors or subcontractors in processing or manufacturing goods for exporters with export sales exceeding 70% of annual production
- Local sales of goods, properties and services by a taxable person to a person or entity that was granted indirect tax exemption under special laws or international agreements

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- The sale or import of the following items:
  - Agricultural or marine food products in their original state
  - Livestock or poultry used as, or for producing, foods for human consumption
  - Breeding stock and related genetic materials
  - Fertilizers, seeds, fingerlings, fish, prawn, livestock or poultry feeds and ingredients used for manufacturing finished feeds that are unfit for human consumption or ingredients that cannot be used for the production of products for human consumption as certified by the Food and Drug Administration (except specialty feeds for racehorses, fighting cocks, zoo animals or pets)
  - Drugs and medicines prescribed for diabetes, high cholesterol and hypertension from 1 January 2020
  - Drugs and medicines for cancer, mental illness, tuberculosis and kidney diseases from 1 January 2021 (certain COVID-19 medicines were previously included in the list of exempt drugs and medicines under this provision, ending 31 December 2023)
- Import of the following items:
  - Personal or household effects of residents returning from abroad or nonresident citizens coming to resettle in the Philippines if the items qualify for exemption from customs duties
  - Professional instruments and implements, tools of trade, occupation or employment, wearing apparel, domestic animals and personal and household effects belonging to persons coming to live in the Philippines or Filipinos or their families and descendants who are now residents or citizens of other countries (such parties hereinafter referred to as overseas Filipinos) in quantities and of the class suitable to the profession, rank or position of the persons importing said items, for their own use and not for barter or sale, accompanying such persons, or arriving within a reasonable time; the Bureau of Customs (BOC) upon the production of satisfactory evidence that such persons are actually coming to settle in the Philippines and that the goods are brought from their former place of abode, exempt such goods from payment of duties and taxes; vehicles, vessels, aircrafts, machineries and other similar goods for use in manufacture, shall not fall within this classification and shall therefore be subject to duties, taxes and other charges
- Services rendered by agricultural contract growers and milling for others of *palay* (unhusked rice) into rice, corn into grits and sugar cane into raw sugar
- Services subject to percentage taxes

- Domestic common carriers by land (which must be a holder of a valid and current Certificate of Public Convenience to be considered as such) for passenger transport (subject to percentage tax under Section 117 of the Tax Code)
- Garage keepers (subject to percentage tax under Section 117 of the Tax Code)
- International air or shipping carriers (subject to percentage tax under Section 118 of the Tax Code)
- Sales of gold to the Philippines Central Bank (Bangko Sentral ng Pilipinas or BSP)
- Radio or television broadcast franchisees with annual gross receipts of PHP10 million or less (subject to percentage tax under Section 119 of the Tax Code)
- Gas and water utilities' franchisees (subject to percentage tax under Section 119 of the Tax Code)
- Persons, companies and corporations (not cooperatives or associations) engaged in providing life insurance in the Philippines (subject to percentage tax under Section 123 of the Tax Code)
- Fire, marine or other insurance agents of foreign insurance companies (subject to percentage tax under Section 124 of the Tax Code)
- Proprietors or lessees or operators of cockpits, clubs, boxing, professional basketball, jai-alai and racetracks (subject to percentage tax under Section 125 of the Tax Code)
- Individual employees (services rendered by individuals pursuant to an employer-employee relationship)
- Providers for overseas dispatches, messages or conversations from the Philippines (subject to percentage tax under Section 120 of the Tax Code)
- Sales or exchanges of shares listed and traded at the local exchange or by initial public offering (subject to percentage tax under Section 127(B) of the Tax Code)
- Medical, dental, hospital and veterinary services, except those rendered by professionals
- Educational services of government or accredited private educational institutions
- Services rendered by regional, or area headquarters established in the Philippines by multinational corporations that act as supervisory, communications and coordinating center for their affiliates, subsidiaries or branches in the Asia-Pacific region and do not earn or derive income from the Philippines
- Transactions exempted under international agreements signed by the Philippines or under special laws
- Sales by agricultural cooperatives to members, sales of their produce to nonmembers and the import of direct farm inputs, equipment or spare parts for producing or processing farm produce
- Lending by credit or multi-purpose cooperatives
- Sales by nonagricultural or nonelectric or noncredit cooperatives if a member's capital contribution cap is PHP15,000
- Sales of the following real properties:
  - Real properties not primarily held for sale, lease or use in the ordinary course of trade or business
  - Low-cost housing, up to PHP750,000
  - Socialized housing, up to PHP450,000
  - Residential lots up to PHP1.5 million
  - Houses, lots and other residential dwellings, up to PHP2.5 million
- The lease of residential units for rent not exceeding: PHP15,000 a month
- The sale, import, printing or publication of books and newspapers or magazines appearing at regular intervals that have fixed sale prices and that are not devoted principally to publication of paid advertisements
- Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations
- Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations. As long as the fuel, goods and supplies are used for international shipping or air transport operations

- Services of banks, nonbank financial intermediaries performing quasi-banking functions and other nonbank financial intermediaries, such as money changers and pawnshops (subject to percentage tax under Section 122 of the tax code
- Sale or lease of goods or properties or services up to PHP3 million annually
- Transfer of property pursuant to Section 40(C)(2) of the Philippine Tax Code (i.e., tax-free exchanges of property, mergers and acquisitions)
- Sale of goods or services to "senior citizens," as defined under Republic Act (RA) No. 9994 or the Expanded Senior Citizens Act of 2010
- Sale of goods or services to persons with disability (PWD) under the Republic Act (RA) No. 10754 or the Act Expanding the Benefits and Privileges of Persons with Disability

Option to tax for exempt supplies. A VAT-registered person may elect exempt transactions to be subject to VAT at the standard rate. Once the election is made, it shall be irrevocable for a period of three years counted from the quarter when the election was made except for franchise grantees of radio and TV broadcasting whose annual gross receipts for the preceding year do not exceed PHP10 million where the option becomes perpetually irrevocable.

E. Time of supply

The time of supply or tax point is the time when the VAT becomes due. The following are the general rules for the time of supply:

- For importations – before the release of the goods (whether or not for business) from customs custody
- For the sale or deemed sale, barter or exchange of taxable goods or properties – at the time of the transaction, regardless of when actual payment is made
- For installment sales of real property – when each actual payment is made or at the constructive receipt date for each installment payment
- For the use or lease of property – when each actual payment is made or at the constructive receipt date for each installment payment
- For supplies of services – when each actual payment is made or at the constructive receipt date for each installment payment

Deposits and prepayments. In general, receipt of a deposit or prepayment creates a tax point if the amount is paid as part of the total payment for a particular supply.

If a prepayment constitutes a prepaid lease rental, it is taxable for the lessor in the month in which the payment is received. However, a security deposit is not subject to VAT until it is applied to the rental.

Continuous supplies of services. For continuous supplies of services, a tax point is created each time a payment is made.

Goods sent on approval for sale or return. Goods sent on approval are not subject to VAT until they are actually sold. If an actual sale of consigned goods is not made within 60 days after the date on which the goods were consigned, a sale is deemed to take place, unless the consigned goods are returned by the consignee within the 60-day period.

Reverse-charge services. The tax point for reverse-charge services is when the consideration is paid.

Leased assets. For supplies of leased assets, the time of supply is when each actual payment is made or at the consecutive receipt date for each installment payment.

Imported goods. VAT is imposed on goods brought into the Philippines, whether for use in business or not. It is based on the total value used by the BOC in determining tariff and customs duties, plus customs duties, excise tax, if any, and other charges imposed prior to the release of the goods from customs custody. If the valuation used by the BOC in computing customs duties

is based on volume or quantity of the imported goods, the landed cost shall be the basis for computing VAT. Landed cost consists of the invoice amount, customs duties, freight, insurance, other charges and excise tax, if any. The VAT on importation shall be paid by the importer prior to the release of such goods from customs custody.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on the person's import of goods or local purchases of goods or services (including property leases) from another taxable person, in the course of the person's trade or business. A taxable person may also recover input tax withheld from payment to a non-established business for taxable services (i.e., rendered within the Philippines), royalties and rentals. A taxable person generally recovers input tax by deducting it from output tax, which is the VAT charged on the sale or lease of taxable goods or properties or services. If at the end of the tax quarter, a taxable person's output tax exceeds input tax, the person must pay the excess. If input tax exceeds output tax, the excess is carried over to the next quarter or quarters.

There is no set time limit for a taxable person to reclaim input tax in the Philippines. This means that effectively the input tax (i.e., VAT credit) may be carried forward until its complete recovery.

If the input tax inclusive of input tax carried over from the previous quarter exceeds the output tax, the input tax inclusive of input tax carried over from the previous quarter that may be credited in every quarter shall not exceed 70% of the output tax. The excess input tax shall be carried over to the succeeding quarter or quarters.

Input tax related to certain transactions may be creditable against output tax if the tax paid is evidenced by a VAT invoice or official receipt issued by a taxable person. The following table lists such transactions.

- Goods purchased or imported for any of the following purposes:
  - Sale of the goods themselves
  - Conversion into a finished product for sale or goods intended to form part of a finished product for sale, including packaging materials
  - Use of supplies in the course of business
  - Use of raw materials in a supply of services
  - Use in trade or business for which deduction for depreciation or amortization is allowed
- The purchase of real property on which VAT has been paid.
- The purchase of services on which VAT has been paid.
- Transactions deemed to be sales.
- Transitional input tax of 2% of value of beginning inventory or of the actual VAT paid, whichever is higher.
- Presumptive input tax of 4% of the gross value of purchases of primary agricultural products used in the production of sardines, mackerel, milk, refined sugar, cooking oil and packed noodle-based instant meals.
- Transitional input tax credits allowed under the law and regulations.

For purposes of the above table, transitional input tax is a form of input tax allowed on transition from non-VAT-registered status to VAT-registered status. It may be credited against output tax when the VAT registration takes effect. Presumptive input tax is a form of fixed input tax allowed to persons or firms engaged in the processing of sardines, mackerel and milk; and in manufacturing refined sugar, cooking oil and packed noodle-based instant meals. In general, it may be credited against output tax on the consummation of purchases of primary agricultural products (used as inputs to production).

Nondeductible input tax. Input tax may not be recovered on the purchase or importation of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

- Purchases of a non-VAT-registered taxable person from a VAT-registered taxable person that are not related to a taxable business use
- A denied input tax refund claim that does not meet the requirements or elements described above

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchases of a non-VAT-registered taxable person from a VAT-registered taxable person.
- A denied input tax refund claim may be claimed as a deduction from gross income if the loss is actually sustained by the taxable person; sustained during the taxable year; not compensated by insurance or other forms of indemnity; incurred in the taxable person's trade, profession or business; and evidenced by a closed and completed transaction. In the Philippines, when a claim for input tax is denied by the tax authorities, there may be a basis to treat this as a deductible loss instead, as long as the conditions described above are met. Otherwise, the denied input tax (or loss) may be considered nondeductible.

Partial exemption. Input tax that is directly attributed to transactions subject to VAT may be recognized for tax credit. However, input tax that is directly attributable to taxable sales of goods and services to the government is not available for credit against output tax related to supplies made to nongovernment entities.

Input tax that is not directly attributable to either taxable or exempt transactions must be prorated monthly between taxable and exempt transactions. Input tax credit is permitted only for the portion of input tax that relates to transactions subject to VAT.

Approval from the tax authorities is not required to use the partial exemption standard method in the Philippines. Special methods are not allowed in the Philippines.

A taxable person making supplies of goods, property and services that are zero-rated (or effectively zero-rated) may apply for a tax credit certificate (TCC) or a refund of input tax attributable to these sales (except for the portion of the excess input tax that has already been applied against output tax). The default claim shall be a cash refund unless the claimant applies for the issuance of a TCC.

Under Section 112 (A) of the Tax Code, as amended, the request may be made within two years after the close of the tax quarter in which the sales are made.

The CIR must grant the TCC or refund within 90 days after the date of submission of all documents required with respect to the claim. Should the CIR find that the grant of refund is not proper, he must state in writing the legal and factual basis for the denial. Failure on the part of any official, agent or employee of the BIR to act on the application within the 90-day period shall be punishable.

Capital goods. A taxable person's purchases or imports of capital or depreciable goods may be claimed as credit against output tax, in accordance with the rules described below. From 1 January 2022, amortization of input tax on purchased and imported capital goods is no longer allowed. Nonetheless, unutilized input tax as of 31 December 2021 may be amortized as scheduled until fully utilized.

If the aggregate acquisition cost exceeds PHP1 million in a calendar month, regardless of the unit cost of the capital goods, and if the capital goods have an estimated useful life of five years or more, a claim for input tax credit begins in the month in which the capital goods are acquired and is spread evenly over 60 months. The credit is spread evenly over the actual number of months of the useful life of the asset if its estimated useful life is less than five years.

If the aggregate acquisition cost does not exceed PHP1 million in a calendar month, the total input tax is allowable as a credit against output tax in the month of acquisition.

The amortization of the input tax shall only be allowed until 31 December 2021, after which taxable persons with unutilized input tax on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized.

Refunds. Any input tax attributable to zero-rated sales by a taxable person may at its option be refunded or applied for a TCC.

The administrative claim for VAT refund or TCC must be filed within two years from the close of the taxable quarter when the zero-rated sales and/or effectively zero-rated sales were made.

The application for VAT refund must be accompanied by complete supporting documents as specifically enumerated in existing revenue regulations. The application will be denied if the taxable person fails to submit the complete supporting documents.

The CIR has 90 days from the submission of the complete supporting documents within which to decide whether or not to grant the claim. If the claim is not acted upon by the CIR within the 90 days, such inaction shall be deemed a denial of the claim.

In case of a denial, the taxable person should file a judicial claim with the Court of Tax Appeals (CTA) (i) within 30 days from receipt of the CIR's decision denying the claim (whether in full or in part) within the 90-day period, or (ii) from the expiration of the 90-day period if the CIR does not act within the 90-day period. The taxable person is required to observe the 90 plus 30-day rule before lodging a petition for review with the CTA.

Pre-registration costs. Input tax incurred on pre-registration costs in Philippines is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in the Philippines.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the Philippines.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Philippines is not recoverable.

H. Invoicing

VAT invoices. A taxable person must issue a VAT invoice for every sale, barter or exchange of goods or property or a VAT official receipt for every lease of goods or property and for every sale, barter or exchange of services. ATP receipts and/or sales invoices must be secured from the tax authorities.

Credit notes. A VAT credit note may be used to reduce the VAT charged on supply of goods or services. Tax credit and debit notes must show the same information as a VAT invoice or receipt.

Electronic invoicing. Electronic invoicing is mandatory in the Philippines for certain taxable persons.

Scope of electronic invoicing. For business-to-business (B2B), business-to-consumer (B2C), and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in the Philippines.

The following taxable persons are mandated to issue electronic receipts or electronic sales/commercial invoices in lieu of manual receipts/invoices:
- Taxable persons engaged in the export of goods and services
- Taxable persons engaged in e-commerce
- Taxable persons under the jurisdiction of the large taxpayers service (LTS) (in Section 237-A of the Tax Code)

At the time of preparing this chapter, there are plans to expand the coverage of electronic invoicing in the future, but no definite timeline has been announced by the BIR as to its implementation.

Electronic invoicing is optional for other taxable persons.

The BIR established an Electronic Invoicing/Receipting System (EIS) capable of storing and processing the data required to be transmitted by these covered taxable persons using their Sales Data Transmission System. These covered taxable persons are directed to register their Computerized Accounting System (CAS) generating e-receipts/e-invoices and/or Cash Register Machine (CRM)/Point-of-Sales Systems and to have their Sales Data Transmission System be certified. They are also mandated to develop a Sales Data Transmission based on the Standard Application Programming Interface (API) Guidelines. Prior to the actual transmission of sales data to the EIS, enrollment of taxable persons shall be necessary for security purposes. They are also required to transmit their sales data covered by the e-receipts/e-invoices using their Sales Data Transmission System into the EIS of the BIR.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in the Philippines. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in the Philippines.

Proof of exports. Export sales are subject to the zero rate of VAT if the goods are shipped from the Philippines to a foreign country. The goods must be paid for in acceptable foreign currency (or its equivalent in goods or services), and it must be accounted for in accordance with the rules of the BSP. The sale and shipment of goods must be proven by the following documents:
- VAT invoices that contain the term "zero-rated sale" written or printed on the invoice
- Bills of lading
- Inward letters of credit
- Landing certificates
- Other relevant commercial documents

Foreign currency invoices. If a VAT invoice or official receipt is issued in a foreign currency, all values that are required to be paid must be converted into the domestic currency, which is the Philippine peso (PHP), using an acceptable exchange rate.

Supplies to nontaxable person. There are no special invoicing rules for supplies to private consumers. As such, the general invoicing requirements described above apply, and full VAT invoices must be issued for all supplies.

Records. In the Philippines, examples of what records must be held for VAT purposes include all books, registers, records, vouchers and other supporting papers and documents prescribed by the BIR.

In the Philippines, VAT books and records can be held outside of the country. However, where records are held outside of the Philippines, they should be readily available to the BIR upon request.

Record retention period. All taxable persons are required to preserve their books of accounts, including subsidiary books and other accounting records, for a period of 10 years reckoned from the day following the deadline in filing a return, or if filed after the deadline, from the date of

the filing of the return, for the taxable year when the last entry was made in the books of accounts. This is provided that within the first five years reckoned from the day following the deadline in filing a return, or if filed after the deadline, from the date of the filing of the return, for the taxable year when the last entry was made in the books of accounts, the taxable person shall retain hard copies of the books of accounts, including subsidiary books and other accounting records. Thereafter, the taxable person may retain only an electronic copy of the hard copy (i.e., paper) of the books of accounts, subsidiary books and other accounting records in an electronic storage system that complies with the requirements set forth under Section 2-A hereof.

Electronic archiving. Electronic archiving is allowed in the Philippines. Electronic records used to establish tax compliance should contain sufficient transaction-level detail information so that the details underlying the electronic records can be identified and made available to the BIR upon request.

Furthermore, an electronic storage system may be used by the taxable person in preserving books of accounts and other accounting records such as invoices. Such electronic storage system must ensure an accurate and complete transfer of the images of the hardcopy of the books of accounts, including subsidiary books and other accounting records to an electronic storage media and index, store, preserve, retrieve and reproduce the electronically stored images of the hardcopy of the books of accounts, subsidiary books and other accounting records.

Under the TRAIN, within five years from the effectivity of the TRAIN (from 1 January 2018) and upon the establishment of a system capable of storing and processing the required data. The BIR shall require taxable persons engaged in the export of goods and services, taxable persons engaged in e-commerce and taxable persons under the jurisdiction of the LTS to issue electronic receipts or sales or commercial invoices in lieu of manual receipts or sales or commercial invoices subject to rules and regulations to be issued by the Secretary of Finance upon recommendation of the CIR and after a public hearing shall have been held for this purpose. This is provided that taxable persons not covered by the mandate of this provision may issue electronic receipts or, sales or commercial invoices, in lieu of manual receipts, and sales and commercial invoices. In addition, the machines, fiscal devices and fiscal memory devices shall be at the expense of the taxable persons.

I. Returns and payment

Periodic returns. Taxable persons that use a manual filing system must file monthly VAT declarations, no later than the 20th day after the end of each month. Taxable persons must also file quarterly VAT returns showing their quarterly gross sales or receipts within 25 days after the close of the tax quarter.

Taxable persons that use the electronic filing are classified according to their business industry and they are given deadlines based on their classification. The due dates for filing range from 21 days to 25 days after the end of the month for each monthly VAT declaration. The return for reporting VAT withholding must be filed on or before the 10th day of the month following the transaction.

From 1 January 2023, the filing and payment of VAT must be done within 25 days following the close of each taxable quarter). Monthly filing and payment of VAT returns (BIR Form No. 2550m) is now available as an option for VAT-registered persons.

Periodic payments. Taxable persons that use a manual filing system must pay the VAT to an authorized agent bank, not later than the 20th day after the end of each month or with the Revenue Collection Officer (RCO) in cases where there are no authorized agent bank present in the locality where the taxable person is registered.

Taxable persons that use the Electronic Filing and Payment System (eFPS) are classified according to their business industry and they are given deadlines based on their classification. The due dates for payment range from 21 days to 25 days after the end of the month for each monthly VAT declaration.

EFPS, as mentioned above, is a system developed by the BIR for electronic filing of tax returns, including attachments, if any, and paying taxes due thereon, specifically through the internet. This system is available to all taxable persons with an email account and internet access who are registered in the BIR Integrated Tax System (ITS).

Advance payment of VAT is required for the sale of refined sugar and flour. The advance VAT must be paid by the owner or seller to the BIR through an authorized agent bank or revenue collection officer before any refined sugar or flour can be withdrawn from any refinery or mill. In addition, the VAT on imported goods must be paid before the release of the goods from the BOC's custody.

Electronic filing. Electronic filing is mandatory in Philippines for certain taxable persons. The taxable persons for which electronic filing is mandatory are as follows:
- Taxable person account management program
- Accredited importer and prospective importer
- National government agencies
- Licensed local contractors
- Enterprises enjoying fiscal incentives
- Top 5,000 individual taxable persons
- Corporations with paid-up capital stock of PHP10 million and above
- Corporations with complete computerized accounting systems
- Government bidders
- Insurance companies and stockbrokers
- Large taxable persons
- Top 20,000 private corporations

For those taxable persons for which electronic filing is not mandatory, they may either use manual filing or can voluntarily use either the eFPS or the Electronic Bureau of Internal Revenue Forms (eBIRForms).

Payments on account. Payments on account are not required in the Philippines.

Special schemes. No special schemes are available in the Philippines.

Annual returns. Annual returns are not required in Philippines.

Supplementary filings. *Summary List of Sales (SLS).* The Reconciliation of Listing for Enforcement (RELIEF) system, requires taxable persons with quarterly total sales/receipts (net of VAT), exceeding P2,500,000 to submit an SLS. The RELIEF supports the third-party information program of the Bureau through the cross referencing of third-party information from the taxable persons' Summary List of Sales and Purchases (SLSP) prescribed to be submitted on a quarterly basis.

Summary List of Sales and Purchases (SLSP). Taxable persons are also required to submit a quarterly SLSP on disc, specifically the compact disc recordable (CDR) medium. Taxable persons that use a manual filing system must file the quarterly SLSP within 25 days after the close of the tax quarter. Taxable persons that use the electronic filing and payment system must submit the quarterly SLSP within 30 days after the close of the quarter.

Correcting errors in previous returns. The taxable person may file an amended VAT return specifying the items corrected or changed, provided that the taxable person has not been issued with

a Letter of Authority for tax audit. However, this may be subject to penalties, such as but not limited to fines. This also extends the three-year prescriptive period for the BIR to conduct an audit.

Digital tax administration. There are no transactional reporting requirements in the Philippines. However, under the TRAIN, within five years from the effectivity of the TRAIN (from 1 January 2018) and upon the establishment of a system capable of storing and processing the required data, the bureau shall require taxable persons engaged in the export of goods and services, taxable persons engaged in e-commerce and taxable persons under the jurisdiction of the LTS to issue electronic receipts or sales or commercial invoices in lieu of manual receipts or sales or commercial invoices. This is subject to rules and regulations to be issued by the Secretary of Finance upon recommendation of the CIR and after a public hearing shall have been held for this purpose. This is provided that taxable persons not covered by the mandate of this provision may issue electronic receipts or, sales or commercial invoices, in lieu of manual receipts, and sales and commercial invoices. In addition, the machines, fiscal devices and fiscal memory devices shall be at the expense of the taxable persons.

J. Penalties

Penalties for late registration. The CIR may suspend or close a business establishment for at least five days for the failure of a person to register for VAT as required by law.

Any person who becomes liable to VAT and fails to register as such shall be liable to pay the output tax as if they are a taxable person, but without the benefit of input tax credits for the period in which he was not properly registered.

In addition to the tax required to be paid, a surcharge penalty equivalent to 25% of the amount due is applicable, in the following cases:

- Failure to file any return and pay the tax due thereon as required under the provisions of this Code or rules and regulations on the date prescribed.
- Unless otherwise authorized by the CIR, filing a return with an internal revenue officer other than those with whom the return is required to be filed.
- Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment.
- Failure to pay the full or part of the amount of tax shown on a return required to be filed under the provisions of this Code or rules and regulations, or the full amount of tax due for which no return is required to be filed, on or before the date prescribed for its payment.

In case of willful neglect to file the return within the period prescribed by this Code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be 50% of the tax or of the deficiency tax in case any payment has been made on the basis of such return before the discovery of the falsity or fraud.

This is provided that a substantial under declaration of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the CIR pursuant to the rules and regulations to be promulgated by the Secretary of Finance, shall constitute prima facie evidence of a false or fraudulent return.

Further failure to report sales, receipts or income in an amount exceeding 30% of that declared per return, and a claim of deductions in an amount exceeding 30% of actual deductions, shall render the taxable person liable for substantial under declaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

There shall also be assessed and collected on any unpaid amount of tax, interest at the rate of 12% per annum, or such higher rate as may be prescribed by rules and regulations, from the date prescribed for payment until the amount is fully paid.

Also, the CIR or its authorized representative is empowered to suspend the business operations and temporarily close the business establishment of any person for the failure of any person to register. The temporary closure of the establishment shall be for the duration of not less than five days and shall be lifted only upon compliance with whatever requirements prescribed by the CIR in the closure order.

Penalties for late payment and filings. Civil penalties (25% or 50%) and 12% interest are assessed on the amount due for the following offenses:

- Failure to file a return and pay the tax due based on the return as required by law and rules
- Filing a return with an internal revenue officer other than the officer with whom the return is required to be filed
- Failure to pay the full or part of the tax due or the deficiency tax within the prescribed period
- Willful neglect to file a return within the prescribed period
- Failure to file certain information returns
- Failure of a withholding agent to collect and remit tax or refund excess withholding tax

In addition to other administrative and penal sanctions, the CIR may suspend or close a business establishment for at least five days for the failure to file a VAT return.

Penalties for errors. Civil penalties (25% or 50%) and 12% interest are assessed on the amount due for the erroneous issuance of a VAT invoice or receipt by a person not registered for VAT.

In addition to other administrative and penal sanctions, the CIR of the BIR may suspend or close a business establishment for at least five days for the failure to issue receipts and invoices, and the understatement of taxable sales or receipts by 30% or more of the correct taxable sales or receipts for the tax quarter.

The conviction of a refusal or failure to indicate separately the output tax on the sale of goods and services on a sales invoice or official receipt, each such act or omission is punished by a fine not less than PHP500,000 but not more than PHP10 million and imprisonment of not less than six years but not more than 10 years.

For failure to file, keep or supply a statement, list or information required on the date prescribed shall pay and administrative penalty of PHP1,000 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

In addition, there is also an aggregate amount to be imposed for all such failures during a taxable year shall not exceed PHP25,000.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The following are the consequences of issuing an erroneous VAT invoice or VAT official receipt:

(1) If a person who is not a VAT-registered person issues an invoice or receipt showing its TIN, followed by the word "VAT:"
   (a) The issuer shall, in addition to any liability to other percentage taxes, be liable to:
      (i) The tax imposed in Section 106 or 108 without the benefit of any input tax credit
      (ii) A 50% surcharge under Section 248(B) of this Code
   (b) The VAT shall, if the other requisite information required under Subsection (B) hereof is shown on the invoice or receipt, be recognized as an input tax credit to the purchaser under Section 110 of this Code
(2) If a taxable person issues a VAT invoice or VAT official receipt for a VAT-exempt transaction but fails to display prominently on the invoice or receipt the term "VAT exempt sale," the issuer shall be liable to account for the tax imposed in Section 106 or 108 as if Section 109 did not apply

Moreover, the CIR or its authorized representative is empowered to suspend the business operations and temporarily close the business establishment of any person for any of the following violations:

(1) In the case of a taxable person:
   (a) Failure to issue receipts or invoices
   (b) Failure to file a VAT return as required under Section 114
   (c) Understatement of taxable sales or receipts by 30% or more of its correct taxable sales or receipts for the taxable quarter
(2) Failure to any person to register as required under Section 236:
   (a) The temporary closure of the establishment shall be for the duration of not less than five days and shall be lifted only upon compliance with whatever requirements prescribed by the CIR in the closure order

Personal liability for company officers. The company's authorized representatives, such as but not limited to company directors, may be held personally liable for the errors and omissions made, such as deliberate failure to pay tax, file returns, keep records or supply correct and accurate information in the VAT returns submitted to the BIR. Upon conviction, they can be punished by a fine of not less than PHP10,000 and suffer imprisonment of not less than one year as provided by the Tax Code.

Statute of limitations. The statute of limitations in the Philippines is three years. Internal revenue taxes shall be assessed within three years after the last day prescribed by law for the filing of the return. In the case where a return is filed beyond the period prescribed by law, the three-year period shall be counted from the day the return was filed. A return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, tax may be assessed at any time within 10 years from discovery of the falsity, fraud or omission.

Further, taxable persons are allowed to modify, change or amend the return within three years from the date of filing, provided that the taxable person has not received any notice for audit or investigation of such return from the tax authorities.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Podatek od towarów i usług
Date introduced	5 July 1993
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.mf.gov.pl)
VAT rates	
Standard	23%
Reduced	5%, 8%
Other	Zero-rated (0%) and exempt
VAT number format	123-45-67-890 PL 1234567890 (intra-Community transactions)
VAT return periods	Monthly or quarterly
Thresholds	
Registration	
Established	PLN200,000 (approx. EUR43,800)
Non-established	None
Distance selling	PLN42,000 (EUR10,000)
Intra-Community acquisitions	PLN50,000 (approx. EUR10,900)
Electronically supplied services	PLN42,000 (EUR10,000)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and rendering of services in Poland for consideration
- Receipt of reverse-charge services by a taxable person in Poland
- Export and import of goods

- Intra-Community acquisitions of goods from another European Union (EU) Member State by a taxable person (*see the EU chapter*)
- Intra-Community supply of goods

The following activities are outside the scope of VAT:
- Transactions that cannot be subject to legal agreements (illegal transactions)
- Sales of businesses (transfers of going concerns or part thereof)

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements, see Section H. Invoicing,* subsection *Proof of exports and intra-Community supplies*.

The Quick Fixes were implemented to the Polish VAT Act on 1 July 2020 and concerned changes in four main areas:
- Call-off stock arrangements (so far, there were regulations on the "consignment store," but these were replaced with EU provisions on the simplified call-off stock regulations)
- Chain transactions (i.e., introducing the general rule of transport allocation based on the intermediary role)
- Conditions for 0% VAT rate in intra-EU supplies (including an absolute requirement for applying 0% VAT rate of providing a valid VAT number by the buyer and submitting the EC Sales and Purchases List)
- Documentary evidence of proof of intra-EU supplies

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.*

In Poland, generally no services are subject to the "use and enjoyment" provisions. However, there is a general regulation that VAT is due locally due to the place of supply rules to the following services type (provided certain conditions are met):
- Land and properties services
- Hires of means of transport
- Events
- Ancillary transport services, valuation of and work on goods
- Restaurant and catering
- Passenger and freight transport
- Intermediary services

Transfer of a going concern. A transfer of going concern (TOGC) is understood as the sale of enterprise or an organized part of enterprise (OPE), which is outside the scope of VAT.

OPE is defined as the set of tangible and intangible components organizationally and financially separated from the existing company, including liabilities, intended for fulfillment the specific economic tasks, which could be treated as an independent entity and could run a business on its own.

Transactions between related parties. In case of transactions between related parties ("related" being determined through, e.g., the corporate income tax/personal income tax provisions), if one of them or both have limited right to input tax deduction, the remuneration should be at a fair market value (otherwise the tax authorities determine the tax base according to the market value,

if it turns out that these relations influenced the determination of the remuneration for the supply of goods or services).

C. Who is liable

A taxable person is a business entity or individual that carries on business activities, regardless of the purpose or result of the business activities. Business activities include all manufacturing, trading and service-providing activities. Business activities also include continuous use of goods and intangible rights with the purpose of obtaining income.

The VAT registration threshold is PLN200,000. The limit may apply in one of the following two ways:
- Retrospectively: the value of supplies of goods or services exceeded PLN200,000 in the preceding tax year.
- Prospectively: at the start of business, the value of supplies of goods or services is expected to exceed PLN200,000. If the business begins after the start of the calendar year, the registration limit applies proportionately to the remainder of the year.

If the value of supplies is not expected to exceed the registration threshold, a new business is exempt from VAT (with some exceptions – *see below*).

A taxable person may choose to register for VAT. This decision must be reported to the tax office before the first taxable transaction is made when the taxable person starts its activities or before the beginning of the month from which the taxable person chooses to register for VAT. Moreover, taxable persons who perform activities exclusively exempt from VAT do not have to register for VAT (registration is facultative).

Taxable persons who lose the right to be exempt from registration can benefit from the exemption no earlier than one year after they lose the right to be exempt. However, it may waive the exemption. The waiver in writing must be submitted to the appropriate VAT office. If the value of sales exceeds the registration threshold, the exemption is automatically no longer valid and the amount of turnover greater than the threshold is subject to VAT.

The registration threshold is not applied to the importation of goods and services, to intra-Community acquisition of goods and the supply of goods on which the purchaser is liable to account for VAT. In addition, businesses in the following categories must register for VAT at the commencement of activity, regardless of the amount of turnover:
- Businesses that supply products made from precious metals
- Businesses that supply certain excise products
- Businesses that supply new means of transport
- Businesses that supply buildings or building land
- Businesses that supply certain goods in connection with conclusion of a contract as part of organized system of concluding contracts over a distance, without simultaneous physical presence of the parties, using exclusively one or more means of direct communication over distance until the moment of conclusion of a contract
- Businesses that provide legal, consulting and professional services
- Businesses that supply services connected with jewelry
- Businesses that provide debt recovery, including factoring

The PLN200,000 registration threshold does not apply to foreign businesses.

Exemption from registration. Foreign businesses (i.e., entities that are not based or that do not have a place of business in Poland) that supply certain services in Poland are not obliged to register for Polish VAT. This exemption is for businesses that supply:
- Services and goods where the Polish purchaser accounts for and pays tax under the reverse-charge mechanism

- Certain services that are subject to a zero rate (e.g., services supplied within Polish seaports, connected with international transport, services of air traffic control rendered for foreign providers of air transportation)

Generally, the recipient of goods and services supplied by foreign business is obliged to account for VAT under the reverse-charge mechanism (with some exceptions). However, the reverse-charge mechanism cannot be applied if a supplier of goods is registered for VAT in Poland.

Foreign businesses providing intra-EU distance sales of goods are obliged to register for VAT purposes in Poland if they are not reporting these sales under the One-Stop-Shop scheme (OSS) and if the value of their goods sold in Poland exceeded in the previous year EUR10,000 (or its equivalent of PLN42,000).

Voluntary registration and small businesses. Generally, each taxable person may opt for VAT registration in Poland regardless of PLN200,000 threshold. Taxable persons performing only exempt activities may opt for the VAT registration as well. There are no restrictions in this regard in Polish VAT law.

Group registration. Group VAT registration is allowed in Poland from 1 January 2023. VAT groups may be created by taxable persons connected financially, organizationally and economically (this condition shall be in force within the entire period of VAT group existence). In addition, a VAT group may be formed by taxable persons with a registered office in Poland and taxable persons without a registered office in Poland to the extent that they conduct business activity in Poland through a branch located in Poland.

To set up the VAT group, the taxable persons are obliged to conclude an agreement on the VAT group, indicating at least:
- Name of the VAT group with marking in Polish "grupa VAT" or "GV"
- Identification data of the taxable persons forming the VAT group
- Identification of the representative of the VAT group
- Identification of shareholders with the amount of their participation in the share capital of the taxable person within the VAT group with more than 50% in the share capital of these taxable persons
- Identification of the period for which the VAT group is established

The minimum time period required for the duration of a VAT group is three years.

All members of a VAT group in Poland are jointly and severally liable for VAT debts and penalties. In principle, intragroup economic transactions are VAT neutral and are not documented with invoices. The VAT group, as a whole, acts as a singular VAT taxable person, which entails filing obligations.

Holding companies. In Poland, a pure holding company cannot be a member of a VAT group.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)f) has been implemented in Poland. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Polish VAT law, implemented in 2011 to the Polish VAT Act in Article 43(1)21).

Fixed establishment. There is no definition of fixed establishment (FE) in the Polish VAT Act, and as such this term is interpreted by the tax administration based on the law of the EU and further guideline of Court of Justice of the European Union (CJEU) judgments (i.e., of 16 October 2014 in the C-605/12 *Welmory* case and of 7 May 2020 in C-547/18 *Dong Yang Electronics* case) as "any establishment, other than the place of establishment of a business characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use the services supplied to it for its own needs."

Non-established businesses. A foreign business (i.e., an entity that is not established in Poland and that does not have a place of business there) must register for VAT in Poland if it makes taxable supplies of goods or services in Poland.

However, in general, a foreign business is not required to register for VAT in Poland if it supplies exclusively the following services:
- Services and goods for which the Polish purchaser is required to account for and pay tax under the reverse-charge mechanism (see *Section E. Time of supply).*
- Certain services that are subject to a zero rate (for example, services supplied at Polish seaports with respect to international transport, services of air traffic control rendered for foreign providers of air transportation and transport services related to the import of goods if the cost of transport is included in the tax base of goods; see *Section D. Rates*).

Tax representatives. A non-EU business must appoint a Polish resident tax representative before registering for VAT in Poland (not applicable to entities established in Norway and the United Kingdom). The tax representative is jointly and severally responsible for tax arrears of the foreign business represented by it.

An EU business is not required to appoint a tax representative to register for VAT in Poland, but it may appoint a tax representative if it chooses to do so.

Reverse charge. The reverse-charge mechanism is generally applicable to intra-Community acquisitions of goods or import of services. The reverse charge is also applicable to supplies of services by foreign entities not having a seat or fixed establishment in Poland (and in case of the real-estate services – not registered for VAT in Poland) to the Polish taxable persons and local supplies of goods by foreign entities not having a seat or fixed establishment in Poland (and in general – not registered for VAT in Poland) to the Polish taxable persons.

Domestic reverse charge. The domestic reverse charge has been replaced in Poland by the mandatory split payment mechanism. Certain regulations apply as regards the use of the split payment mechanism (SPM). The obligatory SPM is being used for the supply of goods and services listed in the VAT regulations that includes, i.e., the goods and services that were covered by the domestic reverse-charge mechanism and the existing scope of joint and several liability of the buyer (e.g., supply of construction services and fraud sensitive goods, such as ferro alloys, plastic waste, steel products, stretch foil, smartphones). See the subsection on *Periodic payments* for more detail.

Certain goods and services subject to certain additional conditions are covered by the reverse-charge mechanism temporarily during the period from 1 April 2023 to 28 February 2025. It refers to the following domestic supplies:
- Supply of gas in the gas system
- Supply of electrical energy in the electric power system
- Provision of services in the field of transfer of greenhouse gas emissions allowances

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B. Scope of the Tax, Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is

responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods made by a nonresident supplier to a to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the EU chapter.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Poland, the standard VAT registration procedure applies (see the subsection *Registration procedures* below).

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Poland, where the Member State of identification is Poland, the taxable person is entitled to file an electronic notification to the tax office, II Urzad Skarbowy Warszawa Srodmiescie. The tax authorities shall identify the taxable person for OSS and confirm the notification using the taxable person's tax identification number. Such notification is published online at podatki.gov.pl in the section "Registration for the Union and non-Union scheme (OSS) and the import scheme (IOSS)" and can be only submitted electronically.

The forms for EU OSS procedure are as follows:
- VIU-R – notification form
- VIU-DO – form of the return for VAT settlements (filed for each quarter by the end of the month following a given quarter

The forms for non-EU OSS procedure are as follows:
- VIN-R – notification form
- VIN-DO – form of the return for VAT settlements (filed for each quarter by the end of the month following a given quarter)

Under the provisions effective 1 July 2023, if a taxable person ceases to use the EU OSS or non-EU OSS procedure or if the Member State of identification changes, a correction to the return can only be submitted outside the EU OSS or non-EU OSS directly to the Łód tax office.

For more details about the operation of the OSS, see the EU chapter.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Poland, for the IOSS, the Member State of identification is Poland, and it is applied by taxable persons not having a registered seat in the territory of EU and choosing Poland for IOSS.

The taxable person or the intermediary is entitled to file a notification with the II Urzad Skarbowy Warszawa Srodmiescie by electronic means. The forms for IOSS procedure are as follows:
- VII-R – notification form of taxable person
- VII-RP – notification Form of intermediary
- VII-DO – form of the return for VAT settlements (filed for each month by the end of the month following a given month)

Under the provisions effective 1 July 2023, if a taxable person ceases to use the IOSS procedure or if the Member State of identification changes, a correction to the return can only be submitted outside the IOSS directly to the Łód tax office.

For more details about the IOSS, see the EU chapter.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Poland, the person responsible for the collection of tax (i.e., postal operator or a taxable person having status of an authorized economic operator) is obliged to file monthly returns with the sum of customs declarations containing the total amount of the tax collected in the month. The collected tax is paid by the 16th day of the following month.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments (in Poland, these are intra-EU distance sales of goods). In both cases, the final customer must be a nontaxable person.

For more details about the rules for online marketplaces, see the EU chapter.

Central Electronic System of Payment (CESOP) reporting. As of 1 January 2024, changes are set to tighten the VAT e-commerce system, based a on the CESOP EU Regulation. In general, service providers will be obliged to keep electronic records of payment recipients and cross-border payments in relation to the payment services provided for each quarter, if they provide payment services that correspond to more than 25 cross-border payments to the same payment recipient during the quarter. A payment is considered to be a cross-border payment if the payer and the payee are located in the territory of different Member States or if the payee is located in the territory of a third country.

Vouchers. As of 1 January 2019, the amendment to the Polish VAT Act introduced new definitions regarding vouchers, i.e., single-purpose voucher (SPV), multi-purpose voucher (MPV), issue of voucher and voucher transfer.

The SPV shall be understood as a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services are known at the time of issue of the voucher.

In case of SPV, taxation occurs at the time of the transfer of it. The tax base for the sale of this type of vouchers is determined by applying the general rules for determining the tax base – it shall be the amount paid minus the VAT included in that amount.

Any other voucher shall be treated as MPV. The transfer of such a voucher will not result in taxation – VAT will be charged only when the goods or services covered by the MVP have been actually delivered.

The tax base on account of supply of goods or services made in exchange for an MPV redeemed in full shall, in relation to this voucher, be equal to:
- The consideration paid for this MPV less the tax amount related to the supplied goods or services
- The monetary value indicated on the MPV or in the related documentation, less the amount of tax relating to the goods or services supplied – where the information concerning this consideration is not available

Registration procedures. Prior to performing the first taxable activity, a taxable person should submit the forms for obtaining a tax number: NIP-2 (for foreign entities) or NIP-8 (for Polish established entities) and a form for obtaining VAT registration: a VAT-R. All forms should be signed and filed in paper. Documents should be signed by company's representatives as per the representation rules (excerpt from commercial register should be presented to confirm the representation). The deadline to issue a registration decision is two weeks; however, in most cases it takes less time. Additionally, prior to performing the first intra-Community acquisition or intra-Community supply, taxable persons should obtain a VAT-EU number (VAT-R registration is also used for this purpose). Moreover, in case of any changes in scope of the information provided within the VAT-R Form, a taxable person should update the tax office accordingly within seven days after the day the change has occurred.

Deregistration. Deregistration may be conducted either based on the taxable person's application (filed on VAT-Z Form) or officially by a Head of a Local Tax Authority Office (as per the jurisdiction for the particular taxable person).

The Head of a Local Tax Authority Office is entitled to deregister a taxable person from the register as a taxable person *ex officio*, for example, in cases where:
- The taxable person does not exist or despite documented attempts, there is no possibility of contacting that taxable person or its authorized representative.
- The data provided in the application for registration is revealed to be inaccurate.
- The taxable person or its authorized representative does not respond to the summons of a tax authority.
- No VAT returns are filed for three subsequent months (or one quarter).
- No sales and purchases transactions appear in the VAT returns submitted for six subsequent months (or two quarters).
- The taxable person issues invoices that do not reflect actual actions.

Changes to VAT registration details. In case of any changes in scope of the information provided within the VAT-R/NIP-2/NIP-8 Form, a taxable person should update the tax office accordingly within seven days after the day the change has occurred. All forms can be signed and submitted in paper. An electronic version is possible only if the company's representative (signing the forms) possesses the qualified electronic signature.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 23%
- Reduced rates: 5%, 8%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

As of 1 April 2020, the goods subject to reduced VAT rates are determined based on:
- Combined Nomenclature (CN) for goods
- Polish Classification of Products and Services of 2015 in the field of services

Examples of goods and services taxable at 5%

- Certain unprocessed basic foodstuffs
- Certain agricultural and forestry products
- Books and certain magazines
- Electronic publications

Examples of goods and services taxable at 8%

- Catering and restaurant services – with the exception of drinks (other than water, coffee, tea), unprocessed foodstuffs and some seafood
- Handicraft products
- Books, newspapers and magazines
- Hotel services
- Certain entertainment services
- Passenger transport
- Travel services
- Medical products
- Supply of water

- Certain services related to agriculture
- Hard discs
- Certain maintenance services
- Other services related to recreation – solely within the scope of admission
- Supply, construction, repairs and reconstructions of buildings classified as "social housing"

Examples of goods and services taxable at 0%

- Exports
- Intra-Community supplies of goods
- Supplies of certain sailing vessels
- International transport and related services
- Supplies of computer equipment to educational institutions
- Certain basic foodstuffs (with effect from 2023 based on the Anti-Inflation Shield introduced by the Polish government. It is planned that such goods will be taxed at 0% until the end of 2023. *At the time of preparing this chapter, it has not been confirmed if the period for this preferential rate will be extended.)*

The term "exempt" refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services (with exceptions)
- Supply of real estate (with option to tax)
- Health care services
- Social welfare services
- Public postal services
- Education
- Lease of residential property
- Cultural and sporting events (with exceptions)
- Services connected with science
- Dental engineering
- Betting, gaming and lotteries

Option to tax for exempt supplies. The Polish VAT Act provides option to tax for supply of real estate, which generally benefit from VAT exemption under certain conditions.

The option to tax financial services (only in B2B transactions and except for insurance services) is allowed in Poland from 1 January 2022. In general, the taxable person may opt to tax financial services provided that:

- It is an active taxable person
- It submits a written notification to the head of the tax office on choosing such option before beginning of the settlement period from which it ceases from exemption

The taxable person who waives the exemption is bound by its choice for a period of two years. After this period, the taxable person could apply the exemption again in transactions with other taxable persons or extend the use of the taxation option. Significantly, a taxable person giving up the exemption will be forced to tax all the financial services it provides, without being able to choose which financial services it wants to tax and which it does not.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the services are performed.

The tax point for exports of goods is created according to the general rules.

Deposits and prepayments. The receipt of prepayments is considered the tax point. The tax point is created only to the extent of the payment.

Continuous supplies of services. The tax point concerning continuous supplies of services (i.e., those services that are rendered for longer than a year) arises at the end of each year until these services are completed. If services are supplied for a period not exceeding a year – the tax point arises at the moment of services' completion. Additionally, if parties of the transaction set clearing or payment periods regarding the continuously supplied services, the tax point arises at the end of each period.

Goods sent on approval for sale or return. There are no special time of supply rules in Poland for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. Imported services are subject to a reverse charge, which is a form of self-assessment of VAT. If the reverse charge applies, the recipient of the service accounts for output tax (effectively on behalf of the supplier).

The reverse-charge VAT is deductible as input tax by the recipient of the service (in accordance with the general input tax recovery rules), in the same month (i.e., quarter) when the tax point arises or in one of the two following months (i.e., quarters).

Leased assets. The tax point concerning leased assets arises at the moment of issuance of the invoice documenting leasing services.

Imported goods. The tax point for imported goods arises when a customs debt is incurred. However, for goods imported under certain customs regimes, the tax point arises when the goods enter the customs regime. The following are the relevant customs regime:
- Inward processing
- Temporary customs clearance
- Processing under customs supervision

Intra-Community acquisitions. The tax point for the intra-Community acquisition of goods is the invoice date but not later than the 15th day of the month following the month in which the supply took place. If an invoice is issued before this date, the VAT is due at the time the invoice is issued.

Intra-Community supplies of goods. The same tax point rules apply to intra-Community supplies of goods as those for intra-Community acquisitions (as outlined above).

Distance sales. There are no special time of supply rules in Poland for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is charged on goods and services supplied to it for business purposes, if it relates to the person's taxable supplies. A taxable person generally recovers input tax by deducting it from output tax, which is charged on supplies made.

Input tax includes VAT paid on the purchase of goods and services, VAT paid on imports of goods and on intra-Community acquisitions, VAT self-assessed for reverse-charge services received from outside Poland and VAT self-assessed for goods on which the purchaser is liable to account for VAT.

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

In general, input tax is deducted at the time the tax point arose, but for local purchases and import of goods, it cannot be recovered earlier than in the month in which the invoice/customs document

is received or during three subsequent periods. For other purchases (i.e., intra-Community acquisitions, VAT self-assessed for reverse-charge services received from outside Poland, VAT self-assessed for goods where the purchaser is liable to account for VAT), it cannot be recovered earlier than in the month in which the output tax was reported.

With effect from 1 July 2023, the obligation to hold an invoice for deducting the input tax for intra-Community acquisitions is no longer required.

The time limit for a taxable person to reclaim input tax in Poland is five years. A taxable person has five years to reclaim VAT (counting from the beginning of the year in which the right to recover arose).

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by the entrepreneur). In addition, input tax is not recoverable for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Restaurant meals
- Personal expenses
- Hotel accommodation

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Purchase, lease or hire of passenger cars as well as vans or trucks with high loading capacity
- Fuel (i.e., gasoline, diesel oil, propane, butane) for the vehicles listed above
- For passenger cars with low loading capacity (if passenger car is used for taxable activities only, under certain conditions, 100% of input tax is deductible, otherwise, i.e., if a passenger car is used for both taxable activities and private purposes, only 50% is deductible)
- Travel
- Conferences
- Business gifts
- Advisory services
- Business use of home telephone and mobile phones

Partial exemption. Input tax is not recoverable if it is directly related to making exempt supplies. If a Polish taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as "partial exemption."

Input tax directly relating to taxable supplies is recoverable in full, while input tax directly related to exempt supplies is not recoverable. Input tax that is not directly attributable to taxable supplies or to exempt supplies must be apportioned to each category.

The general pro rata method is based on the ratio of qualifying turnover with total turnover during the calendar year. The initial deduction (i.e., the deduction made during a tax year) is done based on the pro rata percentage for the preceding year.

The recovery percentage is rounded up to the nearest whole number. The calculation is adjusted using the actual figures for the year in the first period of the next calendar year.

With effect from 1 July 2023, a Polish taxable person is entitled to round up the recovery percentage exceeding 98% to 100% where the amount of input tax that cannot be directly attrbutable to taxable supplies or to exempt supplies was less than PLN10,000. In addition, with effect from 1 July 2023, a Polish taxable person is not required to adjust the input tax where a difference between the general pro rata and the pro rata percentage for the preceding year does not exceed 2%.

Approval from the tax authorities is not required to use the partial exemption standard method in Poland. Special methods are not allowed in Poland.

Capital goods. Capital goods are items of capital expenditure that are used in a business for longer than a year. Input tax is deducted in the tax period in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption status in the VAT year of acquisition. The amount of input tax recovered on the capital item must be adjusted over time depending on the use of the goods. In Poland, the capital goods adjustment applies to the following assets (for the number of years indicated):

- Real estate: adjusted for a period of 10 years
- Capital goods and intangible assets (the transfer of which is considered as a service), adjusted for a period of five years

The adjustment does not apply to goods or services that are capital goods and intangible assets with a purchase value of less than PLN15,000.

The adjustment is applied each year following the year in which the capital goods or real estate is made available to a fraction of the total input tax (1/10 for real estate and 1/5 for other capital goods). The adjustment may result in either an increase or a decrease in deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared to the year in which the capital goods were acquired.

Refunds. In general, if a VAT return shows an excess of input tax over output tax, the surplus input tax is carried forward to offset output tax in the following month. Taxable persons may request a direct refund of the surplus within the following time limits:

- 60 days after the date on which the VAT return is submitted
- 180 days from the date on which the VAT return was submitted if the taxable person did not perform any taxable activity in the relevant period

The refund periods are shortened to 25 and 60 days, respectively, if the taxable person submits an appropriate application and if the invoices and other documents regarding the input tax shown in the VAT return are paid or if the collateral is submitted.

The tax office shall refund VAT within 25 days provided that the following conditions are jointly met:

- Input tax amounts shown in the tax return are based on:
  - Payment of invoices occurred from a bank account of the taxable person.
  - Other invoices than those listed above documenting receivables where the total amount of those does not exceed PLN15,000.
  - Customs documents, import declaration, and the customs decisions, and the amounts having been paid by the taxable person.
  - The postponed import VAT, the intra-Community acquisition of goods, provision of services where the taxable person is the recipient of the services or the supplies of goods where the taxable person is the acquirer, if the amount of output tax on such transactions was shown in the tax return.
  - It has not been transferred from the previous VAT returns amount higher than PLN3,000.
  - The documents were submitted to confirm transfers in the tax office.
  - The taxable person was registered for VAT for at least 12 months and submitted the returns for each VAT settlement period.

From 1 January 2022, a VAT refund mechanism for noncash taxable persons is in effect. Once a number of the conditions set in the Polish VAT Act are met, a taxable person can receive a VAT refund within 15 days, counting from the day on which the return (or correction of the return) with the amount of VAT to be refunded was submitted.

With effect from 1 July 2023, some of the conditions set in the Polish VAT Act for receiving a VAT refund within 15 days has changed, for example:

- During six consecutive months immediately preceding the period in the settlement for which a taxable person submits an application for refund, the total value of sales, including tax recorded by that taxable person with the use of online cash registers for each settlement period, was no lower than PLN40,000 (previously the threshold was no lower than PLN50,000).
- Six months immediately preceding the period in the settlement for which a taxable person submits an application for a refund and has kept the sales records exclusively with the use of online cash registers (previously the period was 12 months).

Pre-registration costs. It is possible to deduct input tax from expenses incurred prior to VAT registration under certain conditions. The Polish tax authorities allow such deductions, yet such procedure is not regulated within the Polish VAT Act.

In practice, the taxable person should in such cases make a retrospective VAT registration and submit past returns – where the first VAT return is for the month in which the taxable person received the first purchase invoices for expenses incurred. The VAT deduction is possible only if the costs incurred are directly related to the commencement of taxable activities in Poland (e.g., costs for the VAT registration process; notary costs for signing the company agreement, etc., and the taxable person must be ready to present the explanations and proofs if the tax authorities request).

Bad debts. Under certain conditions, a taxable person may adjust a taxable amount and the tax due on goods or services supplied in the case of receivables that cannot be collected has been substantiated. The adjustment also concerns the taxable amount and tax amount attributable to a portion of receivables that cannot be collected and has been substantiated. Receivables that cannot be collected are deemed as substantiated if receivables were not settled or disposed of in any form within 90 days following the lapse of their payment deadline stipulated in an agreement or invoice. On the other hand, if the amount due on the invoice for goods or services supplied is not paid within 90 days from the lapse of payment deadline specified in an agreement or the invoice, a debtor shall adjust a deducted amount of the tax resulting from said invoice in settlement for the period in which the 90th day elapsed from the payment deadline specified in the agreement or the invoice.

The deadline for bad debt relief is three years starting from the end of the year in which the invoice was issued.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Poland.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Poland is recoverable. The Polish VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Poland. Non-established business may claim Polish VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/09. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Poland during the refund period (excluding supplies covered by the reverse charge). *For full details, see the EU chapter.*

Find below specific rules for Poland:

- Refunds are made in Polish zloty (PLN) into a bank account maintained by the claimant either in Poland or in the state where the claimant is resident or has a place of business. If a transfer is made abroad, the tax office does not cover the remittance costs.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the EU chapter.*

Poland applies the principle of reciprocity, meaning the country where the claimant is established must provide analogical VAT refunds to Polish businesses.

At the time of preparing this chapter there is a public list of the countries published on the official government website to which it applies.

The countries to which the principle of reciprocity applies are all EU Member States, Iceland, North Macedonia, Norway, Switzerland and the United Kingdom. In case of the countries not included on the list, claimant should gather and present the evidence to establish that the principle of reciprocity applies in a given case.

Find below specific rules for Poland:
- Refund claims by non-EU businesses must be filed with the following tax office in Warsaw:

  II Urzad Skarbowy Warszawa Srodmiescie
  Jagiellonska 15
  Warsaw
  Poland

- Refund claims must be filed in paper. The forms must be completed in Polish.
- The minimum claim period is three months, and the maximum claim period is one calendar year.
- The deadline for submitting the application is 30 September following the claim year.

Late payment interest. EU businesses and non-EU businesses are entitled to receive interest on late refund payments according to the same rules as for domestic businesses in Poland. Interest is calculated from the day following the last day for payment of the refund until the day the refund is actually paid. *At the time of preparing this chapter, standard interest rates are equal to 14.5% p.a. (according to local provisions).*

H. Invoicing

VAT invoices. A Polish taxable person must generally provide a VAT invoice for the following:
- All taxable supplies made except for exempt transactions
- Exports of goods
- Intra-Community supplies
- Supplies of goods outside the scope of Polish VAT (the reverse-charge mechanism applies)
- Supplies of services outside the scope of Polish VAT (the reverse-charge mechanism applies)
- Triangular transactions (*see the EU chapter*)
- Distance sales (*see the EU chapter*)

VAT invoices are not required if a business exclusively supplies exempt goods or services. VAT invoices are not required for sales made to private individuals who do not carry-on business activities, unless requested. Invoices must support claims for VAT refunds claimed by non-established businesses.

Credit notes. A credit note (called a "correcting invoice") must be issued if any of the following circumstances arise after an invoice is issued:
- A rebate or discount is granted.
- The price is increased.
- All or part of the payment has been returned to the purchaser.
- An error is detected in the price, rate or amount of tax charged or in any other element of the invoice.

Generally, a credit note must be issued to the person to whom the original VAT invoice was issued. As of 1 January 2022, it is possible to issue a collective corrective invoice that relates to one purchaser in one accounting period when the taxable person grants a discount or reduction in price.

Electronic invoicing. Electronic invoicing is allowed in Poland, but not mandatory.

Scope of e-invoicing. For B2B and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Poland. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*. For B2C supplies, electronic invoicing is not allowed in Poland.

From 1 January 2022, taxable persons can use e-invoicing (i.e., invoices in structured form, the "electronic invoices") in Poland. Electronic invoices are issued in a special structured form in an XML file and sent directly through the National e-Invoices System (KSeF), with the invoice recipient's consent required each time. The same system will be used to receive e-invoices.

However, with effect from 1 July 2024, electronic invoicing will become obligatory for Polish established entities, as well as foreign entities with a fixed establishment for VAT purposes in Poland, except for VAT-exempt taxable persons (based on a subjective or objective tax exemption) to whom the electronic invoicing will be obligatory from 1 January 2025). Electronic invoicing will cover all B2B transactions and will be also obligatory with respect to transactions for the benefit of public entities (i.e., B2G transactions).

Any VAT registered entity can voluntarily use electronic invoicing. However, mandatory electronic invoicing will apply only to the Polish established entities, as well as foreign entities with a fixed establishment for VAT purposes in Poland.

The obligation to issue electronic invoices (in structured form in an XML file) does not apply to:
- Foreign established entities and not having a fixed establishment for VAT purposes in Poland
- Foreign established entities, having a fixed establishment for VAT purposes in Poland that do not participate in the provision of the service or supplying the goods
- Entities using special procedures (i.e., the OSS/IOSS)
- B2C supplies

There is no threshold applicable for mandatory electronic invoicing. Electronic invoicing is mandatory based on the status of a given entity and types of the transactions performed.

Electronic invoicing will cover the following types of B2B transactions:
- Local supply of goods (sales and purchases)
- Provision of services (sales and purchases)
- Export transactions
- Supply of services abroad
- Intra-Community supplies

Electronic invoicing will not be allowed with respect to B2C transactions. In case of issuing an invoice to B2C transactions penalties may apply.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the European Union chapter.

Simplified VAT invoices. A simplified invoice may be issued if the aggregate of amounts due does not exceed PLN450 or EUR100, if the amount is specified in EUR, provided it contains data enabling the determination of the amount of tax at each VAT rate.

Simplified invoices cannot be used in the following cases:
- A distant sale from the territory of Poland and a distant sale into the territory of Poland

- Issuing an invoice at the request of a natural person not conducting business activity
- An intra-Community supply of goods
- Delivery of goods and services on the territory of a Member State other than the territory of the country and the person obliged to pay VAT is the acquirer of goods or recipient of services

Self-billing. Self-billing is allowed in Poland. The regulations of the Polish VAT Act provide for the possibility for the acquirer of goods or recipient of services to issue the invoice documenting transaction on behalf of and for the benefit of the taxable person.

Self-billing is possible in Poland, provided that:
- The acquirer of goods or recipient of services is a taxable person registered as an active taxable person
- There is a prior agreement between the acquirer of goods or recipient of services and the taxable person in respect of issuing invoices in the name and on behalf of that taxable person, said agreement specifying the procedure for the acceptance of each invoice by the taxable person performing these acts

The document issued by the acquirer of goods or recipient of services becomes a full-fledged invoice only when approved by the taxable person (it is not necessary to sign it physically), who also is required to register it in its system.

When the acquirer of goods or recipient of services issues the invoice on behalf of the taxable person, the invoice must be marked "self-invoicing" (*samofakturowanie*).

Proof of exports and intra-Community supplies. Goods exported from Poland and intra-Community supplies of goods are subject to Polish VAT at the zero rate (*see the EU chapter*).

To qualify for zero rating, the supplier must:
- For export: prove that the goods have left Poland. Suitable proof for exported goods includes the Single Administrative Document (SAD) or an electronic document generated by the customs authorities, which confirms that the goods have been removed from the EU (or its authorized copy).
- For intra-Community supply: 1) prove that the goods left Poland and were delivered to the recipient in other EU country (in practice, suitable proof for intra-Community supply includes CMR signed by the recipient); 2) submit within the deadline the EC Sales and Purchases List (VAT-UE Form) and 3) hold the valid VAT EU number of the customer.

No special documentation applies in Poland for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. The Quick Fixes regulations introduced with the Council Regulation 2018/1912 (on the presumption in case of possession of documents from two groups of evidence for documenting intra-Community supply) are binding directly and so were not implemented as separate provisions to the Polish VAT Act. The Polish Ministry of Finance explained that it is not necessary to apply this presumption if the conditions for zero-rated supply provided in the Polish regulations are met. For more details, see the *Quick Fixes subsection* above.

Foreign currency invoices. The VAT amount on the invoice must be shown in the domestic currency, which is the Polish zloty (PLN), regardless of the currency in which the amount due is expressed in the invoice. If a VAT invoice is issued in a foreign currency, the output value must be converted into Polish zloty, using the official exchange rate published by the National Bank of Poland (NBP) or European Central Bank (ECB) for the last business day preceding the date on which the tax point arises. However, if the invoice is issued before the tax point date, the output value must be converted using the official exchange rate published by NBP or ECB for the last business day preceding the invoice issuance date.

Starting from 1 July 2023, the above rule also applies for corrective invoices, i.e., when the original invoice was issued in a foreign currency, the exchange rate applicable to the original invoice should be used for the corrective invoice (before 1 July 2023 it was also a common practice to apply the exchange rate applicable to the original invoice for the corrective invoice, but there were no binding provisions in this regard at that time).

Supplies to nontaxable persons. A taxable person is required to issue a full VAT invoice for documenting supply of goods or services to natural persons and non-entrepreneurs upon their request (there is no legal requirement to do so without such request).

If the acquirer of goods or receiver of services requests an invoice, the taxable person should issue an invoice:
- No later than on the 15th day of the month following the month in which the goods or services were delivered/performed, provided that the invoice request is made by the end of the month in which the goods are delivered, or the service is performed.
- No later than on the 15th day from the date of submission of the request – provided that the request for an invoice has been made after the expiry of the month referred to in the previous point.

However, if the request for an invoice was made after three months, counting from the end of the month in which the goods were supplied or the services were provided, or the payment was received in full or in part, then the taxable person is not obliged to issue an invoice.

Such an invoice upon request can be issued to the acquirer of goods or the receiver of services, being a taxable person only, if the fiscal receipt confirming a given supply of goods or provision of services includes the tax number of the acquirer.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, this only applies where the place of taxation is Poland. If the place of taxation is the destination country (when chosen or above the EUR10,000 threshold), the invoicing rules of a destination country apply. However, if the supplier operates the OSS regime (and its country of identification is Poland), Polish invoicing provisions specify no full VAT invoice is required unless requested.

Records. In Poland, examples of what records must be held for VAT purposes include the following records:
- The invoices, including those reissued, that the taxable persons issued themselves or that were issued in their own name
- The invoices received, including those reissued – broken down by settlement periods, in a manner allowing the invoices to be easily found and guaranteeing the authenticity of the origin, the integrity of the content and the legibility of the invoices from the moment of issue until the expiry of the tax obligation limitation period

In Poland, VAT books and records can be held outside of the country. Generally Polish established taxable persons must hold their records in Poland. However, if they are stored in an electronic form enabling online access to those by tax authorities, they can be stored outside Poland as well. Non-established businesses can keep their records outside Poland but must be able to present them at the request of tax authorities (in practice – in an electronic form).

Record retention period. The tax obligation limitation period is five years from the end of the calendar year in which tax payment was due. As such, records must be kept for five years.

Electronic archiving. Electronic archiving is allowed in Poland but not mandatory. As such, paper invoices issued and received can be archived under their paper format. Therefore, electronic

archiving is allowed in Poland provided that electronic archiving does not alter and modify information submitted in the related document and that the business updates its archiving system in order to comply with the regulations.

In addition, with effect from 1 July 2023 it is no longer mandatory to print fiscal receipts or invoices issued instead of receipts for users of online cash registers. Before 1 July 2023 all users of cash registers (so including also taxable persons using online cash registers) were obliged to print the above documents.

I. Returns and payment

Periodic returns. As of 1 October 2020, VAT returns are no longer required – instead all taxable persons registered for VAT in Poland are obliged to file a new form of an extended single audit file for tax (SAF-T) return (JPK_V7M).

The SAF-T is made on a monthly basis, submitted in electronic form by the 25th day of the month following the month in which the tax point arises. Refer to the *Digital tax administration* section below for further details.

Periodic payments. The deadline for making the relevant VAT payment is the same as for submitting the SAF-T return, i.e., by the 25th day of the month following the month in which the tax point arises. VAT liabilities must be paid by bank transfer and must be paid in Polish zloty (PLN).

The approved list. The approved list is an electronic list of taxable persons, in which from 1 September 2019 entrepreneurs can verify data on entities that were not registered for VAT purposes (or were deregistered), entities registered as taxable persons (i.e., data on active and exempt taxable persons), including entities whose registration as taxable persons have been restored.

The existing registers were merged into a single list extended by the additional data, such as bank account numbers indicated in the tax identification or update notifications.

The list is made available in the Public Information Bulletin of the Ministry of Finance in a manner enabling checking whether a given entity is on the list on a selected day, not earlier than in the period of five years preceding the year in which the entity is checked.

If the entrepreneur makes a payment to another account (not listed) and the seller does not pay VAT on this transaction to the tax office, the entrepreneur will be jointly and severally liable with the seller up to the amount of tax liability for the transaction.

Split-payment mechanism. Poland introduced a split-payment mechanism, as of 1 July 2018. The mechanism is optional to taxable persons. Each taxable person is allowed to choose whether it would like to pay its purchase invoices with or without the use of split payment.

As of 1 November 2019, new regulations apply as regard the use of the split payment mechanism (hereinafter: the SPM). The SPM is compulsory for transactions of sale or purchase of a specific group of goods – listed in Annex 15 to the Polish VAT Act. The Annex includes goods determined according to specific Polish Classification of Goods and Services (PKWiU) groups.

The obligatory SPM is being used for the supply of goods and services that were covered by the reverse-charge mechanism and the existing scope of joint and several liability of the buyer – therefore, it mainly covers the steel, fuel and construction services.

In the case of the taxable person's obligation to apply the SPM:
- Payment of the amount corresponding to all or part of the VAT amount resulting from the invoice received is made to the VAT account
- Payment of the amount corresponding to all or part of the net sales value resulting from the invoice received is made to the bank account or SKOK account of supplier

It covers payments regarding invoices documenting transactions made between taxable persons whose one-off value, regardless of the number of payments resulting from it, exceeds PLN15,000 or the equivalent of this amount.

In order to identify the SPM, the invoice needs to include a "split payment mechanism" annotation. Lack of this wording results in high sanctions.

Electronic filing. Electronic filing is mandatory in Poland for all taxable persons. Electronic filing applies to all types of returns. The returns can be signed through the following:
• Qualified signature (Polish or another EU Member State)
• Trusted profile

Later, the returns can be sent via the internet using tools available on the Ministry of Finance Tax Portal (e.g., interactive forms, the e-Deklaracje Desktop application, web applications). However, there are no obstacles to using commercial software adapted for sending tax documents via the internet.

To submit the return electronically to the tax office, taxable persons must appoint a person authorized to sign on their behalf a qualified electronic signature of declarations. Filing VAT return is made by submitting an UPL-1 Form in paper (to the tax office responsible for the registration of taxable persons and payers) or by ePUAP (to the Head of the National Tax Administration).

After submitting the correct return, the taxable person will be able to download the Official Receipt Certificate (UPO).

A taxable person who, contrary to the obligation, does not provide a declaration or summary information in electronic form, exposes themselves to punishment. The penalty for the fiscal offense is a fine from 1/10 to 20 times the minimum remuneration for work (with effect from 1 January 2023 it ranges from PLN349 to PLN69,800 and with effect from 1 July 2023 it ranges from PLN360 to PLN72,000). However, this is generally dealt with in a mandatory procedure, and a fine imposed by a penal fine cannot exceed double the minimum wage (PLN6,980 and PLN7,200 respectively).

With effect from 1 January 2024, a fine for the fiscal offense will range from PLN42,420 to PLN84,840, and starting from 1 July 2024, a fine for the fiscal offense will range from PLN430 to PLN86,000 (a fine imposed by a penal fine will not be allowed to exceed double the minimum wage [PLN8,484 and PLN8,600 respectively]).

Payments on account. Payments on account are not required in Poland.

Special schemes. *Small businesses.* "Small businesses" include taxable persons whose total value of supplies in the preceding VAT year did not exceed the Polish zloty equivalent of EUR2 million. The EUR2 million threshold also applies to commission sales. The threshold for brokerage houses is EUR45,000 of income from brokerage and other forms of remuneration. A business that meets the small-business conditions may opt for a special VAT scheme, but this treatment is not compulsory.

The status of a small business is entitled to submit SAF-T returns on a quarterly basis or a "specific tax point." The specific tax point for a supply is the receipt of payment. The appropriate VAT office must be notified of the decision to choose this tax point.

Nevertheless, small businesses should pay monthly advance payments for VAT liabilities until the 25th day of the month following the settlement period.

Cash accounting. A cash accounting scheme is possible for small taxable persons, provided they notify the appropriate tax office of the decision to apply this. Notification should be made until

the end of the month preceding the period for which it will use this method. A small taxable person may resign from the cash method, but not earlier than after 12 months. The tax office must be notified about the resignation.

Applying this scheme results in the "specific tax point." The specific tax point for a supply is the receipt of payment (however, not later than 180 days after a supply in case of supplies to nontaxable persons). The specific tax point does not apply to the supply of SPVs and intra-Community supply.

Flat-rate farmers (RR). A flat rate system is available for farmers exempt from issuing invoices, keeping sales and purchase registers, filing VAT returns and being VAT registered.

Flat-rate farmers are entitled to receive the refund from the agricultural supplies at a 7% rate of the amount due in respect of the supply.

The purchaser of the products should be VAT registered, should issue the invoice marked as "Faktura VAT RR" (in two copies) to the flat-rate farmer with additional statement on the invoice i.e., "I hereby declare that I am a flat-rate farmer exempt from VAT under Article 43, paragraph 1, subparagraph 3 of the VAT Act," and obliged to pay the amount of the refund to the flat-rate farmer.

Tour operators. The taxable base is the amount of margin reduced by the amount of output VAT. An invoice documenting services of tourism should include additional statement "margin procedure for tour operators." The tour operator is not entitled to deduct input tax on purchased goods or services.

Secondhand goods, works of art, collectors' items or antiques. The taxable base is the amount of margin constituting the difference between the sales amount and the acquisition amount, reduced by VAT amount. The supplier is not entitled to deduct input tax on purchased goods or services.

An invoice documenting supplies of secondhand goods, works of art, collectors' items or antiques should include additional statements, such as "margin procedure for secondhand goods," "margin procedure for works of art," or "margin procedure for collectors' items or antiques."

Annual returns. Annual returns are not required in Poland.

Supplementary filings. *Intrastat.* A Polish taxable person that trades in goods with businesses elsewhere in the EU must submit Intrastat forms if its turnover exceeds the following amounts:
- Intra-Community acquisitions: PLN5 million
- Intra-Community supplies: PLN2.7 million

If the taxable person's turnover does not exceed certain thresholds, it is not required to complete all items of the Intrastat Report Form (numbers 12, 15 and 20 may be excluded). The following are the thresholds:
- Intra-Community acquisitions: PLN80 million
- Intra-Community supplies: PLN128 million

Intrastat returns are filed with the Polish customs authorities on a monthly basis. They must be filed by the 10th of the month following the month in which the transactions occurred.

Intrastat returns must be submitted in electronic form. Intrastat returns must be filed in PLN.

EU Sales Lists. Persons who are registered as EU taxable persons must file EU Sales Lists (ESLs) if they make intra-Community supplies and acquisitions or if they make supplies of services and the place of supply is considered to be the place of establishment of the customers or if they use call off stock procedure.

No turnover thresholds apply to ESLs under the Polish VAT law.

ESLs must be filed monthly with the tax office on the special VAT-UE Form. ESLs must be submitted electronically by the 25th day of the month following the end of the month. All amounts must be provided in Polish zlotys (PLN).

In Poland, ESLs must include the following information:
- The name of the entity submitting the lists and the entity's Polish VAT registration number
- The EU VAT registration numbers of suppliers and customers, together with the appropriate country codes
- The total of intra-Community acquisitions and intra-Community supplies made
- Information about triangular transactions subject to the simplification rule (*see the EU chapter*)
- The total of services supplied that have a place of supply outside Poland
- The total of supplies made under call off stock procedure

An ESL is not required for any period in which the taxable person does not make any intra-community supplies.

Correcting errors in previous returns. A correction of errors in previous returns should be made through filing a correction of relevant return (VAT return/SAF-T/VAT-UE in case of corrections of reporting periods until September 2020, or the new SAF-T [VAT_7M]/VAT-UE in case of corrections of reporting periods from October 2020).

As of 1 October 2020, all corrections of JPK_V7M should be done within 14 days from the date when 1) the taxable person stated that the sent file contained error or data inconsistent with the fact or 2) the data contained in the sent file have changed.

If the errors result in the increase in VAT due, the taxable person should pay the remaining amount along with the interest. It is also recommended to submit a voluntary disclosure letter to the tax office to avoid the fiscal penalty (voluntary disclosure will be effective only if the tax office did not know about the understatement of the tax liability).

Digital tax administration. *Standard Audit File for Tax (SAF-T).* As outlined in the subsection above, *Periodic returns*, as of 1 October 2020, VAT returns are no longer required – instead, all taxable persons registered for VAT in Poland are obliged to file a new form of an extended SAF-T return (JPK_V7M).

JPK_V7M is submitted only in electronic version, up to the 25th day of the month following the reporting period.

In practice, the shape of the SAF-T return consolidates the fields included so far in the VAT return (in the declaration part of JPK_V7M) with the records included so far in the SAF-T return (in the evidence part of JPK_V7M) and adds plenty of new fields, much of which are needed to be addressed per each invoice reported.

Two JPK_VAT variants apply:
- JPK_V7M: for taxable persons who pay monthly (submitting both declaration and evidence part of JPK_V7M on a monthly basis)
- JPK_V7K: for taxable persons who pay quarterly (submitting the evidence part of JPK_V7M on a monthly basis and declaration part of JPK_V7M on a quarterly basis)

Examples of additional information that needs to be provided in JPK_V7M:
- Number and date of acceptance of customs clearance of customs declaration
- Indication of invoices documenting particular types of supplies (examples):
  - Alcohol drinks
  - Tobacco products
  - Waste
  - Electronical goods

  - Motor vehicles
  - Metals
  - Medicines and medical devices
  - Buildings
  - Immaterial services (e.g., accounting, advisory, legal, management, training, marketing, provided by head offices, advertisement, market research, scientific research)
  - Transportation and warehousing
- Separate markings concerning types of deliveries:
  - Intra-EU distance sales and of goods and telecommunication services
  - Electronic interface
  - Between related parties
  - Being subject to special import procedures
  - SPVs
  - MPVs
- Indication of type of document confirming the transaction:
  - Internal document
  - Invoice
  - Collective internal document for sales from cash registers
- Part of the above information is required with respect to purchase transactions as well. Just to indicate some differences, at the purchase transactions' side it is required to mark invoices issued by a taxable person settling their VAT on cash basis.

J. Penalties

Penalties for late registration. For late VAT registration in Poland, a taxable person may be penalized based on the Penal Fiscal Code (e.g., for not meeting the identification requirement; see the subsection *Changes to VAT registration details* above). In addition, penalties are also assessed if, as a result of late registration, a taxable person pays VAT late or submits VAT returns late. Penalties may include fines and criminal penalties.

Penalties for late payment and filings. For a VAT return that is submitted late, the individual responsible for the delay may be fined if the tax court determines that it is at fault. The fine is imposed on the basis of the Penal Fiscal Code which determines the penal liability of natural persons for fiscal crimes.

The interest rate applied to delayed payments of VAT is the sum of 200% of the National Bank of Poland "Lombard rate" and 2%. The standard interest rate shall not be less than 8% per year. In the specific cases, the lowered interest rate (4%) and increased interest rate (12%) may apply. The interests are not charged if their amount does not exceed PLN8.70.

At the time of preparing this chapter, standard interest rates are equal to 14.5% p.a. (according to local provisions).

Penalties for errors. A penalty of up to 30% can be charged for the understatement of tax liability, if it is shown in the tax return that the amount of tax is lower than the amount payable or the overstatement of the amount of input tax.

A penalty of up to 20% can be charged for the understatement of a tax liability (or overstatement of the amount of input tax), in the case of a taxable person correcting their settlement after the completion of a tax audit or in the course of the audit procedure. No sanction shall be determined when the taxable person himself corrects the mistake and will pay the difference of tax to the opening of a tax audit or duty and the understatement of tax due/overstatement of input tax is made by a natural person who bears the responsibility for this act on the basis of the Penal Fiscal Code.

A penalty of up to 15% can be charged for the understatement of a tax liability (or an overstatement of the amount of input tax), in the case of a taxable person correcting their settlement within 14 days after the completion of the customs and tax audit.

With effect from 1 July 2023 the above sanctions up to 15%, 20% and 30% are only the upper values (maximum rates) at which a sanction can be imposed. The sanctions can be imposed at lower rates within the range up to 15%, 20% and 30%.

If the taxable person sends a JPK_V7M (i.e., new SAF-T) containing errors that prevent verification of correctness, it will receive a PLN500 fine for each irregularity found. A way to avoid the above sanction is to send, in a timely manner, a correction of the record after receiving a notice from the tax office containing a list of deficiencies.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details within the deadline can result in a penalty subject to the Penal Fiscal Code. For further details, see the subsection *Changes to VAT registration details* above.

Split payment. For the split-payment mechanism, as of 1 November 2019, if:
- The buyer, despite its obligation to regulate the amount of VAT shown on the invoice in the split payment mechanism, will regulate this amount in a different way – the buyer will be subject to a sanction of 30% of the amount of the tax indicated on the invoice and will face criminal liability in the form of a fine of up to 720 daily rates.
- The invoice issuer will not place the indication "split-payment mechanism" on the invoice.
- The invoice issuer will be subject to a sanction of 30% of the amount of tax indicated on the invoice and will face penal fiscal liability in the form of a fine up to the equivalent of 180 daily rates.

The approved list. For the approved list, effective from 1 January 2020, if the buyer pays to its contractor an amount over PLN15,000 to a bank account other than that specified in the approved list, then it:
- Will not be able to include in the tax-deductible costs the amount in which the payment exceeds PLN15,000
- Will bear the risk of joint and several liability with its contractor for tax arrears

A taxable person that makes a transfer to the wrong bank account number will be able to avoid sanctions provided that it informs the Head of the Tax Office within three days of making the transfer at the latest.

Electronic invoicing. Fines for not issuing electronic invoices or issuing them in the incorrect format:
- Fines of up to 100% of the VAT amount shown on the invoice (e.g., for local sale) or 18.7% of total invoice amount when the invoice is without VAT (e.g., intra-Community) not less than PLN1,000 (or PLN500 in case of failure to send an electronic invoice in an obligatory deadline after system was not working).
- Penalties apply per wrongly issued invoice or invoice issued outside the system.
- Operational and reputational issues if invoices cannot be received and/or issued, e.g., not being able to issue an invoice can lead to not being able to process an order/deliver the goods/receive the payment that results in a cash flow impact/suspension of operations and business, etc., with similar consequences if invoices cannot be received

Fines for the above actions can be imposed with effect from 1 January 2025.

Penalties for fraud. If the excessive amount of the VAT deduction results from invoices that:
- Were issued by a nonexistent entity.
- Relate to actions that were not performed – in their part referring thereto.

- Provide amounts inconsistent with facts – in their part referring to such items for which the said amounts were provided.
- Confirm the acts to which the provisions of Articles 58 and 83 of the Civil Code shall apply – in their part referring to said acts (e.g., sham activity to circumvent regulations) – the amount of the additional tax obligation in the part referring to the input tax based on the above invoices shall be equal to 100%.

The same 100% additional tax obligation applies if the taxable person issues an invoice to the customer (who is also a taxable person) based on the fiscal receipt that did not include this customer's tax number in the first place.

Personal liability for company officers. Company officers may be held personally liable, in line with the prohibited actions covered in the Penal Fiscal Code, if they are considered responsible for tax settlements of the company (including VAT). It is a common practice to have written "penal-fiscal procedures" to manage the risk of liability in each tax field. Depending on the errors/omissions, the penalty can take different forms, the most common is a fine (but in serious frauds this can be a restriction of liberty/arrest/imprisonment).

Statute of limitations. The statute of limitations in Poland is five years. This is as of the end of the calendar year when the tax payment was due. Within this period, the tax authorities are entitled to act with respect to a particular period not covered by the statutory limitation period.

Regarding the corrections, the time limit is as follows:

- Input tax: should be corrected no later than within five years from the beginning of the year in which the right to deduct input tax arose.
- Output tax: should be corrected within five years as of the end of the calendar year when the tax payment was due.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposto sobre o valor acrescentado (IVA)
Date introduced	1 January 1986
Trading bloc membership	European Union (EU)
Administered by	Autoridade Tributária e Aduaneira (Tax and Customs Authority) (http://www. portaldasfinancas.gov.pt)
VAT rates	
Mainland	
Standard	23%
Intermediate	13%
Reduced	6%
Other	Exempt and exempt-with-credit

Autonomous region of Madeira	
Standard	22%
Intermediate	12%
Reduced	5%
Autonomous region of Azores	
Standard	16%
Intermediate	9%
Reduced	4%
VAT number format	PT 5 0 0 9 9 9 9 9 9
VAT return periods	
Monthly	If the turnover in the preceding VAT year was equal or exceeded EUR650,000
Quarterly	If the turnover in the preceding VAT year did not exceed EUR650,000
Annual	All taxable persons that performed any taxable operations
Thresholds	
Registration	
Established	None (unless a one-off taxable event less than EUR25,000)
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	None
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Portugal by a taxable person
- The intra-Community acquisition of goods and services in Portugal from another European Union (EU) Member State made by a taxable person (*see the chapter on the EU*)
- Reverse-charge services received by a taxable person in Portugal
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of Portugal includes the autonomous regions of Azores and Madeira. However, special VAT rates apply to supplies made in these islands.

Quick Fixes. Law no. 49/2020 of 24 August 2020 was published, aiming to harmonize and simplify certain rules in the VAT system for intra-Community trade, transposing the Council Directives 2018/1910 of 4 December 2018 and 2019/475 of 18 February 2019 and amending the VAT Code, the VAT Regime for Intra-Community Transactions (RITI) and the Excise Duties Code. *For documentary requirements see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

The referred law applies with retroactive effect as of 1 January 2020 (but taxable persons are given the possibility to comply with the tax obligations by 31 December 2020) and introduces into the Portuguese legal system three of the four measures of the legislative package of implementation so called "Quick Fixes." The fourth measure (concerning the harmonization of the documentation required for the application of the exemption in intra-Community transfers of

goods), provided for in Regulations no. 2018/912 of 4 December 2018, which amended Regulation no. 282/2011 of 15 March (amending the EU VAT Directive), was already in force since 1 January of 2020.

New rules introduced into the national VAT law are as follows:

- New requirements for applying the exemption for intra-Community supplies of goods in article 14 of the RITI: (1) registration of the customer's VAT identification number in the VAT Information Exchange System (VIES) and the communication of the respective VAT identification number to the supplier; and (2) submission of the EC Sales List return by the supplier of the goods with the filling of the exempt intra-Community transfers of goods performed. Failure to comply with the requirements will result in the non-application of the exemption.
  - Alongside this amendment, article 45-A of Council Implementing Regulation no. 282/2011 (added by Council Implementing Regulation 2018/1912, as above referred), which provides for the (rebuttable) presumption of dispatch or transport of goods to another Member State when taxable persons have in their possessions the means of proof (i.e., the types of documents) identified by the same rule, must also be taken into account.
- Harmonization of the VAT treatment of supply chain transactions: the intra-Community transport should be ascribed to one of the supplies and only that supply should benefit from the VAT exemption provided for the intra-Community supplies in article 14º of the RITI. It is foreseen that in successive transfers of goods that are dispatched or transported from the national territory to another Member State directly from the first supplier to the last recipient, the dispatch or transport shall be ascribed to the supply made to the intermediary operator. However, where the intermediary operator has communicated to its supplier the VAT identification issued to it in the national territory, the dispatch or transport shall be ascribed to the supply made by the intermediary operator.
- Simplification and harmonization of call-off stock arrangements for intra-Community transactions (consignment sales of goods):
  - The Portuguese State adopted a simplification mechanism by adding article 7º-A to the RITI, where the dispatch or transport of goods by a taxable person to a warehouse/stock located in another Member State under call-off stock arrangements shall not be treated as an intra-Community acquisition, where certain conditions are met, namely: the goods are dispatched or transported to another Member State with a view to their subsequent transmission within one year.
  - By prior agreement between a supplier not having a registered office or fixed establishment in the Member State in which the goods arrive and a customer who is registered for VAT in that State.
  - Said transfer is duly recorded in accordance with article 31 of RITI and included in the respective EC Sales List return (in accordance with the new provision of the article (23)(1)(c) of RITI).
  - Subsequently, when the acquirer takes ownership of the goods, an exempt intra-Community supply in the Member State of departure and a taxed intra-Community acquisition in the Member State where the stock is located are deemed to take place.
  - With the introduction of this simplification regime, the supplier of the goods does not need to register for VAT purposes in the Member State for the arrival of the goods.
  - In addition, for the application of this simplified regime, there should also be considered: the conditions set forth in article (7) (4) of the RITI, which lists the situations in which goods are deemed to be transferred to another Member State; and article 54-A provided in Regulations no. 2018/912 of 4 December 2018, added to Regulation no. 282/2011 of S15 March; as regards the elements of information to be entered in the accounting register of article 31 of the RITI concerning the transfers under consideration herein.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply the use and enjoyment rules that allow a service that is "used and enjoyed" in

the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Portugal, the following services are subject to the "use and enjoyment" provisions:
- Lease of tangible movable assets, except means of transport, made to a person established or domiciled outside the EU, when the actual use or exploitation of these assets occurs in national territory.
- Short-term lease of a means of transport, made to a person who is not a taxable person, when the placement at the disposal of the recipient has occurred outside the Community and the effective use or exploitation of the means of transport occurs in the national territory.
- Lease of a means of transport, other than short-term leasing, made to a person who is not a taxable person, when it is established or domiciled outside the Community and the effective use or exploitation of the means of transport occurs in the national territory.

Additionally, the use and enjoyment rules apply in Portugal for telecommunications, broadcasting and electronic services. In particular, Portuguese VAT is due when 1) these services are supplied to a person established or domiciled outside the EU, 2) the provider has its head office, a fixed establishment or a domicile from which these services are rendered in Portugal and 3) the effective use and enjoyment of these services takes place within Portugal. Special rules will apply from 1 January 2021 onward. Refer to the *Digital Economy* subsection below.

Transfer of a going concern. A transfer of a going concern (TOGC), under the Portuguese VAT rules, is out of the scope of VAT. An operation may qualify as a TOGC if all of the following conditions are met:
- The transfer of assets is to be performed in definitive terms, i.e., i) the legal title must be passed to the purchaser without any suspensive condition, ii) both legal and economic ownership must be effective (the purchaser must have the right to dispose of the assets as owner) and iii) the purchaser must have the intention to operate the business or the part of the undertaking transferred and not simply immediately liquidate the activity concerned and sell the stock.
- The acquirer is or will become a taxable entity that performs taxable operations following the acquisition of the assets.
- The transferred assets/business are capable of, as a whole, constituting an independent business unit.
- Following the transfer, the acquirer will continue to undertake an economic activity.

Hence, for the operation to qualify as a TOGC, all or part of a totality of goods to be transferred needs to qualify as an independent business or activity.

Transactions between related parties. For a transaction between related parties, the value for VAT purposes is calculated as follows: the normal value overrides the value of the consideration obtained or to be obtained by the supplier, in return for the supply, from the customer (or from a third party).

This exception to the general provision for determining the taxable amount can be excluded if it can be proved that the difference between the consideration and the normal value is justified by circumstances other than the special relationship between the parties. Indeed, this is an anti-abuse provision that seeks to prevent situations of manipulation of the value of operations and of the VAT assessed in transactions between entities that have special relationships and restrictions on the right to the VAT deduction.

C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services or intra-Community acquisitions or distance sales (once the threshold is exceeded) in the course of a business in Portugal.

No VAT registration threshold applies in Portugal (except for one-time taxable events, under EUR25,000). A taxable person that will begin its activity must notify the tax authorities of its liability to register.

Special VAT registration rules apply to foreign or "non-established" businesses.

Exemption from registration. Although the supply of a single operation is, by rule, a taxable operation, article 31 (3) of the VAT Code provides that the statement of beginning of activity does not need to be submitted (i.e., there is no need to proceed with the VAT registration) where the single taxable transaction does not exceed EUR25,000.

Voluntary registration and small businesses. The VAT law in Portugal does not contain any provision for voluntary VAT registration. Nonetheless, if a taxable person incurs expenses within Portugal, it may opt to register for VAT in Portugal if it has output tax related to its operations. This option may be chosen due to the fact that a VAT refund claim may otherwise be very time consuming. For further details see the *Recovery of VAT by non-established businesses* subsection below.

Group registration. Group VAT registration is not allowed in Portugal.

Holding companies. In Portugal, a pure holding company cannot be a member of a VAT group, as group VAT registration is not available in Portugal.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC article 132(1)f) has not been implemented in Portugal.

Fixed establishment. The Portuguese VAT legislation does not provide a definition of "fixed establishment" (FE) for VAT purposes; this means that article 11 of Council Implementing Regulation no. 282/2011 must be analyzed for these purposes, since the Portuguese tax authorities (PTA) have adopted for VAT purposes the same definition of "fixed establishment" that is stated in article 11. In short, a foreign business is deemed to have a fixed establishment for VAT purposes in Portugal in the following circumstances:

- Existence of a physical installation (suitable structure) – fixed place of business through which the business of the enterprise is wholly or partly carried on by a dependent of the company
- Existence of human and technical resources within the physical installation
- A certain degree of permanence to carry out taxable operations in Portugal (i.e., the FE should be lasting or continuous, as opposed to occasional or temporary)

In view of the above, the PTA considers that in the absence of a fixed/physical establishment/facility with a minimum consistency that demonstrates an appropriate level of human and technical resources, capable of receiving and providing services, a nonresident taxable entity should not be considered to have a FE in Portugal.

Usually, the PTA understands that whenever a permanent establishment (PE) exists for corporate taxation (CIT) purposes, then, such establishment also exists for VAT purposes. In fact, in these situations, the authorities, make no difference in the treatment of the entity for PE (CIT) or FE (VAT) purposes, which implies that the same company tax identification number is both used for CIT and VAT purposes.

Non-established businesses. A "non-established business" is a business that is not VAT registered nor has a fixed establishment in the territory of Portugal. A non-established business that makes supplies of goods or services in Portugal must register for VAT if it is liable to account for Portuguese VAT on the supplies or if it makes intra-Community supplies or acquisitions of goods (except when the call-off stock simplification rules apply, refer to such comments under the *Quick Fixes* subsection above).

The reverse-charge mechanism applies generally to supplies made by non-established businesses to Portuguese taxable persons. Under the reverse-charge provision, the taxable person that receives the supply must account for the Portuguese VAT due. If the reverse charge applies, the non-established business is not required to register for Portuguese VAT. The reverse charge does not apply to supplies to private persons or to nontaxable legal persons. Consequently, non-established businesses must register for Portuguese VAT if they make any of the following supplies:

- Intra-Community supplies or acquisitions (*see the chapter on the EU*)
- Distance sales in excess of the threshold (*see the chapter on the EU*)
- Supplies of goods and services that are not subject to the reverse charge

Tax representatives. Businesses that are established in the EU are not required to appoint a tax representative to register for VAT in Portugal. However, EU businesses may opt to appoint a tax representative if they wish to do so.

Businesses that are established outside the EU (including the United Kingdom) must appoint a resident tax representative to register for Portuguese VAT. The tax representative is the first entity deemed responsible for the payment of the VAT debts with the business represented by it.

However, a nonresident entity, with head office or established in a third country, registered for VAT purposes in Portugal that intends to cease activity must appoint a Portuguese tax representative established or resident in Portugal. This rule is aimed at ensuring payment of any outstanding tax that may be levied after the cancellation of the activity. Thus, the tax representative is jointly and severally liable for the payment of VAT since its appointment and until the company duly cancels its activity near the competent authorities

Under the recent Ruling no. 30235 of 27 April, the appointment of a tax representative for mere Portuguese VAT registrations (who are entities incorporated or established within the EU, otherwise it would be mandatory) continues to be optional and not mandatory. However, by appointing such representative, such mere Portuguese VAT registrations may continue to charge local VAT when selling goods to entities incorporated, established or who are mere Portuguese VAT registrations in Portugal.

Where a tax representative is not appointed, business-to-business (B2B) Portuguese local supplies shall be subject to the domestic reverse-charge mechanism (article 2(1)(g) of the Portuguese VAT Code), thus, local output invoices must be raised without VAT.

Where a tax representative is appointed, the supplier who is a mere Portuguese VAT registrant may continue to charge/report/assess local VAT in its local B2B supplies but must prior to the raise of such invoices communicate to the B2B acquirers that a tax representative was appointed.

Reverse charge. In cross-border B2B supplies of services, the acquirer of the service (taxable person) should apply the reverse-charge mechanism and self-assess the VAT due on such operation.

Domestic reverse charge. The reverse-charge mechanism is also applicable in the following situations, in which the taxable person, to whom supplies of goods or services are rendered, becomes liable for the payment of VAT:

- Supplies of ferrous waste and scrap, residues and other recyclable materials consisting of ferrous and nonferrous metals to a Portuguese taxable person

- Supplies of civil construction services to a Portuguese taxable person
- Supplies of services involving emission rights, certified emission's reductions and emission reduction units of greenhouse gases to a Portuguese taxable person. The person acquiring goods and/or services from a supplier that is not established in Portugal should be the one responsible for the VAT self-assessment of the VAT due, by means of the reverse-charge mechanism. Indeed, this rule transfers the obligation of the self-assessment and payment of the VAT due to the taxable person who has its head office, fixed establishment or domicile in the national territory or, that has appointed a tax representative herein, under the terms of article 30 of the Portuguese VAT Code, whenever acquiring goods or services from a nonresident VAT taxable entity that has its head office, fixed establishment or domicile in another EU Member State, and that does not have a tax representative in Portugal (article 2(1) (g) of the Portuguese VAT Code in line with Ruling no. 30235).

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "one-stop-shop" mechanism.

For more details about intra-Community distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a tax representative for accounting for the VAT due on these transactions.

For more details on the application process in Portugal, refer to the subsection *Registration procedures* below.

One-Stop Shop. Effective since last 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-Community cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) regime that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

Taxable persons can apply to the One-Stop Shop directly through the PTA's website (www.portaldasfinancas.gov.pt/oss), provided that all conditions required are met.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-Community distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective since 1 July 2021, the Import One-Stop-Shop (IOSS) regime applies for B2C distance sales of goods from outside the EU.

Effective since 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value . The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

Taxable persons can apply to the Import One-Stop Shop directly through the PTA's website (www.portaldasfinancas.gov.pt/oss), provided that all conditions required are met.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special regime is not mandatory. If VAT is not collected via the IOSS regime, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers regime. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special regime for postal services and couriers.

In Portugal there are no additional specific local rules that apply.

For more details about the special regime for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU if the supplier is not established within the EU. This applies to both local shipments

within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Portugal there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. A "single-purpose voucher" (SPV) is a voucher for which all the elements necessary for determining the tax due, regardless of the good or service to be supplied, are known at the time of issue or assignment.

For SPVs, VAT shall be due and payable at the time the voucher is issued/assigned by the taxable person in whose name the transfer of the voucher is made. On the other hand, a "multi-purpose voucher" (MPV) is a voucher for which, at the time of issue or assignment, all the information necessary to determine the tax due is not known.

For MPVs, VAT shall be due and payable at the time the taxable person supplies the goods or services that the voucher relates to, regardless of any assignments that may have previously occurred.

Registration procedures. Entities must register with the National Register of Corporate Entities (*Registo Nacional de Pessoas Colectivas* – RNPC), as well as with the local tax office. A certificate of legal standing of the company must be filed with the registration application form. The company is provided with a Portuguese corporate registration number within 10 working days. This number will be the same as the VAT registration number once the company files for a declaration of beginning of activity, together with other relevant documents, with the competent tax office.

The registration of a non-established business for VAT purposes in Portugal may take up to 10 working days. An online VAT registration system is not yet full in force in Portugal. Entities must register with the RNPC in person. Registration with the local tax office may be performed electronically exceptionally and subject to confirmation, through the PTA website.

The following documentation is required to proceed with the Portuguese VAT registration of a company not established in Portugal:

- Certificate of incorporation issued within the last three months and duly apostilled with the Hague Convention seal. A Portuguese certified translation is required.
- Company's articles of association issued within the last three months and duly apostilled with the Hague Convention seal. A Portuguese certified translation is required.
- Certificate of status of taxable person proving that the company is a taxable person in the country where it has its head office, issued within the last three months and duly apostilled. A Portuguese certified translation is required.
- The company's international bank account number (IBAN) and BIC/SWIFT number – for this purpose the applicant should provide official declaration from the bank where the company holds its bank account, provided it is from an EU bank account.
- Power of attorney (PoA) duly apostilled with the Hague Convention seal and issued within the last three months, empowering another business to represent and act on behalf of the company in the process of requesting its registration at the National Register of Companies (Registo Nacional de Pessoas Colectivas – RNPC).
- Copy of identity card/passport of the person who has powers to solely bind the company (e.g., legal representative, when applicable) for PoA purposes.
- Declaration of beginning of activity signed by the person who has powers to solely bind the company (e.g., legal representative) or if applicable, by the tax representative appointed by the company. This form needs to be printed on both sides and signed in duplicate.

Other information required for the declaration of beginning of activity: (1) identification of the operations to be carried out in Portugal (imports, exports, intra-Community acquisitions or supplies – yes/no), (2) company's business activity code (usually designated across Europe as CAE, NAFT or NACE code), (3) estimated annual turnover in euro and (4) confirmation of the exact date of the beginning of activity in Portugal.

It is also possible to backdate the VAT registration date of beginning of activity if needed (however, in this case, penalties shall apply).

Following recently enacted legislation for the prevention of money laundering and terrorism financing, all entities that obtain a Portuguese taxable person number are required to submit an online form containing information about that entity and about its ultimate beneficial owner(s) (UBO) and management.

Deregistration. Individuals or companies subject to VAT must, within 30 days from the date of termination of activity, submit a declaration of cancellation of activity with the competent tax office.

Tax authorities can declare, on their own authority, the termination of activity of a company following a judgment under insolvency proceedings determining the winding-up of the company, when it is clear that an economic activity is not being developed or intended to continue to be developed.

Changes to VAT registration details. When there is a change in a taxable person's VAT registration details (such as name, address, starting/stopping to make imports, exports or intra-Community acquisitions or supplied, inter alia), the taxable person is obliged to inform the tax authorities of such changes through the submission of a declaration of changes of activity. This can either be made in person or online, via the company's web portal with the PTA.

D. Rates

The term "taxable supplies" refers to imports and supplies of goods and services that are liable to a rate of VAT.

The VAT rates in mainland Portugal are:
- Standard rate: 23%
- Intermediate rate: 13%
- Reduced rate: 6%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the intermediate rate, the reduced rate or an exemption.

In the autonomous region of Madeira, the following VAT rates apply:
- Standard rate: 22%
- Intermediate rate: 12%
- Reduced rate: 5%

In the autonomous region of Azores, the following VAT rates apply:
- Standard rate: 16%
- Intermediate rate: 9%
- Reduced rate: 4%

Examples of goods and services taxable at 6% (5% in Madeira and 4% in the Azores)

- Basic foodstuffs
- Books and newspapers and other periodic publications that occupy predominantly scientific, educational, literary, artistic, recreational or sporting cultural matters in any medium, provided that it is not wholly or predominantly in video or music

- Pharmaceuticals (some)
- Medical equipment
- Passenger transport
- Hotel accommodation
- Refurbishment of immovable property that is directly contracted for with the National Fund for Rehabilitation of Heritage Building by its management company
- Provision of cleaning services and cultural intervention in certain places in terms of fire prevention measures
- Traditional cane honey
- Garments for medical purposes, hair prostheses for cancer patients, as long as duly prescribed
- Services rendered by bullfighting artists, in bullfighting shows to the respective promoters

At the time of preparing this chapter, the draft state budget law for 2024 proposes the application of the reduced rate to the supply of electricity, excluding the respective fixed components that apply until the end of 2024. The aforementioned paragraph applies the reduced VAT rate to the supply of electricity, excluding the respective fixed components. This applies, provided that the power supplied does not exceed 6.90 kVA, and in respect to the amount, not exceeding: a) 100 kWh in a 30-day period; and b) 150 kWh in a 30-day period in the case of large families, meaning households with five or more people. In addition, the acquisition, delivery and installation, maintenance and repair of appliances, machinery and other equipment intended exclusively or mainly to the capture and use of solar, wind and geothermal and other alternative forms of energy shall also be subject to the reduced rate. No further details have been announced.

Examples of goods and services taxable at 13% (12% in Madeira and 9% in Azores)

- Canned fish and shellfish
- Wine
- Fuel and colored oil marked with government-approved additives
- Musical instruments

At the time of preparing this chapter, the draft state budget law for 2024 proposes the application of the intermediate VAT rate to juices, nectars and natural sparkling water or with carbon dioxide content or other products supplied in restaurants. No further details have been announced.

The term "exempt supplies" refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction. Some supplies are classified as "exempt with credit," which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt-with-credit supplies include, among others, exports of goods outside the EU and related services, and supplies of banking, financial and insurance services made to a recipient outside the EU (*see the chapter on the EU*).

Examples of exempt supplies of goods and services

- Leasing or letting of immovable property
- Medical services
- Financial services
- Insurance
- Copyrights by authors
- Training provided by public sector institutions

Option to tax for exempt supplies. The Portuguese VAT law foresees the following options for taxation of exempt supplies:

- Supply of training services:
  - Supply of food and drinks made by employers to their employees
  - Supply of medical and sanitary services performed by hospitals, clinics, dispensaries and similar establishments, which are not carried out by entities from the public sector, i.e., entities that do not have any agreement with the State

– Supplies of services rendered by non-agricultural cooperatives to their farmer members

In the above cases, if the taxable person opts to waive the VAT exemption, it must remain under this regime for five years.

- Leasing or supply of immovable property or independent parts thereof to other taxable persons: In this case, the waiver of the exemption must be carried out on a case-by-case basis and supported by a certificate issued by the PTA.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed.

An invoice must be issued before the fifth business day following the basic time of supply. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due on the fifth business day after the basic tax point.

If the consideration is paid in full or in part before the invoice is issued, the actual tax point becomes the date on which payment is received (with respect to the amount paid). The VAT invoice must be issued immediately in these circumstances.

Deposits and prepayments. For prepayments or advance payments, the tax point is the date on which the advance payment is received. The supplier must issue an invoice as soon as an advance payment is received.

Continuous supplies of services. Regarding continuous supplies of services based on agreements foreseeing successive payments, the time of supply occurs at the end of the period concerning each payment. However, where the payment schedule is not defined or is greater than 12 months, the VAT is due and shall become chargeable at the end of each 12-month period, for the corresponding amount.

Goods sent on approval for sale or return. Generally, under the Portuguese VAT rules, a taxable supply of goods is deemed to have taken place when goods are sold, and they are not returned to the supplier within a year.

Reverse-charge services. The rules stated above also apply to reverse-charge services. However, the tax point rule is irrelevant for the supplier since no VAT is assessed by the supplier (who must still issue the invoice within five working days after the service is rendered).

The purchaser should self-assess the VAT when receiving the invoice. However, if there is a delay in the supplier issuing the invoice, the VAT should be reverse charged on the fifth day (after the taxable event), but the purchaser cannot recover the VAT until it has the original invoice. Therefore, in practice, the reverse charge is normally applied by the purchaser when the invoice is issued, even if more than five days have elapsed from the taxable event.

Leased assets. Since leasing agreements are also considered a continuous supply of services, the time of supply occurs at the end of the period foreseen for each payment.

Moreover, when the client exercises the purchase option, the VAT is due for the supply of goods for the difference value of the asset.

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

Intra-Community acquisitions. The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the basic time of supply for the goods occurs. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued.

Intra-Community supplies. Although no VAT is chargeable for an intra-Community supply, an invoice must be issued by the 15th day of the month following the month in which the goods are delivered to the customer.

For continuous intra-Community supplies of goods over more than one calendar month, the tax point shall be regarded as being completed on expiry of each calendar month until such time as the supply comes to an end.

Distance sales. In respect of supplies of goods for which VAT is payable by the person facilitating the supply through the use of an electronic interface, such as a marketplace, platform, portal or similar means; distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR150; the chargeable event shall occur, and VAT shall become chargeable at the time when the payment has been accepted.

For distance sales of goods imported from third territories or third countries on which VAT is declared under the special regime for distance sales of goods imported from third territories or third countries, in consignments of an intrinsic value not exceeding EUR150, the chargeable event shall occur, and VAT shall become chargeable, at the time of supply. The goods shall be regarded as having been supplied at the time when the payment has been accepted.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred with the acquisition of goods and services for its business purposes. A taxable person generally recovers input tax by deducting it from output tax charged on the supplies carried out. The input tax can be deducted in the VAT return of the period or the subsequent period in which the invoices were received.

The time limit for a taxable person to reclaim input tax in Portugal is 4 years/48 months counted from the beginning of the civil year following the date when the VAT become taxable/deductible. This is the general statute of limitation period.

Input tax includes VAT charged on goods and services supplied in Portugal, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and services, and reverse-charge services (*see the chapter on the EU*).

A valid tax invoice or customs document is requested by the tax authorities during their analysis of a claim for input tax.

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

Examples of items for which input tax is nondeductible

- Purchase, hire, lease, maintenance and fuel for private cars and vans
- Business gifts (unless valued at less than EUR50)
- Restaurant meals
- Entertainment and luxury goods and services
- Transport expenses and business travel, including toll costs, incurred outside the scope of the organization or participation in congresses, fairs or exhibitions
- Accommodation and meals incurred outside the scope of the organization or participation in congresses, fairs or exhibitions
- Drinks and tobacco

Examples of items for which input tax is deductible (if related to a taxable business use)

- 50% of VAT related to diesel or liquefied petroleum gas (LPG) for vans and trucks

- 50% of VAT related to expenses incurred with respect to organization of conferences, seminars and training courses (for example, travel, food and beverage, accommodation and lease of immovable property). *At the time of preparing this chapter, the draft state budget law for 2024 proposes the extension of the simplified regime for the VAT refund for the entities whose main activity code (CAE – "Código de Atividade Económica") is 79110 – "Travel agencies activities." This shall apply to expenses related with the organization of congresses, fairs, exhibitions, seminars, conferences and similar events. No further details have been announced.*
- 25% of VAT related to expenses incurred with respect to participation in conferences, seminars and training courses (for example, travel, food and beverage, accommodation and lease of immovable property)
- Car-related expenses when the acquisition cost does not exceed EUR62,500 for electric vehicles and EUR50,000 for plug-in hybrid vehicles (value s net of VAT)

Partial exemption. Input tax directly related to exempt supplies is not generally recoverable. If a Portuguese taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." Exempt with credit supplies are treated as taxable supplies for these purposes.

In Portugal, the amount of input tax that a partially exempt business may recover is calculated by using one of two methods.

The first method consists of the following two stages:
- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible (this method is usually referred to as the "direct allocation method"). Input tax directly related to exempt supplies is not deductible.
- In the second stage, the remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned. The apportionment may be calculated based on the value of taxable supplies carried out compared with the total turnover or by using another acceptable method agreed on with the tax authorities. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 72.1% is rounded up to 73%).

Under the second method, a taxable person may use a general pro rata calculation based on the value of taxable supplies made compared with total turnover.

Taxable persons may use both methods at the same time for different operations or for different sectors of activity. The Portuguese VAT authorities may also impose the use of one of these two methods to prevent distortions of competition.

Approval from the tax authorities is required to use the partial exemption standard method or special method in Portugal. The option to use either of the methods outlined above (direct allocation or prorate) need to be stated in the declaration of beginning of activity.

Capital goods. Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption recovery percentage changes by more than 5% in any year during the adjustment period or if goods are taken from a taxable sector or activity for use in an exempt sector or activity.

In Portugal, the capital goods adjustment applies to the following assets for the number of years indicated:
- Immovable property (including services): adjusted for a period of 20 years
- Movable property: adjusted for a period of 5 years

The capital goods adjustment does not apply to the following items:
- Goods with a purchase value of less than EUR2,500
- Goods with a useful life of less than five years (for example, computers)

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax (1/20 for immovable property and 1/5 for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds. If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed in certain circumstances. If a refund may not be claimed, the input tax credit may be carried forward to offset output tax in a subsequent period.

A refund may be requested if the credit balance is at least EUR250 and if the taxable person has been in a credit position for 12 or more consecutive months. However, if the VAT credit exceeds EUR3,000, a VAT refund may be claimed immediately.

A refund may also be requested before the end of the 12-month period for amounts greater than EUR25 if any of the following circumstances exist:
- The taxable person has ceased operations.
- The taxable person has ceased to make taxable supplies and now exclusively makes supplies that are exempt from VAT.
- The taxable person begins to use the special VAT accounting regime for retailers.

In general, a refund is claimed by submitting the VAT return form by electronic means, together with the following annexes:
- A list of clients
- A list of suppliers

Pre-registration costs. According to the guidelines issued by the PTA, input tax incurred on pre-registration costs can be deducted under certain circumstances.

The VAT incurred in the acquisition of goods or services that occurs before the submission of the start of activity declaration and its registration for VAT purposes may be deducted if the transactions represent operations that grant the right to input tax deduction, provided for in the VAT Code. These costs can be deducted in the first VAT return.

Bad debts. Bad debts may be adjusted (and recovered) on periodic VAT returns.

A bad debt is considered to exist for debts for which the nonpayment risk is duly justified, namely when (i) the credit is overdue for more than 12 months (when the debtor is a taxable person entitled to deduct VAT) and there are objective proofs of its impairment and actions performed regarding its payment, including the asset being recognized in the accounts or (ii) the credit is overdue for more than six months (when the debtor is an individual or a VAT exempt taxable person with no right to deduct input VAT and the VAT credit (taxable basis – VAT), per invoice is not higher than EUR750.

In the case of debts from special judicial or extra judicial processes, the VAT adjustment can be performed before the abovementioned deadlines if the process is decided earlier.

The following debts are not considered as bad debts:
- Credits secured or covered by an insurance or by any guarantee in rem (i.e., a real warranty, for instance, pledges or mortgages or other types of real guarantee s as defined in Portuguese civil law)

- Credits over related parties
- Credits over entities declared insolvent or bankrupt before the realization of the transaction
- Credits over the State

Additionally, note that for credits overdue for more than 12 months, the VAT adjustment requires a prior report certified by a chartered accountant and a prior electronic authorization request to the PTA. For credits overdue for more than six months, the VAT is automatically recovered through the VAT return.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Portugal.

G. Recovery of VAT by non-established businesses

The Portuguese VAT authorities may refund VAT incurred by businesses that are neither established nor registered for VAT in Portugal. Non-established businesses may claim Portuguese VAT to the same extent as VAT-registered businesses. If a taxable person incurs expenses within Portugal, it may opt to register for VAT in Portugal if it has output tax related to its operations. This option may be chosen due to the fact that a VAT refund claim may otherwise be very time consuming. See the *Voluntary registration and small businesses* subsection above.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/CE.

The VAT refund procedure under the EU Directive 2008/9/CE, together with the provisions of Decree-Law no. 186/2009 of 12 August, may be used only if the business did not perform any taxable supplies in Portugal during the refund period (excluding supplies covered by the reverse charge and exempt transport services). *For full details, see the chapter on the EU.*

Find below specific rules for Portugal:

- The refund request is made electronically in the country where the entity is established and must be sent together with the relevant information (such as the entity's identification, refund period) and with the required documents that sustain the refund claim, i.e., invoice or import documents and related information that allow for proving the relevant VAT was paid.
- The request must be filed in Portuguese or English and should be submitted by 30 September of the following year when the tax became due. The minimum amount to be refunded is EUR50.
- The deadline for the approval or denial of the refund is four months, but it may be extended to six or eight months if the PTA issue one or two requests for additional information or documents.
- Claimants may request payment of interest if a claim is repaid more than 10 working days after the favorable decision notification.

Non-EU businesses. For businesses established outside the EU, refunds are made under the EU 13th Directive, together with the provisions of Decree-Law no. 186/2009 of 12 August. All refunds must be made taking into account the 13th Directive. There is no specific guidance as for UK companies. *For full details, see the chapter on the EU.*

Portugal applies the principle of reciprocity; that is, the country where the claimant is established must also provide VAT refunds to Portuguese businesses.

Find below specific rules for Portugal:

- The procedure is the same as regarding businesses established in the EU with the following particularities regarding non-EU businesses:
  - A tax representative domiciled in Portugal needs to be appointed and granted with powers to comply with all obligations arising from the refund request. The request is made directly by the representative to the VAT Refund Services, in paper or online.

– Filing a certificate, issued by the State where it is established, proving to be subject to a general sales tax, as well as the confirmation from that State on the reciprocity of treatment for taxable persons established in Portugal. This certificate may not be submitted if there is a reciprocity agreement in place between the two countries.

• The VAT refund request must be sent to the following address:

VAT Refund Services
Avenida João XXI
nº76, 5º
1049-065 Lisboa

Late payment interest. The PTA should pay the refund request until the end of the second month after the submission of the refund. In case of taxable persons that are registered in the monthly reimbursement regime, the PTA must pay until the 30 days after the submission of the refund claim. After that, the taxable person can request the payment of compensatory interest (4% per year).

H. Invoicing

VAT invoices. A Portuguese taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. A VAT invoice (or equivalent document) is necessary to support a claim for input tax deduction or a refund under the EU Directive 2008/8/CE or EU 13th Directive refund regimes (*see the chapter on the EU*).

Generally, goods in transit within the Portuguese territory must be accompanied by a special delivery note or invoice. Delivery notes must be electronically communicated to the PTA before the beginning of the transport. These transport documents must contain the same information as an invoice, excluding the value of the transaction. These documents must also contain details indicating from where the goods were dispatched, the destination of the goods and the time of commencement of the dispatch.

Portuguese taxable entities with head office, fixed establishment, domicile or even mere VAT registrations (independently of having appointed or not a tax representative herein), in Portuguese territory must communicate electronically to the PTA the relevant data of the invoices issued during a particular month, at the latest on the 5th day of the subsequent month, from 1 January 2024 onward.

Issuing invoices through a certified invoicing program is mandatory for taxable persons who:
• Have a head office, fixed establishment, domicile or even mere VAT registrations in Portugal, or other, are obliged to raise invoices
• Have had, in the previous calendar year, a turnover exceeding EUR50,000 (or in the year in which the activity begins, the annualized turnover exceeds EUR50,000)
• Use invoicing software
• Are required to have organized accounting or have chosen to do so

Since 1 July 2021, taxable persons who are not established in the national territory but herein registered for VAT are obliged to use an invoicing system certified by the PTA.

This obligation to use certified invoicing systems should be applicable to nonresident entities (even with mere VAT registrations), provided that the company has a turnover threshold higher than EUR50,000 in the calendar year of 2023 (or when, in the year in which they start operating, the reference period is less than the calendar year and the annualized turnover for that period exceeds EUR50,000), or if it uses any billing software to issue its invoices.

Taxable persons who are, under article 35.º-A of the VAT Code, subject to invoicing rules in Portugal (including nonresident entities but registered for VAT purposes herein) must communicate to the PTA all the elements of the invoices issued under the terms of the VAT Code, as well

as the elements of the documents that enable the verification of goods or provision of services and receipts, by:

- Real-time electronic data transmission, integrated in an electronic invoicing program
- Electronic data transmission by sending a standardized structured file based on the SAF-T (PT) file

  Or
- Directly on the PTA website

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original invoice. The mention of VAT on a credit note is optional. If VAT is mentioned, the supplier may reduce the VAT payable with respect to the supply. However, the supplier can make this reduction only if it has written confirmation from the purchaser acknowledging the VAT adjustment.

Electronic invoicing. Electronic invoicing is mandatory in Portugal, for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Portugal. This is in line with EU Directive 2014/55/EU *(see the chapter on the EU)*. This is with effect from 1 January 2021.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Portugal. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*.

For B2G supplies, large companies have been obliged to issue electronic invoicing documents since 1 January 2021. Small- and medium-sized enterprises, micro-enterprises and public entities as co-contracting entities are obliged to issue electronic invoicing documents since 1 January 2023. Until 31 December 2023, there was the possibility of using different electronic invoicing mechanisms for small- and medium-sized enterprises and micro-enterprises. However, as of 1 January 2024, this possibility no longer exists.

Since 1 January 2020 (for large companies, i.e., an enterprise that employs more than 250 people or has an annual turnover of more than EUR50 million or a total annual balance sheet exceeding EUR43 million – other deadlines may apply for other entities), electronic invoicing is mandatory for public procurement. This obligation means electronic invoices must be issued from all suppliers who are involved in public procurement contracts, as well as public authorities and like entities.

In the case of public authorities and similar entities, note that the obligation is that they are issuers and/or recipients of electronic invoices, in the sense that their IT systems must be ready to export and import the electronic invoices. However, note that electronic invoicing is not required for the execution of contracts declared to be confidential and/or accompanied by special security measures. For other taxable persons (B2B and B2C), electronic invoicing is allowed in Portugal but not mandatory, in line with EU Directive 2010/45/EU. Electronic invoicing is accepted for all transactions and no formal approval is needed from the PTA to implement it if the invoices are stored in Portugal or in another EU Member State (if any taxable person established in the Portuguese territory wishes to store its invoices outside the EU, it must obtain prior authorization from the PTA in order to do so).

Invoices are not obliged to be verified by the tax authority before issuing, neither are verification details. In any case, invoices must be raised by way of a certified invoicing program, which is also applicable for mere VAT registrations since 1 July 2021. Electronic invoices may only be issued through a certified invoicing program and if the recipient of the services expressly accepts the adoption of such procedure. Also, issuing electronic invoices is only acceptable if the authenticity of origin, integrity of the content and the legibility of the invoice is ensured by business controls that create a reliable audit trail between the invoice and the supply of goods or services.

In practical terms, every electronic invoice should have a digital signature, to ensure the authenticity of its origin, the integrity of its content and its legibility. The qualified electronic signature or qualified electronic stamp and EDI are examples of technologies that fulfill this requirement.

From 1 January 2024 onward, electronic invoices must necessarily contain a qualified electronic signature or a qualified electronic seal or be issued via EDI.

Unstructured invoices raised in HTML, PDF or Word format, as well as invoices in image or paper format that are later scanned, and invoices sent by fax are not included in the concept of electronic invoicing. PDF invoices were, however, accepted as electronic invoices during a special period due to COVID-19 simplification measures. However, invoices sent by digital image or PDF format may be used in addition to the electronic invoice to better assess the information being processed by the entity acquiring the goods or services until 31 December 2024.

The bidimensional bar code (a QR code, that became mandatory since 1 January 2022) and the unique invoice code (UUID/ATCUD under the Portuguese short abbreviation, which will be mandatory as of 1 January 2023 onward, are to be implemented by taxable persons and users of billing software programs certified by the PTA or other electronic means.

Unique invoice code. The unique invoice code (UUID) is to be implemented by taxable persons and users of billing software programs certified by the PTA or other electronic means.

The unique invoice code was already briefly mentioned in article 35 of Decree-Law no. 28/2019 of 15 February. It is now clear that such code should result from the combination of the following two elements – separated by the character "-" (without quotation marks):
- Series validation code
- The sequential numbering of the document within its series

Regarding the series' validation code, this is to be assigned by the PTA upon the taxable person's electronic communication to the PTA, prior to their use, the identification of the series used for issuing invoices and other tax relevant documents, series per each establishment and per each mean of processing used (as provided for in paragraph 2 of article 35 of Decree-Law no. 28/2019 of 15 February). To obtain the code of the series validation, the following elements needs to be communicated:
- The document series' identifier
- The type of document, according to the document types defined government ordinance setting SAF-T – corresponding to the fields "Type of document" and "Type of receipt"
- The beginning of the sequential numbering to be used in the series
- The expected starting date for the use of the series for which the validation code is requested

Regarding the sequential number to be used, it is the sequence of numeric characters – for example, for billing software it is the sequence immediately after the slash (/), as defined in the SAF-T's data structure.

In this regard, it should be stressed that the UUID (in Portuguese, ATCUD) needs to be stated in all invoices and other tax relevant documents raised by way of electronic billing programs, other electronic means such as cash registers or in pre-printed documents – and specifically mention "ATCUD: *Codigode Validação–Numerosequencial*" ("UUID: Series validation code-sequential number").

Regarding documents with more than one page, UUIC must appear on all of them and, when applicable, immediately above the QR code.

QR code. The QR code is mandatory since 1 January 2022. The bidimensional bar code (a QR code) is to be implemented by taxable persons and users of billing software programs certified by the PTA or other electronic means.

Producers of software must guarantee the correct generation of the QR code, which must be included in the invoices and other relevant tax documents issued by invoicing certified programs.

Also, producers and users of certified billing software systems must guarantee the perfect readability of the QR code, within the body of the document, regardless of the means by which it is presented to the customer (paper or electronic). Regarding documents with more than one page, the QR code can appear on the first or on last page.

Relief from printing or sending e-invoices in transactions with nontaxable persons. Taxable persons are relieved from printing paper invoices and/or from sending electronic invoices to customers/recipients when the same are nontaxable persons, provided that the following conditions are cumulatively fulfilled:
- The tax identification number of the purchaser is included in the invoices.
- Invoices are processed and communicated to the PTA through a certified computer program.
- The taxable person has opted for the transmission of invoices in real time to the PTA.

This relief is not available when the acquirer explicitly requests the paper or electronic invoice.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the EU.

Simplified VAT invoices. Under the Portuguese VAT code, simplified invoicing may be used for the sale of goods and/or services up to an amount of EUR1,000 for supplies made to nontaxable persons by retailers or street sellers. For other supplies of goods and/or services, a simplified invoice may be issued if the amount of the transaction does not exceed EUR100 (for instance, the identification number of the nontaxable person is only mandatory if its insertion is required by the nontaxable person).

Self-billing. Self-billing is allowed in Portugal. It means that the acquirer raises an invoice on behalf of the supplier of goods or services. For this procedure to be applicable, the following requirements must be met:
- Prior agreement, in the written form, is made between the acquirer and the supplier of the goods or services
- The acquirer must have evidence that the supplier of the goods or the service provider has taken notice of the issuance of the invoice and accepted its content
- The invoice must refer to self-billing ("*autofaturação"*)

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (*see the chapter on the EU*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Portugal. Acceptable proof includes the following documentation:
- For an export, stamped customs documentation and an indication on the invoice of the Portuguese VAT law article that permits exemption with credit for the supply
- For an intra-Community supply, as of 1 January 2020, in accordance with article 45a of the Council Implementing Regulation no. 2018/1912 of 4 December 2018, the necessary transport proofs to apply the exemption to the intra-Community transactions have been legally defined and harmonized for all Member States, namely, through the provision of a presumption that the essential condition to apply the exemption – the goods have been dispatched or transported from a Member State to a destination outside its territory but within the EU – is fulfilled when the economic operators are in possession of specific documentation (which varies depending on the entity that takes care of the transport)
  - When it is the supplier (or third party on its behalf) who carries out the transport: the supplier needs to have in its possession two noncontradictory elements, issued by independent entities, of the supplier and of the purchaser: 2 of "Type A" or 1 of "Type A" and 1 of "Type B"

– When it is the acquirer (or third party on its behalf) who carries out the transport: the supplier needs to have in its possession two noncontradictory elements, issued by independent entities, of the supplier and the acquirer: 2 of "Type A" or 1 of "Type A" and 1 of "Type B," and additionally
– The "Type C" Document – a written statement from the acquirer (which the acquirer must deliver to the supplier by the 10th day of the month following the supply of the goods)

No special documentation applies in Portugal for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

The documents that are allowed as items of evidence of transport includes:
- Documents relating to the transport of the goods (Type A), such as: signed CMR document, bill of lading, airfreight invoice or an invoice from the carrier of the goods
- Other documents (Type B), such as: an insurance policy regarding the transport of the goods or bank documents proving payment for the transport; official documents issued by a public authority, such as a notary, confirming the arrival of the goods in the Member State of destination; a receipt issued by a warehouse keeper in the Member State of destination, confirming the storage of the goods in that Member State
- A written statement from the EU acquirer (Type C), stating that the goods have been dispatched or transported by him, or by a third party on behalf of the acquirer and identifying the Member State of destination of the goods; that written statement shall state: the date of issue; the name and address of the acquirer; the quantity and nature of the goods; the date and place of the arrival of the goods; in the case of the supply of means of transport, the identification number of the means of transport; and the identification of the individual accepting the goods on behalf of the acquirer

Foreign currency invoices. If a VAT invoice is issued in a currency other than the domestic currency, which is the euro (EUR), to determine the taxable amount the amount should be converted into EUR, using the sales rate used by a bank established in Portugal or the exchange rate used by the European Central Banking System on the date on which the tax is chargeable or on the first business day of that month.

Supplies to nontaxable persons. For the sale of goods and/or services up to an amount of EUR1,000 for supplies made to nontaxable persons by retailers or street sellers, simplified VAT invoices can be used. For other supplies of goods and/or services, a simplified invoice may be issued if the amount of the transaction does not exceed EUR100 (e.g., the identification number of the nontaxable person is only mandatory if its insertion is required by the nontaxable person). An invoice does not have to be issued and can be replaced by a sales receipt for supplies of goods made through automatic vending machines and supplies of services for which it is normal to issue a slip, admission or transport ticket.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Portugal, examples of what records must be held for VAT purposes include VAT invoices, VAT returns and any other supporting documents for the input tax incurred and output tax paid in Portugal (e.g., VAT ledgers, Simplified Register of Operations).

In Portugal, VAT books and records can be held outside of the country. However, when the documents are in paper form, the archive must be stored in the Portuguese territory. If the records are held in electronic form, they may be stored in any EU Member State, provided access is guarantee d through terminals located in Portugal.

Record retention period. In Portugal, VAT records should be retained for a period of 10 years, if another deadline does not result from any special provision. However, the obligation to file and retain all books, registers, and supporting documents must be maintained until the taxable person de-registers from VAT in Portugal.

Electronic archiving. Electronic archiving is allowed in Portugal. Invoices and other tax-relevant documents issued or received in paper form can be scanned and stored in electronic form. In this respect, an archive plan module should be defined and should comply with several conditions, namely:

- Image files must be named or organized sequentially so that it is possible to search for the image of a document by its identification.
- The images of documents issued by electronic means must be identified as entered in the "*Tipo de document*" or "*Tipo de recibo*" and "*Identificação única do document*" or "*Identificação única do recibo*" fields of the data group "Documentos comerciais." Images of documents not issued by electronic means, as well as images of the documents received, must be identified according to their filling in the field "*Chave única do movimento contabilístico*" of the data group "*Movimentos contabilísticos*" of the data structure of the file referred in Ordinance no.321-A/2007 of 26 March (SAFT).
- Where images for the same archival period are not all recorded in the same format, the file image may appear only in the last format used.
- The format used must identify the taxable person by its name, business name or company name and tax identification number and, in the event of the need to use multiple formats, the respective format number and total number of formats used.

Also, taxable persons will be obliged to notify the location of the archive to the PTA by electronic means (through the PTA's website).

Invoices and other tax-relevant documents issued and received electronically are also archived electronically, the following should be ensure d:

- The performance of controls to ensure the integrity, accuracy and reliability of archiving
- The performance of functionalities designed to prevent improper creation and to detect any alteration, destruction or deterioration of archived records
- The recovery of data in the event of an incident
- Reproduction of readable and intelligible copies of the recorded data

Scanning and e-archiving must be performed with the necessary technical rigor to obtain and reproduce perfect, legible and intelligible images of the original documents, without loss of resolution and information, to guarantee their consultation and reproduction on paper or electronic support.

Full access must be granted to the documents and the authenticity of origin, integrity of the content and legibility of any document must be ensure d.

It must also be guaranteed that it is not possible to change or destroy the electronic archives.

Electronic copies of invoices must be numbered with a continuous sequence according to a predefined archiving plan (XML file).

I. Returns and payment

Periodic returns. Periodic VAT returns are submitted in Portugal for monthly or quarterly periods, depending on the taxable person's turnover in the preceding VAT year. All taxable persons must also complete an annual return (see the subsection *Annual returns* below).

Monthly VAT returns must be filed if the taxable person's turnover in the preceding year exceeded EUR650,000.

Quarterly VAT returns must be filed if the taxable person's turnover in the preceding year did not exceed EUR650,000.

Monthly VAT returns must be submitted before the 20th day of the second month after the end of the return period. Quarterly VAT returns must be submitted before the 20th day of the second month after the end of the return period.

Periodic payments. The deadline for paying the VAT due by a taxable person to the Portuguese State is as follows:
- By the 15th day of the second month following the date of the operations for taxable persons in the monthly VAT filling regime
- By the 20th day of the second month following the quarter of the operations for taxable persons in the quarterly VAT filling regime

If a taxable person is neither resident nor established in Portugal, it has two options to pay VAT: direct debit or bank transfer.

Regarding the VAT payments made by bank transfer to the PTA, after the submission of the VAT return for a taxable period (monthly/quarterly), the taxable person must obtain (besides the document that proves the submission) the respective payment document that includes the specific payment reference required to be stated upon making the transfer to the PTA's bank account (so the authorities are able to recognize the payment performed in due time as corresponding to the appropriate taxable period). The transferred amount should account for the VAT amount due, net of any banking costs and arrive at the PTA's bank account at the 15th/20th day of the month/quarter, respectively (assuming no specific COVID-19 deadline extension might apply).

Electronic filing. Electronic filing is mandatory in Portugal for all taxable persons. For this purpose, the taxable person should register at the PTA's website to receive an access code. Intrastat returns, EC Sales List statements and annual VAT returns must be submitted by electronic means as well.

Payments on account. Payments on account are not required in Portugal.

Special schemes. *Cash accounting.* In accordance with this regime, taxable persons will only pay the VAT due once they receive payment of an invoice from a customer. This regime is optional and will apply to companies with a turnover of up to EUR500,000.

VAT exemption. This special regime applies to entities that are not required to have organized accounting records; that do not import or export goods or related activities; and whose turnover does not exceed EUR10,000 (retailers EUR12,500). These taxable persons do not charge VAT on their supplies and input tax cannot be deducted.

Import VAT postponed accounting. The reverse-charge procedure for import VAT (also known as postponed accounting) has been introduced in Portugal. To benefit from this new mechanism, a taxable business must fulfill the following requirements:
- It must fall under a monthly VAT regime.
- Its tax situation must be accurate, e.g., with no debts due to tax authorities.
- No input tax blocked restrictions apply.

Small retailers. This regime applies to entities that are required to have organized accounting records; do not import or export goods or related activities; exercise a retail trade activity; have a volume of purchases not exceeding EUR50,000; have a goods purchase volume not less than 90% of the total volume of purchases; do not carry out intra-Community transactions of goods; and have a volume of services, not exempt from VAT, not exceeding EUR250.

The VAT paid by these taxable persons amounts to the 25% of the tax paid on the purchase of goods and raw materials without processing. Moreover, they can only deduct the VAT paid on the purchase or lease of capital goods and other goods for the company's own use.

Secondhand goods, works of art, collectors' items or antiques. For supplies of secondhand goods, works of art, collectors' items or antiques, the taxable amount will be the difference between the sale price and the purchase price in accordance with the provisions of special legislation and supported by the documentation underlying the supply.

Annual returns. An annual return is required to be filed in Portugal if taxable operations were performed during such year. The annual return is a summary of all the periodic VAT returns for statistical purposes as well as corporate income tax and personal income tax.

The annual return is a global return for all taxes (corporate tax, VAT, etc.). The annual return has a number of appendices attached including VAT – tax and accounting requirements that detail the VAT and net amounts in relation to supplies, carried out and received, and suppliers and customers lists, which provide information on all local supplies and purchases made by a company in Portugal. These listings are used for cross-checking data of purchases and sales with the periodic VAT returns.

Foreign companies that do not have a fixed establishment in Portugal are only registered therein for VAT purposes and did not carry out any operation in a particular fiscal year (i.e., no periodic returns were submitted) are not required to submit an annual VAT return.

In general, annual returns must be submitted by 15 July following the end of the calendar year.

Supplementary filings. In the context of the reporting obligations relating to VAT, in addition to VAT returns there are three more types of obligations, namely, the Intrastat, the EU Sales Returns and, the Simplified Business Information (that covers all taxes supported in Portugal).

There are also reporting obligations on invoice details and SAF-T files. See the subsection *Digital tax administration* below for more detail.

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

The threshold for Intrastat Arrivals in 2024 is EUR400,000. The threshold for Intrastat Dispatches in 2024 is EUR400,000. These limits apply to the mainland and the Azores. In Madeira, the threshold for Intrastat Arrivals and Dispatches in 2024 is EUR25,000. If a taxable person reaches the respective assimilation thresholds during 2024, the Intrastat authorities (INE – *Instituto Nacional de Estatística*) request Intrastat returns covering all movements during the year 2024.

The Intrastat return statement is submitted on a monthly basis. The submission deadline is the 15th business day following the end of the return period. For a period in which the taxable person does not carry out any intra-Community acquisitions (Intrastat Arrivals) or intra-Community supplies (Intrastat Dispatches), a nil return must be completed (after exceeding the thresholds). Intrastat returns must be filed in EUR.

EU Sales Returns. If a Portuguese taxable person carried out intra-Community supplies of goods and/or services, it must submit an EU Sales Return (ESR).

If a Portuguese taxable person carried out any consignment sales of goods, under the new Simplification rules for call-off stock arrangements for Intra-Community transactions (article

7-A of the RITI, added by Law no. 49/2020) it must submit an ESR in accordance with the terms of the Government Ordinance no. 215/2020 of 10 September.

An ESR must be submitted by the 20th day of the month following the month in which the operation takes place and is not required for a period in which the taxable person does not carry out any intra-Community supplies or consignment sales of goods.

ESRs should be submitted quarterly if the VAT returns are submitted quarterly, or monthly if the VAT returns are submitted monthly. If the VAT returns are submitted quarterly but in one of the previous four quarters the amount of intra-Community supplies of goods exceeded EUR50,000, ESR should also be submitted monthly.

Simplified Business Information. The Simplified Business Information – in Portuguese, *Informação Empresarial Simplificada* (IES), must be filed (general rule, by 15 July next year of the year to which the operations refer to), annual, electronically and completely paper free, i.e., dematerialized, regarding accounting, tax and statistical reporting obligations. Part of this file will be automatically filed with reference to the accounting SAF-T.

Correcting errors in previous returns. A taxable person should correct any errors or omissions from prior periodic reporting by submitting:
- An Intrastat replacement (for Arrivals or Dispatches)
- An ERS of replacement

  Or
- A periodic (monthly or quarterly) or annual VAT return out of the respective deadline

To correct any errors or omissions from prior periodic reports, they should be submitted in the same way that was used for the returns that are being corrected. Regarding a periodic or annual VAT return submitted outside of the respective deadlines, see below the penalties for late payment and for late filings (given to the correction that needs to be done).

Digital tax administration. Taxable persons must report to tax authorities, by electronic data transmission:
- The identification and location of the company's establishments in which invoices and other fiscally relevant documents are issued
- Identification of equipment used for invoice processing and other fiscally relevant documents
- The program certificate number used on each equipment, where applicable
- Identification of distributors and installers who marketed and/or installed the billing solution s

Taxable persons with head office or domicile in Portugal should also communicate by electronic data transmission the elements of invoices issued in accordance with the VAT Code, as well as the elements of the documents enabling the confirmation of goods or the provision of services and receipts (notably by way of filing the SAF-T (PT) file).

Standard Audit File for Tax (SAF-T). Portuguese taxable entities with head office, fixed establishment, domicile or even mere VAT registrations (independently of having appointed or not a tax representative herein), in Portuguese territory must report an invoicing single audit file for tax purposes (SAF-T) to the tax authorities by the 5th day of each month (in relation to the transactions carried out in the previous month). It is also mandatory to file the accounting SAF-T on an annual basis (by 30 of April of the year following the year when the operations were carried out).

J. Penalties

Penalties for late registration. The following penalties are levied for late VAT registration in Portugal:
- A penalty ranging from EUR600 to EUR7,500 if the taxable person's actions were not intentional
- A penalty ranging from EUR600 to EUR15,000 if the taxable person's actions were intentional

Penalties for late payment and filings. The following penalties apply to the late submission of periodic and annual VAT returns:
- A penalty ranging from EUR300 to EUR3,750 if the taxable person's actions were not intentional
- A penalty ranging from EUR300 to EUR7,500 if the taxable person's actions were intentional

The following penalties apply to the late payment of VAT:
- A penalty ranging from 30% to 100% of the VAT due, up to a maximum of EUR45,000, if the taxable person's actions were not intentional
- A penalty ranging from 200% to 400% of the VAT due, up to a maximum of EUR165,000, if the taxable person's actions were intentional

In addition, interest applies (currently at a 4% annual rate).

Penalties for errors. The General Taxation Infringement Regime only sets forth the difference between negligence and willful misconduct. Additionally, on a provision that states both errors and omissions, the applicable penalty is the same, therefore there are no different scenarios. If the reverse charge is not recorded, the penalties may amount to 200% of the output tax not recorded in the case of fault, even if there is no cash flow disadvantage for the State. In the case of negligence, penalties may vary between 30% and 100% of the VAT not self-assessed.

However, these penalties are subject to the following limits:
- In the case of negligence – EUR45,000
- In the case of willful misconduct – EUR165,000

For Intrastat, the maximum penalty for the non-submission, late submission or incorrect submission of an Intrastat statement may range from EUR250 to EUR25,000 for individuals and from EUR500 to EUR50,000 for legal persons.

Late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty between EUR600 and EUR7,500. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In Portugal, tax fraud is a tax crime that relates to unlawful conduct typified in the law that aims at the non-assessment, delivery or payment of the tax due or inappropriate grant of tax benefits, refunds or other advantages that may decrease the tax revenues. Thus, tax fraud can take place, for example, when any of the following conduct occurs:
- Concealment or alteration of facts or values that must be contained in the books of accounting or of the statements submitted
- Concealment of undeclared facts or values that should be disclosed to the tax administration
- Entering a simulated business

Tax fraud is punishable with imprisonment up to three years or penalties up to 360 days. Fraud may qualify where there are aggravating circumstances also typified in the law, such as:
- The agent is a public employee
- The agent has been assisted by a public official
- The patrimonial advantage is of a value exceeding EUR50,000

Qualified tax fraud is punishable by imprisonment from 1 to 5 years for individuals and penalties of 240 to 1,200 days for legal persons. If the patrimonial advantage exceeds EUR200,000, the penalty is imprisonment from 2 to 8 years for individuals and a penalty of 480 to 1,920 days for legal persons.

Personal liability for company officers. In general terms, directors may be held personally accountable only in cases where there is an outstanding debt that has already transitioned to enforcement proceedings and the company does not hold enough goods to settle that debt.

Statute of limitations. The statute of limitations in Portugal is four years. This is from the beginning of the civil year following the date when the VAT became taxable/deductible or became due. Thus, the PTA might go back to review the VAT returns previously submitted and identify errors, as well as to apply any additional VAT assessments, penalties and interest until that time is elapsed.

On the other hand, said statute of limitation is also applicable to the taxable persons, who have also four years to voluntarily correct any errors. This period is shortened to two years in case the corrections are related to clerical or arithmetical errors.

Puerto Rico

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A. At a glance

Name of the tax	Sales and use tax (SUT)
Local name	Impuesto sobre ventas y uso (IVU)
Date introduced	November 2006
Trading bloc membership	None
Administered by	Departamento de Hacienda de Puerto Rico/Puerto Rico Treasury Department (PRTD) (www.hacienda.gobierno.pr)
SUT rates	
State standard rate	10.5%
Municipal rate	1%
Special B2B rate	4%
Special rate on prepared food	7%
SUT number format	Merchant identification number (XXXXXXX-XXXX)
SUT return periods	Monthly
Threshold	
Registration	None
Recovery of SUT by non-established businesses	No

B. Scope of the tax

Merchants engaged in businesses that sell taxable items are responsible for collecting the SUT as a withholding agent. In general, the standard tax rate applies to the following taxable items:

- Taxable personal property: property that can be seen, weighed, measured or touched, or is in any way perceptible to the senses. It excludes, among other items, money, cash equivalents, stocks,

bonds, insurance, other obligations, automobiles, trucks, tractors, buses, intangibles, gasoline, aviation fuel, gas oil, diesel fuel, electric power and water supplies.
- Taxable services: as a general rule, include any service rendered to any person, except services provided by designated professionals and services rendered to other merchants, among others.
- Admission rights: as a general rule, include, among other things, the money paid for admitting a person or a passenger vehicle to any place of entertainment, sport or recreation; fees and charges paid to private clubs or membership clubs, which provide facilities for the purchase of merchandise or services, either in physical commercial locations or through internet memberships, which allow the acquisition of merchandise, services and benefits in exchange for the payment charges or membership fees.
- Digital products: includes items that can be acquired through streaming, either by purchase or subscription; video, photographs, applications for electronic equipment, games, music, computer software, or any other similar items that are delivered or transferred electronically to the purchaser; and specified digital products and other digital products.
- Combined transactions: the sale of two or more items of the nature of services and tangible personal property, which property and services are different and separately identifiable; and they are sold at a price that does not specifically details the items.

In general, a person who buys, consumes, uses or warehouses for use or consumption a taxable item is the one responsible for the payment of the SUT to the Puerto Rico Treasury Department (PRTD).

All merchandise introduced into Puerto Rico is subject to the payment of use tax upon introduction. The person responsible for the payment of use tax is the importer of record. To take possession of the merchandise, the importer of record will need to submit a declaration of imports for use and pay the corresponding use tax. A bond can be requested to postpone the payment of the use tax until the 10th of the month following the introduction of the merchandise.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for SUT in every jurisdiction where it has customers that are not taxable persons. In Puerto Rico, merchants purchasing services from non-Puerto Rico resident persons are required to self-assess, regardless of where the services are rendered. On the other hand, there is an exemption for export services when the purchaser receives the benefit outside Puerto Rico and the same is not related to the activities of the purchaser in Puerto Rico.

Transfer of a going concern. Normally the sale of the assets of a SUT-registered or SUT-registrable business will be subject to SUT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as exempt of SUT. In Puerto Rico, a TOGC is treated as exempt from SUT where the following conditions are met:
- The transaction qualifies as a tax-free exchange under Subtitle A of the Puerto Rico Internal Revenue Code of 2011 (the Code)
  Or
- The transaction is for a sale or exchange of all or substantially all of the assets of a business outside the ordinary course of business

Transactions between related parties. In Puerto Rico, for a transaction between related parties, the value for SUT purposes is calculated under the arm's-length principle.

Fixed establishment. A foreign business is deemed to have a fixed establishment for SUT purposes in Puerto Rico if it is considered as a "merchant" and the law provides that "nexus" has been created. The definition of a merchant and the conditions to create a nexus are outlined below under *Section E. Merchant's registry.*

C. Rates

In Puerto Rico, the following are the SUT rates:
- State standard rate: 10.5%
- Municipal rate: 1%
- Special rate on business-to-business (B2B) services: 4%
- Special rate on prepared foods: 7%

A 4% special SUT rate is applicable to services classified as "designated professional services" and "services rendered to other merchants." The Code, also establishes an obligation to self-assess the SUT with respect to services rendered by persons that are not engaged in a trade or business in Puerto Rico to a merchant in Puerto Rico.

As a general rule, the services subject to the 4% special SUT rate include the following:
- Designated professional services: legal services (subject to certain limitations) and services provided by the following professionals licensed by the respective Board of Examiners of the Puerto Rico Department of State: agronomist; architects and landscape architects, certified public accountants, brokers, sellers and real estate companies; professional draftsmen; professional real estate appraisers; geologists; engineers and surveyors; and services rendered by a "tax returns, statements or refund claims specialist."
- Services rendered to other merchants: services rendered to a person engaged in a trade or business or for the production of income, including services rendered by a non-established business to a person located in Puerto Rico, regardless of the place where the service was rendered, provided that said service is directly or indirectly related with the operations or activities carried out in Puerto Rico by such person.

Nevertheless, from 1 July 2020, "services rendered to other merchants" that are rendered by merchants whose annual volume of business does not exceed USD300,000 will not be subject to SUT while in the case of "designated professional services," the volume of business threshold of the merchant provider remained at USD200,000 for services rendered from 1 March 2019 onward.

Lastly, a 7% Special SUT rate is applicable from 1 October 2019 to the sales of taxable items that are considered "prepared foods," "carbonated drinks," "confectionery products" and "candy" as defined by the Code. Only merchants that comply with all requirements set for by the PRTD will be eligible to obtain authorization to collect and remit the applicable SUT at the 7% special rate. If the merchant does not comply with the requirements imposed by the PRTD, the sale of "prepared foods," "carbonated drinks," "confectionery products" and "candy" by such merchant will be subject to the 10.5% and 1% state and municipal SUT, respectively.

D. Exemptions

SUT exemptions apply to the following, among others:
- Eligible resellers: duly registered merchants that purchase taxable items (not services) principally for sale to persons that may acquire them exempt from the payment of SUT or for exportation.
- Manufacturing plants: physical facilities wherein raw material, machinery and equipment are used in a manufacturing process. To claim the exemption, all manufacturing plants must have an active manufacturer's ID.

- Export sales: taxable items sold for use and consumption outside Puerto Rico, even when the sale takes place in Puerto Rico, if exported from Puerto Rico within 60 days from the date of sale and certain conditions are met.
- Export services: taxable services are considered sold for use or consumption outside of Puerto Rico when the purchaser receives the benefit of the rendering of such services outside of Puerto Rico.
- Donations: tangible personal property or services intended to be distributed as donations that are not considered inventory.

Eligible resellers and manufacturing plants must request a certificate of exemption from the Secretary of the PRTD (the Secretary). In addition, a certificate of exempt purchase must be submitted to the seller in each transaction, subject to certain conditions.

The following items, among others, are also exempt from SUT:
- Certain food items
- Funeral services of up to USD4,000
- Prescription medicines
- Machinery and equipment used in exempt manufacturing operations
- Medical-surgical material
- Supplies, articles, equipment and technology used by a hospital unit (under Act 168-1968) to render health services
- Articles and equipment used to compensate for physical or physiological deficiencies of disabled persons
- Tuition and monthly charges paid to licensed childcare centers
- Commercial and residential real property leases, provided that in the case of commercial leases, the lessee must provide proof to the lessor that it complies with the requirements to maintain a fiscal terminal; as part of the COVID-19 emergency measures, the PRTD issued Administrative Determination 20-17 to extend the effective date until 30 June 2021. Subsequently, pursuant to Administrative Determination 21-07, the fiscal terminal requirement to be able to claim the exemption was removed until further notice
- Certain products for feminine personal hygiene

E. Merchant's registry

A person who wishes to do business in Puerto Rico as a merchant must file with the PRTD a Request for Certificate of Merchant's Registration. This application must be filed electronically with the Secretary before the person, business, partnership or corporation commences the operation of a business. After approval, the Secretary grants the applicant a Certificate of Merchant's Registration, which must be displayed at all times in a place visible to the general public in each place of business for which it is issued.

To be considered a "merchant," the law provides that "nexus" has been created if a person satisfies any of the following conditions:
- It has an establishment or offices in Puerto Rico, or it maintains, or it uses in Puerto Rico, directly or through a subsidiary or affiliate, an office, distribution warehouse or other establishment.
- It has employees, agents or representatives in Puerto Rico who solicit business or carry out business transactions.
- It owns tangible personal property or real property in Puerto Rico.
- It has created a nexus with Puerto Rico in any way, including but not limited to the execution of purchase contracts in Puerto Rico; direct marketing by any means, including but not limited to: mail, radio, television, webpages, electronic commerce or any other electronic means, distribution of unsolicited catalogs, advertisements in magazines or newspapers, billboards, websites, social networks or any other advertising means of distribution in Puerto Rico, electronic or not, and sales by mail in a continuous, recurrent manner in the ordinary course of business.

- It has an arrangement with residents of Puerto Rico in which the residents refer possible buyers to an online website. Such arrangement will create nexus when the gross income generated from the sales exceeds USD10,000 in a period of 12 months.
- A person that is not a transportation business, a carrier or a third-party intermediary acting in said capacity, sells and sends or causes to be sent, tangible personal property from any state or foreign country to any person in Puerto Rico via link in an internet page, for use, consumption or distribution in Puerto Rico, or for storage to be used in Puerto Rico in a continuous, recurrent manner in the ordinary course of business.
- The person has sufficient connections, or a relationship with Puerto Rico or its residents, with the purpose or objective of creating a sufficient nexus with Puerto Rico.
- Through agreement or reciprocity with another jurisdiction in the United States and such jurisdiction uses its taxing power and jurisdiction over such person in support of Puerto Rico power.
- The person consents, expressly or implicitly to the tax.
- A merchant, including one considered affiliated to said person, that is subject to the jurisdiction of Puerto Rico that does any of the following:
  - Sells a product similar to the produce line sold by the person under the same trade name of the person or a trade name similar to that person.
  - Uses their employees in Puerto Rico or their facilities in Puerto Rico to advertise, promote or facilitate sales of the person to the buyers in Puerto Rico.
  - Maintains an office, a distribution center, warehouse or storage place or similar business premises in Puerto Rico to facilitate delivery or performance, as applicable, of taxable items sold by the person to buyers in Puerto Rico.
  - Uses trademarks, service marks or trade names in Puerto Rico equal to or similar to those used by the person.
  - Gives, installs, assembles or renders maintenance services to the person's buyers in Puerto Rico on taxable items sold by the person to buyers in Puerto Rico.
  - Facilitates delivery of tangible personal property sold to the person's clients located in Puerto Rico, allowing the person's clients to collect the tangible personal property in an office, distribution center, warehouse or similar place of business maintained by the merchant in Puerto Rico or receives in its facilities the merchandise returned by the person's clients who bought directly said merchandise from the person.
  - Carries out other activities in Puerto Rico significantly associated with the person's capacity to establish and maintain a market in Puerto Rico for the person's sale.
- A person is a market facilitator or a market vendor who sells and sends, or causes to be sent, tangible personal property from any state or foreign country to any person in Puerto Rico through a link on a page on the internet, for use, consumption or distribution in Puerto Rico, or for storage to be used or consumed in Puerto Rico.

In 2018, the United States Supreme Court issued its ruling in *South Dakota v. Wayfair*, holding that physical presence was not a necessary element to create taxable nexus. In the years leading to the *Wayfair* decision, the Puerto Rico SUT law had been amended to abandon the physical presence nexus standard for SUT purposes. The move to adopt a lower presence threshold was intended to curtail the government's perceived notion that tax revenue was being adversely impacted by mail order and internet sales, among other types of business transactions. In a way, *Wayfair* validates Puerto Rico legislation already in place and the requirement set forth by the SUT law requiring businesses to register with the PRTD. *For more detailed information, see the chapter on the United States.*

Non-withholding agent. The Code was amended and effective 1 January 2021, any merchant that was considered a "non-withholding agent" must register as a merchant for SUT purposes.

F. Filing and payment system

All merchants must create an account in the merchant portal, *Sistema Unificado de Rentas Internas (SURI)*, to be able to comply with all the monthly filings. All filings must be done

electronically through the SURI system. The filings are due by the 20th day of the month following the date the transaction(s) occurred. The return is a consolidated return for all merchants and importers *(see below)*.

As previously mentioned, to take possession of the merchandise, the importer of record will need to file a declaration of imports for use. A declaration must be filed every time merchandise is introduced into Puerto Rico. Furthermore, the declaration must be accompanied by the corresponding use tax payment for the merchandise. If the merchant becomes a bonded merchant, the payment will be postponed until the 20th day of the month following the introduction.

All importers must file a monthly use tax on imports returned on or before the 20th day of the month following the introduction of the merchandise which is a consolidated return that is also required for all merchants to report and deposit the tax collected in the previous month. The importer will include in this return a summary of all the declarations filed throughout the previous month and will generate a credit to be claimed on the monthly SUT return as long as the merchant has a Reseller Certificate. The credit will be generated with regards to the use tax paid upon introduction of items imported for resale.

Every merchant will claim a credit for the use tax paid for items bought for resale. Merchants that possess a valid Reseller Certificate will be able to collect a full credit on the liability reflected in the SUT return.

Certain taxable persons were formerly required to remit the sales and use tax payment on a bimonthly basis. An amendment to the Code provides that the last month to comply with this requirement was June 2022. A zero-tax return is required if no SUT payment is made. In general terms, the payment of SUT is divided in the following percentages:
- 10.5% to the PRTD
- 1% to the municipality using the form provided by each municipality

Services subject to the 4% special SUT rate and sales of prepared foods subject to the 7% special SUT must be also reported in the SUT monthly return, which must be filed on or before the 20th day of the month following the transaction subject to tax.

G. Penalties

Interest. If no payment is made on or before the corresponding due date of the transaction subject to the tax, interest will be imposed at an annual rate of 10% from the date the return was required to be filed until the date of payment.

Surcharges. For any case in which the payment of interest is required, a surcharge of 5% of the balance due applies if the delay exceeds 30 days but does not exceed 60 days. The percentage increases to 10% if the delay exceeds 60 days.

Penalties. Listed below are selected penalties that can be imposed by the PRTD for noncompliance with SUT requirements:
- Failure to register in the Merchants' Registry – USD10,000
- Failure to display merchant certificate – up to USD1,000
- Display of fraudulent merchant certificate – USD5,000
- For each violation for not displaying separately the SUT on a receipt or other evidence of a retail sale – USD100
- Failure to remit the SUT – no more than 50% penalty of the determined insufficiency and 100% in cases of recurrent failure to remit
- Failure to file SUT returns – the greater of USD100 or 10% of the tax liability

The taxable person is treated as the one responsible and subject to the above penalties. The PRTD does not hold the company directors personally responsible.

Non-withholding agent penalties. The following penalties can be imposed to non-withholding agents for failure to file notices:

- Not notifying Puerto Rico purchasers at the time of each sale about SUT reporting and payment obligations – USD100 for each violation
- Failure to file quarterly notice to the PRTD – USD5,000 for each violation
- Failure to file annual notice to Puerto Rico purchasers – USD500 for each violation

Statute of limitations. The statute of limitations in Puerto Rico is four years. This is from the date the return is filed. However, it can be extended to six years if the omission of the amount declared exceeds 25%.

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Qatar is a Member State of the Gulf Cooperation Council (GCC). The GCC consists of Bahrain, the Kingdom of Saudi Arabia, Kuwait, Oman, Qatar, and the United Arab Emirates. The GCC has agreed that VAT will be implemented by each Member State.

At the time of preparing this chapter, the Kingdom of Saudi Arabia, the United Arab Emirates, the Kingdom of Bahrain and the Sultanate of Oman are the GCC Member States to have implemented VAT. Qatar has ratified the GCC VAT Agreement, and the implementation of VAT could take place during the course of 2024. However, at the time of preparing this chapter, there has been no confirmation on the implementation date.

The GCC Common VAT Agreement contains the principles of the GCC VAT system and sets out the options that individual Member States may choose in terms of the VAT treatment applicable to certain supplies and business sectors. The options are primarily administrative, and where aspects are not dealt with by the GCC Common VAT Agreement, then each Member State may determine individually.

At the time of preparing this chapter, the GCC Common VAT Agreement has no direct effect in the GCC Member States, except if the respective Member States' domestic VAT law specifically refers to the provisions in the Common Agreement.

The summary set out below is based on the GCC Common VAT Agreement.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	*No formal implementation date has been announced*
Trading bloc membership	Gulf Cooperation Council (GCC) Greater Arab Free Trade Area (GAFTA)
Administered by	General Tax Authority (GTA) and Qatar Financial Centre (QFC) Tax Department
VAT rates	
Standard	5% *(expected)*
Other	Zero-rated (0%) and exempt
VAT number format	*To be confirmed based on the local VAT legislation*

VAT return periods	Monthly/Quarterly *(to be confirmed based on the local VAT legislation)*
Thresholds	
Registration	QAR364,000
Recovery of VAT by non-established businesses	Yes (there are provisions under the GCC VAT Framework Agreement that allow a VAT refund for nonresidents, subject to the satisfaction of the stipulated conditions)

Transitional provisions

Each Member State shall outline in its domestic VAT law transitional provisions, which could include the following:

- VAT registration deadline for taxable persons who are obliged to register from the date of the enforcement of the local VAT law.
- Determine the date of supply for cases where the tax invoice is issued, or payment is received, ahead of the date of the enforcement of the local VAT law, and where the actual supply took place after this date.
- For continuous supplies that are carried out partially ahead of the date of enforcement of the domestic VAT law, and partially after this date, the VAT treatment of each part.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxa pe valoarea adaugata (TVA)
Date introduced	1 July 1993
Trading bloc membership	European Union (EU)
Administered by	Ministry of Public Finance (http://www.mfinante.ro)
VAT rates	
Standard	19%
Reduced	5%, 9%
Other	Zero-rated (0%) and exempt
VAT number format	RO XXXXXX (number of digits may vary)
VAT return periods	Monthly, Quarterly, Half-yearly or Annually
Thresholds	
Registration	
Established	EUR88,500 (RON300,000)
Non-established	None
Distance selling	EUR10,000 (RON46,337)
Intra-Community acquisitions	EUR10,000 (RON34,000)
Electronically supplied services	EUR10,000 (RON46,337)

Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- Supplies of goods or services made in Romania by a taxable person
- The intra-Community acquisitions of goods from another European Union (EU) Member State by a taxable person (*see the EU chapter*)
- Acquisition of general business-to-business (B2B) services taxable in Romania, from EU and non-EU suppliers
- The importation of goods into Romania

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the EU chapter. For documentary requirements, see Section H. Invoicing,* subsection *Proof of exports and intra-Community supplies.*

The Quick Fixes have been implemented in Romanian VAT law, through Ordinance no. 6/2020. The Quick Fixes introduced provisions regarding call-off stocks and the conditions for applying this regime, chain supplies and changes regarding the intra-Community supplies of goods and the conditions for applying the related VAT exemption.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective EU countries.*

In Romania, the following services are subject to the "use and enjoyment" provisions:
- Ancillary transport activities, such as loading, unloading, handling and similar services
- Works on tangible movable property and valuations of tangible movable property
- Transport of goods performed in Romania

Transfer of a going concern. Romania has implemented in its legislation the concept of transfer of going concern (TOGC). As per the Romanian VAT legislation, the transfer of all the assets or of a part thereof, performed upon the transfer of assets (and liabilities, as the case may be), as a result of transactions such as in-kind contribution or asset deal (excluding spin-offs or mergers), would not be considered as a supply of goods, but as a transaction outside the scope of VAT (the "no-supply rule"), provided that the recipient of the respective transfer is a taxable person established in Romania.

Transactions between related parties. For supplies of goods and services for which the beneficiary is an affiliated party related to the supplier, the taxable base is considered to be the market value in the following situations:
- If the compensation is lower than the market value and the beneficiary of the supply does not have a full deduction right.
- If the compensation is lower than the market value and the supplier does not have a full deduction right and the supply is exempt.
- If the compensation is higher than the market value and the supplier does not have a full deduction right.

Market value translates to the total amount that, to obtain the goods or the services at the respective time, a customer, found in the same commercial phase at which the supply of goods or services takes place, should pay under conditions of local competition to an independent supplier in the Member State in which the supply falls within the VAT sphere. If a comparable supply of goods or services cannot be established, market value translates to:

- For goods: the amount that is not lower than the purchasing price of the goods or of some similar goods or, in the absence of a purchasing price, the cost price, established at the time of the supply.
- For services: the amount that is not lower than the complete costs incurred by the taxable person for the supply of the service.

C. Who is liable

A "taxable person" is any person who independently makes taxable supplies of goods or services in the course of a business, regardless of the purpose or results of that activity. The VAT registration threshold is a turnover of RON300,000 (EUR88,500) a year (this threshold applies only to taxable persons established in Romania). Established taxable persons who estimate or record a turnover of more than the Romanian currency equivalent of EUR88,500 must request the VAT registration within 10 days of the moment the threshold is exceeded or achieved. The date when the threshold was achieved or exceeded is deemed to be the first day of the month following the one in which the threshold was achieved or exceeded. The VAT registration becomes valid starting the first day of the month following the month of the request.

Exemption from registration. Taxable persons having the seat of their economic activity in Romania are not required to register for VAT purposes in Romania if their annual turnover does not exceed RON300,000 (EUR88,500). However, they may opt to register for VAT purposes.

A taxable person not established in Romania who is liable to pay VAT in Romania, may be exempt from the VAT registration under the following specific situations:

- When performing occasional services in Romania, if these operations do not follow an intra-Community acquisition of goods performed in Romania
- When performing occasional supplies of goods in Romania, except:
  - Distance sales
  - Supplies of goods following intra-Community acquisitions of goods in Romania

The abovementioned supplies of goods and services are considered occasional if they are performed once a year.

Voluntary registration and small businesses. Taxable persons that have a business establishment in Romania and who do not exceed the VAT registration threshold may opt to register for VAT purposes in Romania. Taxable persons not established in Romania may opt to register for VAT purposes in case of:

- Imports of goods
- Sale/rental of real estate subject to VAT

Group registration. VAT grouping is allowed under Romanian VAT law. Under the rules currently in effect, a minimum of two taxable persons may form a fiscal group if all the members meet the following conditions:

- They are established in Romania
- They do not belong to another fiscal group
- They use the same tax period
- Their capital is held directly or indirectly in a proportion of more than 50% by the same shareholders

All members of a VAT group in Romania are jointly and severally liable for VAT debts and penalties.

The minimum time period required for the duration of a VAT group is two years.

However, VAT grouping is allowed only for VAT reporting (for consolidation purposes).

Holding companies. In Romania, a pure holding company cannot be a member of a VAT group.

The VAT grouping in Romania is allowed between taxable persons established in Romania, independent from a juridical point of view and who are in a close link from a financial, economic and organizational point of view. A close link from a financial, economic and organizational point of view is considered to be there if the taxable persons involved have capital owned directly or indirectly of more than 50% by the same associates.

The legislation does not mention the case of pure holding companies. However, a pure holding would not be VAT registered, as it would not perform economic activities.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Romania. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Romanian VAT law).

For the supplies of services by independent groups of persons, where such operations are exempt or do not fall within the scope of VAT, a cost-sharing group can be set up for the purpose of providing their members with services directly related to the exercise of their activities. This only applies if those groups request their members the reimbursement of their share of the common costs only, within certain limits and under certain conditions and provided that such exemption does not distort competition.

Fixed establishment. According to the Romanian Fiscal Code, a taxable person who has the seat of economic activity outside Romania is considered to be established in Romania if it has a fixed establishment in Romania, respectively, if it has sufficient technical and human resources in Romania to carry out regular supplies of goods and/or services.

Non-established businesses. A taxable person that has the seat of its economic activity in Romania is deemed to be established in Romania for VAT purposes.

A taxable person that has the seat of its economic activity outside Romania is considered to be established for VAT purposes in Romania if it has a fixed establishment in Romania, which means that it has sufficient technical and human resources to perform, on a regular basis, taxable supplies of goods and/or services.

A taxable person that has the seat of its economic activity outside Romania and a fixed establishment in Romania is not deemed to be established in Romania for the supplies of goods and services performed in Romania in which the Romanian fixed establishment is not involved.

The seat of its economic activity is deemed to be the place where the management decisions of a taxable person are taken and where the functions of its central administration are performed. To determine where a taxable person has the seat of its economic activity, certain factors should be taken into account, such as the place where the directors meet and where the company sets its general policy.

In general, a non-established business must register for VAT if it undertakes a range of activities, such as the following:
- Intra-Community acquisitions of goods in Romania
- Intra-Community supplies of goods in Romania

- Transfers of its own goods to Romania
- Sending goods to Romania from another EU country for processing with the finished products not returning to the EU country of dispatch
- Distance sales in excess of the annual threshold of EUR10,000
- Exports of goods

A taxable person that has the seat of its economic activity outside Romania but has a fixed establishment in Romania must register for VAT purposes in Romania before receiving a service for which it is liable to pay the VAT or before supplying a service from this fixed establishment to a taxable person that is liable to pay VAT in another EU Member State.

A taxable person that has the seat of its economic activity in Romania but is not registered for VAT purposes in Romania must register for VAT purposes if it supplies services with a place of supply in another EU Member State, for which the beneficiary is liable to pay the tax.

A taxable person that has the seat of its economic activity in Romania but is not registered for VAT purposes in Romania must register for VAT purposes if it acquires services from a supplier established in another EU Member State and if such taxable person, as the beneficiary of the services, is liable to pay the tax.

VAT registration is not required if an entity that is neither established nor registered for VAT in Romania makes a local supply of goods or services and the recipient is an established taxable person, nontaxable legal person (for example, a public authority) or is a non-established taxable person that is registered for VAT in Romania.

Taxable persons not established and not registered for VAT purposes in Romania may apply for VAT registration if they carry out imports of goods into Romania, taxable supplies of immovable property or rental of immovable property in Romania.

Tax representatives. A non-established, non-EU entity that performs taxable operations in Romania and that is required to register for VAT purposes must appoint a tax representative. A taxable person that is established in the EU may appoint a tax representative but may also choose to register for VAT in its own right (direct VAT registration).

Reverse charge. The reverse charge applies to the following transactions, among others:

- Intra-Community acquisitions of goods and services
- Local supplies of goods and services made by non-established and unregistered entities to customers that are registered for VAT in Romania
- Imports: the reverse charge may be applied to imports exclusively by:
  - Taxable persons registered for VAT in Romania who have obtained a specific VAT payment deferment certificate
  - Taxable persons registered for VAT in Romania benefiting of authorized economic operator
  - Taxable persons registered for VAT in Romania who obtained authorization to submit a customs declaration in the form of an application in the records of the declarants
  - Taxable persons registered for VAT in Romania performing imports of certain goods for which domestic reverse charge is applicable (i.e., wood, cereals, mobile phones, laptops, etc.)

Domestic reverse charge. The domestic reverse charge in Romania applies to the following supplies:

- Local supplies of certain categories of goods, such as ferrous and nonferrous waste, grain crops, wood and transfer of green and CO2 certificates performed between entities registered for VAT purposes in Romania
- Supplies of electrical energy and natural gas performed by a taxable person registered for VAT in Romania to a Romanian VAT-registered taxable person acting as taxable dealer

- Taxable supplies of immovable property in Romania by a taxable person registered for VAT in Romania to a Romanian VAT-registered taxable person
- Taxable supplies of investment gold and taxable supplies of raw materials and semi-finished gold having a title higher or equal with 325 to a thousand (the proportion of fine precious metal contained) to a Romanian VAT-registered taxable person
- Supply of mobile phones, laptops, tablets, game consoles or other devices with integrated circuits by a taxable person registered for VAT in Romania to a Romanian VAT-registered taxable person (provided that the value of the goods supplied mentioned on an invoice is higher than RON22,500)

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see the *Section B. Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the EU chapter.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Romania, non-EU businesses are required to appoint a fiscal representative for accounting for the Romanian VAT due on these transactions having the place of supply in Romania. EU businesses, on the other hand, can obtain a direct VAT registration in Romania or may opt to appoint a fiscal representative.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

As per the Romanian VAT rules, persons that carry on activities falling under the EU OSS regime may opt to apply this regime and will request the special registration in Romania if they fall in the following categories:
- Taxable persons (including electronic interfaces that facilitate B2C supplies of goods made locally in Romania by non-EU taxable persons) who have their registered office in Romania or, if they are not established in the EU, have a fixed establishment in Romania
- Taxable persons who do not have their registered office in the EU but have more than one fixed establishment in the EU, including in Romania, and choose Romania as the Member State of registration

In addition, in case of distance sales of goods, the EU OSS regime (and special registration in Romania) may also be used by taxable persons who are not established in the EU and do not have a fixed establishment in Romania:
- If the goods subject to distance sales are dispatched/transported from Romania
- If the distance sales refer to goods dispatched/transported from different Member States, including Romania, and the taxable person chooses Romania as the state of registration

For more details about the operation of the OSS, see the EU chapter.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance ales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

As per the Romanian VAT rules, IOSS may be used, directly or through an intermediary, by taxable persons having their registered office in Romania or, if they are not established in the EU, having a fixed establishment in Romania.

Persons not established in the EU may use IOSS in Romania by appointing an intermediary. Alternatively, IOSS may be used directly, if the non-EU person is established in a third country with which the EU has concluded a mutual assistance agreement and that persons performs distance sales of goods imported only from the respective third country.

IOSS may also be used by taxable persons who do not have their registered office in the EU, but who have more than one fixed establishment in the EU, including in Romania, and choose Romania as the Member State of registration.

For more details about the IOSS, see the EU chapter.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value

(i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

As per the Romanian VAT rules, when Romania is the country of importation, the person presenting goods in customs must submit to the competent customs authority, in electronic format, a special monthly VAT return containing information on the total amount of VAT collected in the respective calendar month. If this special scheme is applied, the imports are subject to the standard 19% VAT rate (even if under normal circumstances the goods are subject to a reduced VAT rate).

Moreover, the person presenting the goods to customs must submit the special VAT return and pay the VAT collected in the respective month, by the 16th day of the month following the reporting calendar month. Persons using this mechanism should keep special registers containing information that would allow the Romanian fiscal or customs authorities to check the correctness of the VAT return. These records must be made available, on request, electronically and kept for a period of 10 years from the end of the year in which the operations were carried out.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

As per the Romanian VAT legislation, where a taxable person, through the use of an electronic interface such as an online marketplace, a platform, a portal or other similar means, facilitates the supply of goods or services to a nontaxable person in the EU, the taxable person who facilitates the supply of goods or service is obliged to keep records in this respect. The respective registers must contain information that would allow the fiscal authorities to verify if the VAT has been highlighted correctly, in the situation where the respective supplies of goods or services are taxable in Romania. The registers must be made available to the competent tax authorities, upon request, electronically, and must be kept for a period of 10 years from the end of the year in which the operation was carried out.

For more details about the rules for online marketplaces, see the EU chapter.

Vouchers. Vouchers can be single-purpose (SPVs) or multi-purpose (MPVs). A voucher is defined as an instrument by which a supplier is obliged to accept it as partial or total payment for a supply of goods or services. The payments received for the sale of an SPV are deemed as advance payments for which VAT is due. An SPV is a voucher for which the place of supply and the VAT liability of the goods/services for which the voucher may be redeemed are known at the time the voucher is issued. An MPV is a voucher other than the SPV. The sale of an MPV does not trigger a VAT liability.

Registration procedures. Established or non-established taxable persons applying (as a requirement or by option) for a VAT registration in Romania must file specific forms depending on the type of VAT registration. The forms are available in electronic format and must be submitted electronically and only in Romanian language directly by the taxable person or by proxy.

Foreign operators may register for VAT purposes in Romania as follows:
- Nonresident taxable persons who are not established within the community and who have the obligation to appoint a tax representative are administered by the tax administration with competence for the administration of the tax representative (which keeps the record of the tax representative chosen as taxable person).
- Nonresident taxable persons established in the community who register directly in Romania are administered by the tax authority with competence for the administration of nonresident taxable persons, namely the specialized section of the Bucharest Directorate General for Public Finance at 1 Presei Libere Square, C3 building, 1st District, Bucharest, Romania, telephone 021.317.89.67.
- Nonresident taxable persons who have their business established outside Romania and who are established in Romania through one or several fixed establishments are administered by the tax authority whose territorial competence covers the fixed establishment designated to submit VAT returns.

The contact details concerning the departments, addresses, telephone, fax, email and other useful information may be obtained from the webpage of the National Tax Administration Agency (https://www.anaf.ro).

As per the general rule, taxable persons are required to register for VAT purposes in Romania prior to performing the operations triggering the VAT registration obligation.

Depending on the type of VAT registration, the time frame in which the Romanian tax authorities should issue the VAT registration number is:
- 30 days from the date of submission of the complete documentation when the registration is through a tax representative
- 10 days from the date of submission of the documentation when registration is through other means

The date from which the taxable person is considered registered is the date when the VAT registration certificate is communicated by the Romanian tax authorities (i.e., the hand-over date, the post date, as the case may be). Other dates may apply, depending on the reason for the VAT registration (e.g., the VAT exemption threshold was exceeded).

Deregistration. Taxable persons with annual turnover less than RON300,000 may request deregistration by the 10th day of the month following the fiscal period applied by the taxable person.

Changes to VAT registration details. In case any changes to a taxable person's VAT registration details occur (e.g., change of fiscal address) the taxable persons must submit Form 050 along with the certificate from the chamber of commerce, the new unique identification code issued by the chamber of commerce, the proof of owning/renting the new space and other documents solicited by the relevant tax authorities. The documents must be submitted in paper form at the relevant tax authorities' office.

Based on the Romanian VAT law in case any changes to a taxable person's the VAT registration details occur, the taxable person must notify the tax authorities within 15 days since such changes took place.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 19%
- Reduced rates: 5%, 9%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Examples of goods and services taxable at 0% (i.e., exempt with credit)

- Exports of goods
- Transport services and other services directly linked to exports of goods
- International transport of passengers
- Intra-Community supplies of goods (specific provisions)

Examples of goods and services taxed at 5%

- Books, newspapers, magazines and school manuals (except those intended exclusively for publicity)
- Access to museums, castles, cinemas, zoological and botanical gardens, memorial houses and historical sites
- Supply of firewood for individuals, legal entities and other entities such as trunks, stumps, brushwood, branches or in similar forms having certain classification codes applicable until 31 December 2029
- Supply of heating in the cold season, intended for certain categories of consumers (e.g., population, public and private hospitals, nongovernmental organizations, social service providers)

Examples of goods and services taxed at 9%

- Medicines for human and veterinary use
- Food (excluding alcohol and nonalcoholic beverages containing added sugar or other sweeteners or other flavorings, together with food with added sugar, for which the content of sugar is of minimum 10g per 100g product, other than powdered milk for infants, sweet bread (*cozonac*) and biscuits, for which the standard 19% VAT rate is applicable) having certain classification codes
- Fertilizers and pesticides of the type normally used in agricultural production, seeds and other agricultural products intended for the sowing or planting, as well as for supplies of services, such as those specifically used in the agricultural sector
- Supply of water for agriculture irrigation
- Irrigation and drinking water supplies
- Hotel accommodation and similar accommodation, including the rental of land for camping
- Restaurant and catering services (excluding alcohol and nonalcoholic beverages containing added sugar or other sweeteners or other flavorings,
- Chemical fertilizers and chemical pesticides of the type normally used in agricultural production (applicable until 31 December 2031)
- Supply and installation of photovoltaic panels, solar thermal panels, heat pumps and other high-efficiency heating systems that meet specific parameters, including installation kits, as well as all separately purchased necessary components, intended for dwellings, central or local public administration buildings, buildings of entities under their coordination/subordination, excluding commercial companies (buyers must perform a declaration on own responsibility, according to the model from Annex to the Romanian Fiscal Code)
- Supply and installation of components for repairing and/or extending the systems of photovoltaic panels, solar thermal panels, heat pumps and other high-efficiency heating systems that meet specific parameters, including installation kits, as well as all separately purchased necessary components, intended for dwellings or the supply of these systems as integrated parts of construction deliveries or as optional additions to the supply of a construction (buyers must

submit a declaration on own responsibility, according to the model from Annex to the Romanian Fiscal Code)
- Access to amusement and recreational parks and sporting events
- Supply of social housing (including related land); for this purpose, social housing includes, but is not limited to, houses that are a maximum of 120 square meters and that do not exceed RON600,000 in value (net of VAT) (approx. EUR120,000 from 1 January 2023); the reduced 9% VAT rate applies for the supplies performed toward individuals and only if the house can be used as such after the sale; any natural person can purchase, starting from 1 January 2024, individually or jointly with another natural person/other natural persons, a single house whose value does not exceed the amount of RON600,000, exclusive of VAT, with a reduced rate of 9%; by exception to the above provisions, it is proposed to maintain the reduced 5% VAT rate between 1 January and 31 December 2024, for legal acts concluded between 1 January and 31 December 2023, that have as object the advance payment for the purchase of such houses. Any acquisitions with respect to the reduced VAT rate should be included in the specific "Register of housing acquisitions with reduced VAT rate"

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Specific banking and financial operations
- Insurance and reinsurance
- Medical services
- Education
- Specific hiring, concession, leasing or letting of immovable property (unless option to tax is exercised)
- Sale of "old" buildings (unless option to tax is exercised)
- Re-imports of Romanian goods repaired abroad (equivalent to the exported goods)
- Imports of natural gas through specific distribution systems and electricity
- Prostheses of any type and accessories (except dental prostheses)
- Orthopedic products
- Construction, rehabilitation, modernization of hospitality units from the public network
- Delivery of medical equipment, machines, devices, safety equipment, materials, and consumables for sanitary use in the field of health care or for the use of disabled persons, essential goods for compensation and overcoming disabilities, as well as adaptation, repair, rental and leasing of such goods to public hospitality units from the public network or the ones owned and used by nonprofit entity

Option to tax for exempt supplies. Any taxable person may opt to tax the hiring, concession, leasing or letting of immovable property and the sale of "old" buildings by means of a taxation notification submitted to the competent tax authorities.

E. Time of supply

The time when VAT becomes due is called the "chargeability to tax" or "tax point." The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the services are provided. Several exceptions apply to these rules.

For intra-Community acquisitions or exempt intra-Community supplies of goods, the tax point arises on the day when the invoice is issued, the day when a self-invoice is issued or the 15th day of the month following the tax point, whichever is earlier.

Deposits and prepayments. The tax point for advance payments is when the payment is received. Special rules may apply in case of a change of tax regime, partial prepayments or partial advance invoices.

The tax point for a supply of goods, including immovable goods, with installment payments occurs when the goods are handed over to the beneficiary (unless an invoice is issued, or a payment is received before that date).

Continuous supplies of services. The time of supply for continuous supplies of services (such as telephone services, water and electricity) is on the last day of the period specified in the contract for payment or on the date of issuance of the invoice. The settlement period should not exceed one year.

Goods sent on approval for sale or return. Romania implemented simplification measures regarding the supply of goods under call off/consignment stock and regarding the supply of goods sent for testing.

Regarding the call off/consignment stock simplification, if the simplification measure is applied, the time of supply of goods is when the goods are taken over/further sold by the consignee to its client. The simplification regime is applied under the following specific conditions:
- The consignee is registered for VAT purposes in Romania.
- The EU Member State of origin does not consider the movement of the goods to Romania as a transfer, or it applies/accepts a similar VAT simplification regime.
- The consignee or buyer of the goods from Romania is known by the supplier when the goods are transported from another EU Member State in Romania.

For the supply of goods sent for testing under the simplification measure, the supply is deemed to take place at the date when the beneficiary accepted the goods. The simplification regime applies for goods that cannot be imported as samples.

Reverse-charge services. Certain services received by a Romanian taxable person from a foreign supplier are taxed in Romania using the reverse-charge mechanism, which means that the Romanian customer must account for the VAT due in the VAT return for the month in which the tax point occurs. In such circumstances, the customer reports the VAT as both output tax and input tax in the VAT return. If the beneficiary has a full right to deduct input tax, the charge is neutral for VAT purposes.

If no invoice is received from the foreign supplier, the Romanian beneficiary must issue a "self-invoice," which must be in a specified format, by the 15th day of the month following the month in which the services are supplied. If the beneficiary of the service is registered for VAT in Romania, the VAT due must be paid by the 25th day of the month following the month in which the tax point occurs. However, if the beneficiary is not registered for VAT in Romania under the normal regime, the reverse charge must be accounted for by using a special VAT return (with no right of deduction; consequently, the VAT due must be paid).

Leased assets. The tax point occurs on each payment deadline specified in the contract for making the payment. By way of derogation, VAT is due on the invoice date or on the date when an advance payment/prepayment is received, where such cases occur prior to the chargeable event.

Imported goods. The tax point for imported goods is the point when customs duties are due. In principle, the tax point for import VAT is the point when the goods are released into free circulation. Exceptions may apply.

Intra-Community acquisitions. VAT is due on the issue of an invoice or self-invoice, or on the expiry of the 15th day of the month following the month of the supply if no invoice/self-invoice has been issued by that time.

Intra-Community supplies of goods. VAT is due on the issue of an invoice or self-invoice, or on the expiry of the 15th day of the month following the month of the supply if no invoice/self-invoice has been issued by that time.

Distance sales. There are no special time of supply rules in Romania for supplies of distance sales. As such, the general time of supply rules apply *(as outlined above)*.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is due on goods and services supplied to it for business purposes. A taxable person generally recovers input tax, offsetting it against output tax, which is VAT charged on supplies made.

In principle, input tax includes VAT charged on goods and services supplied within Romania, VAT paid on imports of goods, and VAT self-assessed for reverse-charge services received and for intra-Community acquisitions of goods, as well as for certain taxable transactions subject to reverse charge.

Except for certain specific cases, the amount of VAT reclaimed must be requested through the VAT return. The excess of input tax over output tax is generally refundable. Alternatively, it may be offset against future VAT liabilities.

For taxable persons that are registered for VAT purposes in Romania, the minimum amount of a VAT refund is RON5,000 (approx. EUR1,000). Any amount below this threshold may be recovered by offsetting it against other VAT liabilities.

Input tax on fiscal receipts is deductible only if the VAT code of the customer is on the receipt and the total value of the acquisition (including VAT) is lower than EUR100.

The time limit for a taxable person to reclaim input tax in Romania is five years. The five-year time limit is from 1 January of the year following the year for which the right to occurred. The VAT legislation does not specifically provide for such a time limit. However, as per the general rules provided by the fiscal procedural code, the right of the taxable person to request the refund of the tax receivables is prescribed within five years from 1 January of the year following the year in which the right to deduct occurred.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used in the performance of operations subject to VAT (e.g., goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Personal expenses
- Business gifts if the individual value of each item (tangible good) is higher than RON100 (approximately EUR20) and VAT was deducted on acquisition
- Alcohol and tobacco, unless they are used for taxable supplies of goods or services

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Hotel accommodation
- Conferences
- Purchase of vans and trucks, and leases of cars, vans and trucks
- Business travel expenses

Regarding the deductibility of input taxes on the acquisition of passenger road vehicles weighing no more than 3.5 tons and having a maximum of nine seats, including the driver's seat, the deductibility of the input tax on the acquisition of such vehicles – whether by purchase, intra-Community acquisition, import, rental or leasing – and on service expenses related to those vehicles is limited to 50%, if the vehicle is not used exclusively for business purposes.

However, a 100% deduction is available for vehicles used for certain specifically mentioned activities (for example, when used to render services against consideration, when used as merchandise for commercial purposes or when used by sales and purchase agents) are not subject to such provision. In this context, input tax recovery should be supported by backup documentation and logbooks.

There are limitations of VAT deduction right for real estate. The VAT deduction right will be limited to 50% in the following cases, if they are not used exclusively for business purposes:
- Purchases, rentals or leasing of buildings/living spaces, regardless of their destination, located in residential areas or in blocks of flats
- Expenses related to these buildings/living spaces

The abovementioned provisions will be applicable starting with the first day of the month following the one when Romania will obtain a derogation from the EU Council in this respect.

Partial exemption. Input tax directly related to taxable supplies is fully recoverable, while input tax directly related to exempt supplies is fully non-recoverable. Input tax that is attributable to both taxable and exempt supplies (such as VAT paid on overhead costs) is deductible on a pro rata basis. The pro rata method is generally based on the percentage of income generated by supplies with a right to input tax deduction, divided by total income. The calculation of recoverable VAT is based generally on the pro rata percentage for the preceding year. However, a special pro rata percentage may be used if approved by the tax authorities. Pro rata percentages may also be established for each sector of the taxable person's activity that has a partial right to claim deductions.

Input tax related to acquisitions of goods or services that may be allocated to operations allowing VAT deduction right or to operations not allowing VAT deduction right is not deducted based on a pro rata (but based on direct allocation).

In case of acquisitions destined for investments, which will be used both for operations allowing VAT deduction rights and for operations not allowing VAT deduction rights, the taxable person can deduct the VAT fully during the investment period. This VAT will be adjusted in the first year when supplies will be performed using the good resulting from the investment.

Approval from the tax authorities is not required to use the partial exemption standard method in Romania. Special methods are not allowed in Romania.

Capital goods. Capital goods include any fixed tangible assets subject to depreciation, constructions and land of any kind held for the production or supply of goods or services, for rental or administrative purposes. It also includes the construction, transformation or modernization of immovable goods but excludes repairs or works of maintenance on these assets. Fixed tangible assets that are leased are deemed capital goods of the lessor.

Input tax is deducted in the year in which the goods are acquired. The amount of input tax deducted depends on the destination or use of the good and/or on the partial exemption of the taxable person. However, the amount of input tax deducted must be adjusted over time if the destination or use of the goods changes, the capital goods cease to exist or the taxable person's partial exemption percentage changes.

In Romania, the capital goods adjustment scheme applies to the following assets for the number of years indicated:
- 20 years for the acquisition, construction, transformation or modernization of an immovable property, if the transformation or modernization amounts to at least 20% of the aggregate amount of the construction thus transformed or modernized
- 5 years for other movable capital goods

Taxable persons must keep records of the capital goods subject to the adjustment of input tax to allow the verification of the tax deducted and of the adjustments made. This statement must be

kept for a period starting with the date when the tax related to the acquisition of the capital goods becomes chargeable and ending five years as of expiry of the period when adjustment of the deduction can be requested. Any other entries, documents and ledgers on capital goods must be kept for a similar period.

The adjustment period must start on 1 January of the year when assets were acquired or manufactured or of the year when assets were first used after transformation or modernization. The VAT deduction must be adjusted during the tax period when the event triggering the adjustment occurs, once for the entire tax related to the remaining adjustment period.

If during the adjustment period events resulting in the adjustment in favor of a taxable person or in favor of the tax authority take place, the VAT adjustment must be carried out for the same capital goods successively during the adjustment period whenever such events occur.

Input tax related to capital goods must not be adjusted where the amount from adjustment of each capital good is lower than RON1,000 (approx. EUR200).

In Romania, the capital goods adjustment can apply to any services that result in a capital good (e.g., construction works leading to a building).

Refunds. If input tax exceeds output tax, the balance (known as the "negative VAT balance") may be treated in either of the following manners:

- Carried forward to the next period
- Compensated or refunded by the tax authorities, based on an option exercised by the taxable person in the taxable person's VAT return; this option may be exercised only for negative VAT balances exceeding RON5,000

The VAT refund application may cover eligible input tax incurred in the period beginning with the fifth year before the year in which the claim is made (under certain conditions).

In principle, a VAT refund or compensation request must be processed within 45 to 90 days (in practice, this period may be longer). Depending on certain parameters, the VAT refund can be granted with or without a prior VAT audit (the Romanian tax authorities may approve the VAT reimbursement for a taxable person registered for VAT purposes in Romania before performing a subsequent VAT audit in cases where the value of the amount requested for reimbursement is lower than RON45,000). During the VAT refund process, the tax authorities may request additional information from the taxable person. Consequently, the term for making the repayment may be extended by the number of days between the date of the request for additional information and the date on which the information is received by the tax authorities. If the refund or compensation request is not dealt with by the expiration of this term, in principle, the taxable person is entitled to receive late payment interest.

Pre-registration costs. Any taxable person is entitled to deduct VAT for the acquisitions made prior to VAT registration, when such person intends to perform an economic activity, within a period of five consecutive years. The intention of the person must be assessed based on objective elements, such as the fact that the person starts to incur costs and/or make preparatory investments required for the initiation of this economic activity.

Bad debts. Bad-debt relief may be applied only where the value of goods or services supplied cannot be received due to the bankruptcy of the beneficiary or as a result of implementation of a restructuring plan acknowledged and approved by a court decision through which a part of or the entire written-off receivable is canceled. In the case of a restructuring plan, bad-debt relief is allowed from the date of the court decision. In a bankruptcy case, bad-debt relief is allowed from the date of the court decision regarding the start of the bankruptcy.

Moreover, the taxable person may adjust the taxable base in case the total or partial value of the goods delivered, or services rendered, has not been collected from third-party individuals within

12 months of the payment period set by the parties/of the invoice date. The adjustment is performed within five years from 1 January of the year following the one in which the payment term intervened, or in its absence, of the year following the one in which the invoice was issued. The adjustment is allowed only if it is proved that commercial measures have been taken for the recovery of claims up to RON1,000 (EUR200), inclusive, respectively, that legal proceedings have been undertaken for the recovery of claims higher than RON1,000 (EUR200).

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Romania.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Romania is recoverable. The Romanian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Romania. Non-established businesses may claim Romanian VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, the refund is made under the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Romania during the refund period (excluding supplies covered by the reverse charge). *For full details see the EU chapter.*

Find below specific rules for Romania:
- To obtain a refund of VAT in the Member State of refund, the taxable person who is not established in the Member State of reimbursement must make a request for reimbursement electronically to the Member State and forward it to the Member State in which it is established through the electronic portal provided by that Member State.
- The request for reimbursement must be sent to the Member State in which is set by the applicant by 30 September of the calendar year following the period of reimbursement.
- The repayment period is a maximum of one calendar year and of at least three calendar months. Refund requests can but aimed for a period of less than three months if this is the period remaining until the end of the calendar year.
- If the request for reimbursement concerns a period of repayment less than one calendar year, but greater than three months, the amount of VAT for which a refund is requested may not be less than EUR400 or its equivalent in national currency.
- If the request for reimbursement relates to a period of refund of one calendar year or for the remaining period of one calendar year, the amount of VAT may not be less than EUR50 or its equivalent in national currency.
- If the request for reimbursement is approved, the reimbursement of the approved amount must be made by the Member State of reimbursement at the latest within 10 working days from the date on which the approval decision was communicated to the applicant.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the EU chapter.*

Romania applies the principle of reciprocity; that is, the country where the claimant is established must also provide VAT refunds to Romania businesses.

Find below specific rules for Romania:
- The minimum claim period is three months, while the maximum period is one year.
- The minimum claim for a period of less than a year, but greater than three months, and is the equivalent in RON of EUR400. For an annual claim or a claim for a period of less than three months, the minimum amount is the equivalent in RON of EUR50.
- The deadline for refund claims is 30 September of the year following the calendar year of the reimbursement period.

To benefit from the refund, the taxable person must appoint a tax representative who will carry out the tax registration procedures for non-EU persons; the registration code assigned to the representative will be used only in the VAT refund procedures. After registration, the representative will submit the Reimbursement Application (Form 313), in electronic format, to which they will attach the supporting documents (invoices, import documents, etc.) at the address https://pfinternet.anaf.ro/ or the online filing service on the e-guvernare.ro portal) or in paper format, at the fiscal body registry or by mail (i.e., a registered letter, with acknowledgment of receipt). The refund application must be submitted to the competent central tax body in charge with administering the fiscal representative of the non-EU person.

Late payment interest. In case of late VAT refund payments to EU and non-EU businesses, the Romanian tax authorities must pay late payment interest at a rate of 0.02% per day of delay. This starts with the date when the VAT refund application should have been settled and up until the date of effective payment by the Romanian tax authorities. The refund request should be settled by the Romanian tax authorities within 45 days from the date the request has been submitted.

H. Invoicing

VAT invoices. A Romanian taxable person must generally provide a VAT invoice for all taxable supplies made. A VAT invoice is required to support a claim for input tax deduction.

Credit notes. Invoices that contain errors may be canceled and the taxable person may issue a "reversal invoice." The amount credited must be printed on the reversal invoice and must be preceded by a minus sign. A reversal invoice must contain the same information as a VAT invoice and a cross-reference must be provided.

Electronic invoicing. Electronic invoicing is mandatory in Romania for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Romania. Electronic invoicing is mandatory for B2G supplies, in line with EU Directive 2010/55/EU *(see the EU chapter*). This is with effect from 1 July 2022.

For B2B supplies, electronic is mandatory from 1 July 2024, but only for B2B supplies where the place of supply for VAT purposes is in Romania.

For B2C supplies, electronic invoicing is allowed in Romania but not mandatory, in line with EU Directive 2010/45/EU *(see the EU chapter)*. During the period 1 July 2022 to 31 December 2023, electronic reporting of invoicing data was mandatory for invoices issued for high fiscal risk products (e.g., vegetables, fruits, alcoholic beverages, new constructions, mineral products, clothing and footwear). With effect from 1 January 2024 electronic reporting of invoicing data is extended to all categories of goods or services. With effect from 1 January 2024, electronic reporting of invoicing data is also mandatory for all B2B supplies, with a place of supply in Romania. This covers both taxable persons established in Romania and nonresidents having a VAT registration number in Romania.

After the EU Council Decision (issued in July 2023) authorizing Romania to derogate from the EU VAT Directive to adopt mandatory electronic invoicing in Romania, several provisions regarding the applicability of electronic reporting and electronic invoicing in Romania were introduced via Law 296/2023. A summary of the main changes brought by Law 296/2023 is as follows:

- For the period 1 January 2024 to 30 June 2024, economic operators established in Romania:
  - Continue to issue and transmit invoices (i.e., the traditional invoice) according to general invoicing provisions stipulated in the relevant VAT legislation (i.e., the Romanian Fiscal Code), unless both the issuer/seller and the beneficiary are registered in RO e-Factura system.

  - Are required to submit their invoices through the RO e-Factura system for B2B transactions having the place of supply in Romania within five working days since the invoice was issued, but no later than five working days from the legal deadline to issue the traditional invoice based on the VAT legislation.

- For the period starting 1 July 2024, for B2B transactions performed toward economic operators established in Romania:
  - Economic operators established in Romania are obliged to issue and communicate electronic invoices exclusively through the RO e-Factura system within five working days since the invoice was issued, but no later than five working days from the legal deadline to issue the traditional invoice based on the VAT legislation, for B2B transactions performed toward economic operators established in Romania.
  - Only the invoice communicated via RO e-Factura system qualifies as invoice for VAT purposes.
  - The e-invoice is no longer subject to acceptance by the recipient.

- For the period starting 1 January 2024, economic operators not established but registered for VAT purposes in Romania:
  - Continue to issue and transmit invoices (i.e., the traditional invoice) according to general invoicing provisions stipulated in the relevant VAT legislation (i.e., the Romanian Fiscal Code), unless both the issuer/seller and the beneficiary are registered in RO e-Factura system.
  - Are required to submit their invoices through the RO e-Factura system for B2B transactions having the place of supply in Romania within five working days since the invoice was issued, but no later than five working days from the legal deadline to issue the traditional invoice based on the VAT legislation.

The electronic invoice (under both electronic reporting and electronic invoicing scenarios) must be prepared in XML format according to specific technical requirements and must be uploaded via the RO e-Factura system managed by the Ministry of Finance and available via the virtual private space. After upload, the XML is subject to a technical validation. If validation is successful, the Ministry of Finances applies an electronic seal on the e-invoice and makes it available via the virtual private space to both the supplier and the customer. The electronic signature of the Ministry of Finances certifies that the e-invoice has been received in the RO e-Factura system.

In case the RO e-Factura system is not functional for at least 24 hours, the obligation to send the electronic invoice within RO e-Factura system is suspended until the system is restored. The legislation mentions that for such periods the taxpayers will follow the provisions of article 319 of the Romanian Fiscal Code, provided that the electronic invoice is subsequently sent via the RO e-Factura system.

The periods during which the RO e-Factura system is not functional will be published on the websites of the Romanian tax authorities/Ministry of Finance.

The following transactions are excluded from electronic reporting requirements: intra-Community supplies, exports, supplies toward beneficiaries not established and not registered for VAT purposes in Romania, simplified invoices with a total value of max. EUR100 and services for which Romanian invoicing norms do not apply.

The following transactions are excluded from electronic invoicing requirements: simplified invoices with a total value of max. EUR100.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the EU chapter.

Simplified VAT invoices. Simplified VAT invoices are allowed in Romania if the value of the supplies covered by the invoice, including VAT, is not higher than EUR100.

Under certain conditions, if the invoice value is higher than EUR100, but lower than EUR400, and if the administrative or commercial practice of the activity sector involved or the technical conditions would make the issuing of a regular invoice extremely difficult, a simplified invoice can be issued.

Self-billing. Self-billing is allowed in Romania. For this procedure to be possible, the following conditions must be met:

- The parties must conclude a pre-invoicing agreement through which this invoicing procedure is outlined. The pre-invoicing agreement means an agreement concluded before the commencement of the invoice being issued by the customer on behalf of the supplier.
- An acceptance procedure of each invoice must exist. The acceptance procedure can be explicit or implicit and can be agreed and described in the pre-invoicing agreement or can be represented by receiving the invoice.
- The invoice must be issued on behalf of the supplier by the customer and sent to the supplier. The invoice must contain all the legal requirements for invoicing.
- The invoice must be registered in the sales ledger by the supplier if it is registered for VAT purposes in Romania.

Proof of exports and intra-Community supplies. Goods exported from Romania are not subject to Romanian VAT. To qualify as exempt with credit, the supplier must prove that the goods left Romania. In respect of the documentation required to evidence the export of goods, a taxable person should, in principle, hold the supporting documentation attesting the VAT exempt nature of these transactions (e.g., an invoice compliant with the Romanian VAT legislation requirements, export customs declaration bearing the proof of exit from EU territory of the goods – for exports, documents from the Romanian customs authorities confirming that the goods left Romania or, in the case of excisable products, moved under excise duty suspension using the Excise Movement and Control System (EMCS), the export report submitted to the consignor certifying that the excise goods have left EU territory).

In case the respective documentation is not available during a potential VAT audit performed by the tax authorities, there is a high risk that the tax authorities will deny the applicability of the VAT exemption and assess additional VAT liabilities, as well as late payment charges at the level of the company (depending on its VAT position). In respect of the documentation required to evidence intra-Community supplies documentation, from 1 January 2020, the following is required:

- Invoice containing all the mandatory information provided by the Romanian VAT law, which must contain the VAT number of the beneficiary from another EU Member State
- Proof that the goods were shipped from Romania to another EU Member State, which can be different than the Member State attributing the VAT identification number of the customer
- The supplier should correctly report the intra-Community supply in its recapitulative statement

No special documentation applies in Romania for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. With respect to the proof of transport, the EU Implementing Regulation number 282/2011 (Article 45a) is directly applicable and at the same time, national secondary VAT legislation sets alternative conditions for cases where presumptions are not met. Hence interaction between the EU regulation and national legislation should be carefully considered.

The invoices should also mention the legal basis (e.g., a reference to the relevant provision of the Romanian Fiscal Code or of the Council Directive).

Foreign currency invoices. If a VAT invoice for a transaction that takes place in Romania is issued in a foreign currency, the VAT amount must be converted into the domestic currency, which is the Romanian lei (RON). This must be done by using the rate published by the National Bank of Romania, the bank in charge of the payment transfers or the European Central Bank. The conversion must be calculated for the date on which the tax point for the transaction occurred or would

have occurred if the VAT cash-in system had not been applied. The parties to the transaction must mention the applicable method in the contract.

Supplies to nontaxable persons. Special rules apply to the place of supply for supplies of telecommunications, broadcasting and electronic services to nontaxable customers. Romanian suppliers of these services are required to issue full VAT invoices to nontaxable customers.

By way of exception, a taxable person is exempt from the obligation to issue full VAT invoices for the following supplies, unless the customer requests a full VAT invoice:

- Supplies of goods and services through retail shops, supplying to the general public for which the issuance of fiscal receipts is mandatory
- Supplies of goods and services provided to customers that are not VAT registered (nontaxable) other than nontaxable legal persons for which the issuance of approved legal documents without the buyer's nomination is mandatory, such as: transport of passengers based on travel tickets or subscriptions, ticket access to shows, museums, cinemas, sports events, fairs and exhibitions
- Supplies of goods and services provided to customers that are not VAT registered (nontaxable) other than nontaxable legal persons, which by their nature do not allow the supplier to identify the beneficiary, such as: deliveries of goods through commercial vending machines, car parks cash-out and electronic recharging services for prepaid calling cards

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Romania, examples of what records that must be held for VAT purposes include financial documents based on which the VAT statements were prepared, together with the VAT statements.

In Romania, VAT books and records can be held outside of the country. Such documents can be held in or outside of Romania. Records may be held outside Romania, if the records can be made readily available to the tax authorities upon request.

Record retention period. The archiving of the financial accounting documents based on which the VAT statements were prepared, as well as the VAT statements, must be ensured for a period of 10 years (or in case of immovable capital goods, 20 years).

Electronic archiving. Electronic archiving is allowed in Romania. The taxable person must ensure the storage of copies of invoices issued (or issued by the customer/a third party on behalf of the supplier), as well as of all invoices received. Invoices may be stored on paper or electronically, regardless of the original form in which they were sent or made available.

The taxable person may decide the place of storage for the invoices, provided such documents are made available to the competent tax authorities without any delays and whenever requested. Nonetheless, such storage place may not be located on the territory of a country with which there is no legal instrument concerning mutual assistance.

By way of exception, taxable persons having the seat of their economic activities in Romania or established in Romania through a fixed establishment must store invoices issued and received, other than electronic invoices, on Romanian territory.

I. Returns and payment

Periodic returns. Taxable persons with annual turnover below the RON equivalent of EUR100,000 must submit VAT returns quarterly. However, taxable persons who submit quarterly VAT returns must submit monthly VAT returns, effective from the date on which they perform a taxable intra-Community acquisition in Romania. All other taxable persons submit VAT returns monthly.

The due date is the 25th day of the month following the end of the return period. All taxable persons must file their VAT returns electronically. The relevant VAT returns must be signed by the taxable person using a qualified certificate issued by a provider of certification services.

Periodic payments. Payment in full is required by the same date as the VAT return submission deadline, i.e., the 25th day of the month following the end of the return period. All VAT liabilities must be paid in Romanian lei (RON). The payment must be performed through a bank transfer. As of 1 February 2020, the VAT split-payment mechanism no longer applies in Romania.

Electronic filing. Electronic filing is mandatory in Romania for all taxable persons. Submision of VAT returns are performed through means of a digital certificate, which can be obtained only by Romanian individuals based on specific forms submitted with the competent tax administration.

Payments on account. Payments on account are not required in Romania.

Special schemes. *Small enterprises.* If the turnover is less than EUR88,500 per year, the taxable person can apply the special exemption.

Travel agents. Where the taxable base of the services rendered is the profit margin obtained from the sale of the respective services, exclusive of VAT.

Secondhand goods, works of art, collectors' items and antiques. Where the taxable base for the supplies of goods is the profit margin obtained from the sale of the respective goods, exclusive of VAT. By way of derogation, for supplies of works of art, collectors' items or antiques imported by the taxable dealer, the purchase price to be taken into account in calculating the profit margin must be equal to the taxable base on importation plus the VAT due or paid on importation.

Investment gold. This scheme applies to the supplies, intra-Community acquisitions and importation of investment gold, including investment in securities; and intermediary services in respect of supplies of investment gold.

Cash accounting: For taxable persons registered for VAT purposes in Romania and having the seat of its economic activity in Romania, whose turnover in the previous calendar year does not exceed RON4.5 million (approx. EUR900,000), as well as taxable persons established in Romania that apply for a VAT registration during the year and opt to apply the VAT cash accounting system starting with the VAT registration date or at a later date.

Annual returns. Annual returns are not required in Romania.

Supplementary filings. *Informative statement.* All taxable persons that are registered for VAT in Romania must also submit an informative statement to the Romanian tax authorities. In principle, this statement must include all local supplies and acquisitions performed between taxable persons registered for VAT purposes in Romania made in the reporting period.

The Form 394 includes, inter alia, acquisitions from Romanian persons not registered for VAT purposes in Romania, acquisitions from taxable persons established outside Romania and not registered for VAT purposes in Romania and that do not have the liability to register for VAT purposes in Romania – reverse charge at the beneficiary, etc.

The due date is the 30th day of the month following the end of the period, starting with the July 2016 reporting period. The Form 394 should be submitted to the tax authorities even if no transactions were performed in the reporting month.

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

The threshold for Intrastat Arrivals and Dispatches in 2024 is RON1 million.

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

Intrastat returns must be submitted monthly. The submission deadline is the 15th day of the month following the return period.

EU Sales and Acquisitions Lists. If a Romanian taxable person makes intra-Community supplies or intra-Community acquisitions of goods in any return period, it must submit an EU sales and acquisitions list to the Romanian VAT authorities. The listing of intra-Community supplies or acquisitions is also required for qualifying services that are rendered to or received from a taxable person established in the EU and that are taxed where the beneficiary is established. This list is not required for any period during which the taxable person does not make any intra-Community supplies or acquisitions of goods/services.

The listing of intra-Community sales or acquisitions of goods and qualifying services must be submitted on a calendar monthly basis by the 25th day of the month following the relevant month.

Correcting errors in previous returns. The correction of material errors in the VAT return may be made within the limitation period of five years from 1 July of the year following that in which the return to be corrected was submitted.

Errors made when completing the tax return are considered material errors and are corrected in a specific way. VAT returns submitted by taxable persons registered for tax purposes may be corrected for material errors by the competent tax authority, either on its own initiative or at the request of the taxable person.

The correction of material errors in the VAT return at the request of the taxable person can be performed as follows:

- The taxable person submits the request for correction of material errors together with the documents necessary to justify the errors at the registry of the competent fiscal body or by post, by registered letter.
- The specialized department (the department with attributions for the reimbursement of VAT within the competent fiscal body) will communicate in writing to the taxable person the date, time and place where they must appear, as well as the documents necessary to justify the errors.
- To correct the material errors in the VAT return, the specialized department, based on its own findings or documents submitted by the taxable person, draws up a report in which it records the findings regarding the errors for which the return was requested, as well as how they will rectify these.
- Based on the report, the fiscal body draws up the correction decision, in two copies, one of which is communicated to the payer and the other is archived in its fiscal file.

Digital tax administration. In December 2023, the government issued an emergency ordinance regarding the implementation of digitization projects through the following information systems considered as being of strategic and national interests:

- RO e-Factura: national system regarding electronic invoicing
- RO e-Transport: establishment of the national system for the monitoring of road transport of goods with high fiscal risk
- RO e-Sigiliu: representing the electronic seal of goods
- RO e-SAF-T: representing the standard fiscal control file
- RO e-Case *de marcat electronice*: representing the national register of fiscal electronic cash registers in which economic operators have the obligation to register all B2C sales for which fiscal cash receipts are issued and ensure the remote connection of fiscal electronic cash registers to transmit fiscal data to the tax authorities

- RO e-TVA: purpose is to pre-fill information on taxable transactions into VAT returns for each reporting period by the 20th day of each month following the end of the tax period and make them available to taxable persons through the virtual private space; further, taxable persons registered for VAT purposes have the obligation to check, modify and complete the information in the VAT return according to the real tax situation and to sign and submit the VAT return according to the tax legislation in force

Standard Audit File for Tax (SAF-T). Standard Audit File for Tax (SAF-T) reporting requirements was introduced in Romania with effect from 1 January 2022. Certain categories of taxable persons are required to submit the SAF-T file, such as Romanian legal entities and Romanian entities without legal personality of foreign companies that use the double-entry accounting system, as well as nonresident companies registered for VAT purposes in Romania.

The date when the SAF-T file should be submitted depends on the taxpayer categories, as follows:

- Large taxpayers (present in this category as of 31 December 2021) from 1 January 2022, with a grace period of six months; by way of exception, for large taxpayers that were not in this category as of 31 December 2021, the date to start reporting SAF-T data is 1 July 2022, with a grace period of six months elapsing end of January 2023
- Medium-sized taxpayers (present in this category as of 31 December 2021) from 1 January 2023, with a grace period of six months
- Small taxpayers, including nonresidents registered for VAT purposes in Romania (present in this category as of 31 December 2021) from 1 January 2025
- By way of exception, financial banking institutions and insurance/reinsurance companies (i.e., large taxpayers as of 31 December 2021) from 1 January 2023 with a grace period of six months

The category of taxpayers who are required to submit the SAF-T file, also includes nonresident companies that have a VAT registration number in Romania (e.g., taxable persons registered through direct registration, taxable persons registered through a tax representative, fixed establishments). In the specific case of taxable persons registered through a tax representative, the date when the SAF-T file will become mandatory depends on the taxpayer category in which the tax representative is included *(as detailed above)*.

The Romanian SAF-T file contains detailed accounting and tax information from: general ledger, accounts receivable, accounts payables, stocks and fixed assets, in line with the recommendations under OECD 2.0 SAF-T version. Simplified reporting was introduced for nonresidents having a VAT registration number in Romania.

The SAF-T file (i.e., Informative Statement D406) should be submitted in electronic format. The submission deadline is as follows:

- No later than the last calendar day of the month following the reporting period (calendar month/quarter, as appropriate), for information other than stocks and fixed assets
- No later than the deadline for submitting the financial statements for the financial year, in case of the informative statement D406 for fixed assets
- By the deadline established by the tax authorities, which may not be less than 30 calendar days from the date of the request, in case of the Informative Statement D406) for stocks

However, given the complexity of this new reporting requirement, taxpayers are granted a grace period for the submission of the first statements, from the date when the submission requirements become effective for each category of taxpayer. The grace period is computed as follows:

- Six months for the first reporting, five months for the second reporting, four months for the third reporting, three months for the fourth reporting and two months for the fifth reporting, in case of monthly reporting
- Three months in case of quarterly reporting

RO e-Transport. RO e-Transport is a system developed by the Romanian tax authorities with the purpose of monitoring the transports of high fiscal risk goods on the national territory and the international road transports of goods as regulated by Regulation (EC) no. 1072/2009 of the European Parliament and of the Council. Users having the obligation to report transports shall include certain data connected with the goods being transported in a structured XML format uploaded via the RO e-Transport system, which will return a unique number (UIT). The categories of vehicles subject to RO e-Transport are those with a maximum technically authorized mass of at least 2.5 tons, loaded with goods with fiscal risk with a total gross weight of more than 500 kg or a total value of more than RON10,000, related at least to a consignment of goods, which is the subject of the transport.

The types of goods with high fiscal risk that must be declared in connection with their transport on the national territory are:
- Vegetables, plants, roots and tubers, foodstuffs, falling within CN Codes 0701 to 0714 inclusive
- Edible fruits; peel of citrus fruits or melons, falling within CN Codes 0801 to 0814 inclusive
- Beverages, alcoholic beverages and vinegar, falling within CN Codes 2201 to 2208 inclusive
- Salt; sulfur; earth and stones; plaster, lime and cement, falling within CN Codes 2505 and 2517
- Articles of apparel and clothing accessories, knitted or crocheted, falling within CN Codes 6101 to 6117 inclusive
- Articles of apparel and clothing accessories, other than knitted or crocheted, falling within CN Codes 6201 to 6212 inclusive and to CN Codes 6214 to 6217 inclusive
- Footwear, gaiters and the like; parts of these articles, falling within CN Codes 6401 to 6405 inclusive
- Cast iron, iron and steel, falling within CN Codes 7213 and 7214

The data that must be declared in the system refers to information about the consignor, the beneficiary or consignee, goods (name, characteristics, quantities, and value of the goods transported), loading and unloading places, means of transport used and the carrier (including car plate number of the vehicle transporting the goods), date declared for the start of the transport.

Users are subject to reporting transports on the national territory related to operations with such high fiscal risk goods such as intra-Community acquisitions, intra-Community supplies, imports, exports, local transports (including local supplies, transfers between two managements points, returns of goods), etc.

At the time of preparing this chapter, with regard to the international road transports of goods, all types of goods transported to/from Romania in connection to a intra-Community acquisition/supply of goods, import/export or transit through Romania must be declared. For this category, fines are applicable with effect from 1 July 2024.

The transports should be declared up to three days before the start of the transport but until the presentation at the border/place of import/until the actual start of the transport/effective movement of the vehicle. The validity is five calendar days from the date declared for the start of transport and 15 days for intra-Community acquisitions and intra-Community transit operations.

RO e-Sigiliu. RO e-Sigiliu is a system developed by the tax authorities with the purpose of ensuring compliance with the traceability of road transport of goods on the territory of Romania. The national system involves the use of electronic devices that record data and transmit to the competent authorities, status and position information through an IT application, to track the movement of goods by road. The application of smart seals and monitoring of road transport of goods on the national territory is carried out by the competent Romanian authorities on the basis of a risk analysis.

J. Penalties

Penalties for late registration. Penalties of RON1,000 to RON5,000 (approx. EUR200 to EUR1,000) for large and medium sized taxable persons and of RON500 to RON1,000 (approx. EUR100 to EUR200) for other taxable persons who apply for late registration for VAT purposes.

Penalties for late payment and filings. For the late payment of VAT, late payment interest (0.02% per day of delay) and late payment penalties (0.01% per day of delay) apply. Separate penalties range from RON1,000 to RON5,000 and are assessed for delays in submitting VAT returns.

The interest rate that may be claimed by a taxable person for late refunds will be 0.02% per day of delay.

For Intrastat, a penalty of RON7,500 to RON15,000 (approx. EUR1,500 to EUR3,000) may be imposed for late submissions.

For EU Sales and Acquisitions List, a failure to submit an EU sales and acquisitions list reporting sales or acquisitions of goods by the due date is subject to a fine ranging from RON1,000 to RON5,000 (approx. EUR200 to EUR1,000).

For SAF-T, failure to submit the Informative Statement D406 within the deadlines provided by law, or submitting incorrect or incomplete information, will be subject to fines as follows:
- A fine ranging from RON1,000 to RON5,000 for failure to submit this statement within the legal deadline
- A fine ranging from RON500 to RON1,500 for submitting incorrect or incomplete statements

Penalties for errors. For obligations unreported or reported inaccurately, a penalty of 0.08% per day of delay applies for unreported obligations established through a tax decision.

For Intrastat, a penalty of RON7,500 to RON15,000 may be imposed for missing or inaccurate declarations.

For EU Sales and Acquisitions List, submission of such list with incorrect or incomplete amounts is subject to a fine ranging from RON500 to RON1,500 (approx. EUR100 to EUR300). The fine does not apply if the taxable person corrects voluntarily the EU Sales and Acquisitions List by the due date for the submission of the next EU Sales and Acquisitions List.

Penalties for noncompliance with the RO e-Transport system in connection with transports of high fiscal risk goods on the national territory are between EUR4,000 to EUR20,000, as well as, in some cases, seizure of countervalue of the goods not declared. With regards to the international road transports of goods, the penalties are applicable with effect from 1 July 2024.

Penalties regarding mandatory electronic invoicing and reporting are as follows:
- For the period 1 January 2024 to 30 June 2024, economic operators established in Romania:
  - Fines shall apply for non-transmission of electronic invoices through RO e-Factura system within the five working days deadline, depending on the size of the taxpayer. Note, no fines apply for the period 1 January to 31 March 2024.
- For the period starting 1 July 2024, for B2B transactions performed toward economic operators established in Romania:
  - Failure to send the invoices via the RO e-Factura system can be sanctioned with a fine equal to 15% of the invoice value (including VAT). Moreover, failure to meet the five calendar days deadline can be sanctioned at the level of the supplier with a fine between RON1,000 to RON10,000 depending on the category of taxpayer.
  - The receipt and booking of incoming invoices received outside RO e-Factura system is sanctioned with a fine equal to 15% of the invoice value (including VAT).

For the period starting 1 January 2024, economic operators not established but registered for VAT purposes in Romania:

- Fines shall apply for non-transmission of e-invoices through RO e-Factura system within the five working days deadline, depending on the size of the taxpayer. Note, no fines apply for the period 1 January to 31 March 2024.

For further details, see the subsection *Electronic invoicing* above.

The late notification or failure to notify he tax authorities of changes to a taxable person's VAT registration details may result in a penalty between RON1,000 to RON5,000 (approx. EUR200 to EUR1,000) for middle and large taxable persons and between RON500 to RON1,000 (approx. EUR100 to EUR200) for small taxable persons. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In case of fraud, a penalty of 0.08% per day of delay penalty is increased by 100%.

Personal liability for company officers. Under criminal law, by committing the offense of tax evasion, in cases such as the omission, partially or totally, to record in the accounting documents or in other legal documents, the commercial operations carried out or the income, or the recording, in the accounting documents or in other legal documents, of the expenses that do not have as base real operations or the recording of other fictive operations.

In the simple version of the criminal offense, the sanction imprisonment from two to eight years and the prohibition of certain rights, whereas in the aggravated version, depending on the damages caused, the limits of the sanction can be increased by five years and seven years, respectively.

The company's directors may be held jointly liable with the debtor, if they caused, in bad faith, the non-declaration and/or the nonpayment of due tax duties.

Also, both the persons in the management and the supervision of the legal person (i.e., administrator, director, auditor), as well as any other persons (e.g., the shareholders, financial service responsible, heads of departments, accountants) who have determined the insolvency of the company can be held liable.

Statute of limitations. The statute of limitations in Romania is five years. The tax authorities may normally check tax-related matters retroactively for five years. In case of fiscal evasion or fraud, the reassessment period is extended retroactively for 10 years. The five-year statute of limitation period begins to run from 1 July of the year following the year for which the tax obligation is due.

Generally, a tax audit should be performed only once for each tax or duty or other amounts due to the State Budget and for each period subject to taxation. However, the tax authorities are entitled to reverify a certain period in case additional information or errors of computation that influence the results, of which tax inspectors were not aware of when performing the initial audit, arise between the completion of the fiscal audit and the expiry of the above reassessment period.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Umusoro ku nyongeragaciro (Kinyarwanda)/Taxe sur la valeur ajoutee (French)
Date introduced	1 January 2001
Trading bloc membership	Common Market for Eastern and Southern Africa (COMESA) East African Community (EAC) African Continental Free Trade Area (AfCFTA)
Administered by	Rwanda Revenue Authority (www.rra.gov.rw)
VAT rates	
Standard	18%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (TIN) - 000111111
VAT return periods	Monthly or quarterly
Thresholds	
Registration	RWF20 million (annual)/RWF5 million (quarter)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- All goods supplied by a taxable person in Rwanda are taxable except the ones that are exempted
- Services supplied are taxable if the:
  - Service recipient and service provider are residents of Rwaenda
  - Service recipient is a resident of Rwanda, and the service is beneficial to the recipient in Rwanda

- Unless exempted under this law, an asset of a person used in business that is sold is subject to VAT unless it is proved that the taxable person was denied input tax on acquisition of that asset
- Taxable assets of the taxable person's business that is owned by the taxable person on the day of deregistration for VAT are subject to the tax that remains unpaid as of that same day
- A taxable person must pay VAT for taxable goods and services of the business that the taxable person used for its personal consumption
- Imported goods or services are taxable if they are not exempted

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Rwanda, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT.

Generally, in Rwanda, TOGC rules do not apply. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets. The only exemption provided under the law is on the transfer of assets between related persons residing in Rwanda at the time of the restructuring of their business, if the business activity of a person that acquires assets persists for a period of not less than three years, and the person transferring the assets has the actual business of supplying or providing exempted goods or services.

Transactions between related parties. In Rwanda, for a transaction between related parties, the value for VAT purposes is calculated at an arm's-length basis. Related persons involved in a controlled transactions must have documents justifying that their prices are applied according to arm's-length principle. General rules on transfer pricing are issued by an Order of the Minister No. 003/20/10/TC of 11/12/2020. The Ministerial Order sets out the following acceptable methods of determining arm's-length prices:

- Comparable uncontrolled price method
- Resale price method
- Cost plus method
- Transactional net margin method
- Transactional profit split method
- Use of alternative method
- Selection of tested party

There is no difference between goods and services.

C. Who is liable

The consumers of taxable goods and services pay VAT. Registered taxable persons (traders), which act as the agents of the government, collect VAT. The Customs Services Department collects VAT on imported goods, while the Domestic Taxes Department collects local VAT and VAT on imported services.

A VAT registration is dependent on the attainment of a turnover threshold of RWF20 million in 12 months or RWF5 million in a quarter. Businesses that do not attain this turnover threshold may voluntarily register.

Exemption from registration. The VAT law in Rwanda does not contain any provision for exemption from registration.

Voluntary registration and small businesses. It is possible for a taxable business that is not required to register for VAT to register on a voluntary basis. The taxable person wishing to register voluntarily for VAT must log in to their respective Rwanda Development Board (RDB) portal and proceed to register online (https://brs.rdb.rw/busregonline). The registration is approved automatically, i.e., as soon as a taxable person registers, the system generates the VAT registration certificate.

Group registration. Group VAT registration is not allowed in Rwanda.

Fixed establishment. In Rwanda, there is no legal definition of a fixed establishment for VAT purposes. However, the Income Tax Law of Rwanda defines a permanent establishment as a known fixed place of business through which the business that gives rise to income is wholly or partially carried on. Therefore, permanent establishment rules that apply for direct taxation will be deemed as applicable for VAT. A permanent establishment includes any one of the following areas:
- Place of management
- Branch
- Factory or a workshop
- Mine, quarry or any other place for an exploitation of natural resources
- Site set for construction, construction site or a place where supervision or assembly works are carried out
- Place of provision of services, including consulting services, carried on by a person, with the support of employees or other personnel, for more than 90 days in a 12-month period, either continuously or intermittently

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Rwanda. A foreign business is not required to register for VAT unless it has a permanent establishment in Rwanda. A permanent establishment of a foreign business must register for VAT if it makes taxable supplies of goods or services. Other non-established businesses are not required to register for VAT. Instead, a person importing goods or services from a nonresident must pay the Rwandan VAT due.

Tax representatives. Any person allowed by law to represent a taxable person shall file the tax declarations, pay taxes due and comply with all the obligations required under law.

Any person in one of the five following categories must, upon appointment as a tax representative, communicate its new capacity to the tax administration within a period of seven days:
- The guardian or any other person responsible for custody of a minor or an incapacitated person
- A legal or judicial administrator of an estate or of a will or the heirs of such an estate
- The president, accountant or director appointed or any other representative of a company or any other legal person
- The administrator or the representative of a company or any other legal person in liquidation
- Any other person given the mandate to represent the taxable person

Also, the tax representative could be:
- The owner of an enterprise
- A partner in a partnership that has unlimited liability

Reverse charge. Imported services are subject to VAT at the standard rate of 18%. If the service in question is not locally available in Rwanda, the importer of the service is allowed to account for VAT using the reverse-charge method, that is, by including it in both output and input tax,

thereby having a nil net cash flow. Taxable persons seeking to import foreign services not available in Rwanda will be required to request authorization from the minister in charge. An Order of the Minister will be gazetted to provide guidelines to taxable persons prior to the authorization to acquire foreign services not available in Rwanda.

Domestic reverse charge. There are no domestic reverse charges in Rwanda.

Digital economy. The Rwandan VAT law stipulates that taxable goods and services, including online supplies and taxable imported goods and services, will be subject to VAT.

Nonresident providers of electronically supplied services for both business-to-consumer (B2C) and business-to-business (B2B) supplies would not be required to register for VAT in Rwanda unless they have a permanent establishment in Rwanda. Instead, the customer importing goods or services from a nonresident must pay the Rwandan VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in Rwanda.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Rwanda. *However, at the time of preparing this chapter, a Ministerial Order providing modalities for taxation of goods and services provided through online platforms is due to be gazetted.*

Registration procedures. Any person who sets up a business or carries out noncommercial activities, but who is subject to tax, has the responsibility to register with the tax administration within seven days from the beginning of the business or activity or the establishment of the company.

Any person who carries out taxable activities exceeding RWF20 million in the previous fiscal year, or RWF5 million in the preceding calendar quarter, is required to register for VAT within seven days from the end of the year or quarter.

Any person may voluntarily register with the tax administration for VAT. Any changes, whether related to the taxable person or its activities shall be reported in writing to the tax administration within seven days from the day of the notice of the change. Taxable persons must register by submitting the application in hard copy for individual taxable persons and online for non-individual taxable persons.

Individual entrepreneurs register in their own names using the Individual Enterprise Registration Form and a copy of their national ID or passport. Organizations or enterprises register using the RDB online registration platform in the name of the organization. Individual taxable persons conclude their registration by completing the appropriate registration form, signing and submitting it to the tax administration and by obtaining a tax identification number (TIN). Non-individual taxable persons conclude their registration by submitting an online registration request and obtaining a TIN from the Rwanda Development Board (RDB).

Deregistration. A taxable person ceases to be liable to a particular type of tax at any time when the Commissioner General is satisfied that any one of the following circumstances is true:

- The taxable person has ceased its business or economic activity completely
- The taxable person has reduced the volume of its activities to a level that it is not liable to that particular tax
- The taxable person has paid all taxes due to the tax administration

Any registered taxable person ceasing to be liable for a tax notifies the tax administration using a modified registration form within a period of seven days from the date it is no longer required to be registered.

When the tax administration is satisfied that a person is no longer liable to be registered, it cancels the registration. Granting cancellation of registration does not stop the tax administration from carrying out audits.

Changes to VAT registration details. Any changes related to a taxable person or their activities is notified in writing to the tax administration within seven days from the notice of the change.

A taxable person who changes address (physical and electronic) must notify the tax administration. Whenever a taxable person changes their address without notifying the tax administration, all their information is delivered to their last known address.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and their auxiliary services, including those that are already exempted
- Commission fees charged to tourists for all-inclusive tour package booking services *(with effect from 14 September 2023)*
- Minerals sold on the domestic market *(with effect from 14 September 2023)*
- Goods supplied in a shop ("Army shop") intended for persons working in security services as provided for by the legislation governing such a shop *(with effect from 14 September 2023)*
- Locally assembled electric automotive vehicles, hybrid automotive vehicles, relevant batteries and their electric charging station equipment *(with effect from 14 September 2023)*
- Local nongovernmental organizations to which goods and services are donated and acquired through funding by countries or international organizations having signed agreements with the Republic of Rwanda *(with effect from 14 September 2023)*
- Exports of taxable services
- Goods and services supplied to diplomatic and consular missions
- Services rendered to a tourist for which value added tax has been paid

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Unprocessed agricultural products
- Financial services
- Educational services
- Medical services
- Agricultural, animal husbandry and horticultural services
- Transportation of passengers (excluding for hire)
- Sanitary pads *(with effect from 14 September 2023)*
- Leases of a movable property by licensed financial institutions or by or for a special purpose vehicle *(with effect from 14 September 2023)*
- Exempted goods under lease *(with effect from 14 September 2023)*

- Processed maize, rice and milk *(with effect from 14 September 2023)*
- Agricultural insurance services *(with effect from 14 September 2023)*
- Gaming activities *(with effect from 14 September 2023)*
- Personal effects of a Rwandan diplomat returning from a foreign mission, those of a returning Rwandan national resident abroad, as well as those of any other Rwandan returning to Rwanda and entitled to a tax exemption in accordance with Customs legislation. With the exception of returning Rwandan diplomats, other persons mentioned in this subparagraph are required to have owned their vehicle for at least 12 months for the vehicle to be exempt *(with effect from 14 September 2023)*
- Transfer of assets between related persons residing in Rwanda at the time of the restructuring of their business *(with effect from 14 September 2023)*
- Equipment for conserving bodies of victims of the genocide against the Tutsi and its related evidence that appear on the list established by the minister in charge of commemoration of the genocide against the Tutsi and approved by the minister *(with effect from 14 September 2023)*
- Goods or services, including imported goods and services, which are sold, assigned, exchanged or otherwise transferred to or by a special purpose vehicle as a consequence of entering into an asset-backed securitization transaction where the transaction has been approved under or is authorized by a law regulating capital market in Rwanda and the special purpose vehicle is a registered taxable person in Rwanda *(with effect from 14 September 2023)*
- Imported electric automotive vehicles, hybrid automotive vehicles, relevant batteries and their electric charging station equipment *(with effect from 14 September 2023)*

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Rwanda.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In Rwanda, the tax point is the earliest of the following events:

- The goods or services are supplied
- An invoice is issued
- Payment is received for all or part of the supply
- Date on which goods are either removed from the supplier's premises or given to the recipient
- Date on which a taxable person applies for deregistration from the VAT

Deposits and prepayments. There are no special time of supply rules in Rwanda for deposits and prepayments. As such, the general time of supply rules apply (as outlined above). However, in practice in relation to construction contracts, advance payments do not qualify as taxable supplies.

Continuous supplies of services. There are no special time of supply rules in Rwanda for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above). Therefore, for supplies of goods and services that are provided against periodic payments (e.g., where there is a monthly billing for an ongoing service), each such installment constitutes a taxable supply for VAT purposes.

Goods sent on approval for sale or return. There are no special time of supply rules in Rwanda for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Rwanda for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above). Where the time of supply rule for imported services is the same as for local taxable supplies.

Leased assets. There are no special time of supply rules in Rwanda for leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is the date on which the goods enter Rwandan territory under the Customs legislation, i.e., at the Customs point in accordance with the Customs legislation.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services purchased in Rwanda and VAT paid on imports of goods and services.

The time limit for a taxable person to reclaim input tax in Rwanda is the first VAT period after incurring the expense, i.e., within the month in which the invoice is dated.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain business expenses/overheads.

Examples of items for which input tax is nondeductible

- Passenger vehicle, or spare parts or repair and maintenance services for such a vehicle
- Business gifts
- Business entertainment
- Fuel for vehicles (apportioned)
- Mobile telephone bills (apportioned)
- Utilities (apportioned)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase of inventory
- Consultancy services
- Payment of legal fees

Partial exemption. VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies cannot recover input tax in full.

Under Rwandan VAT law, if a taxable person supplies both taxable and exempt goods and services, only input tax attributable to taxable supplies may be recovered. The amount of the claimable input tax is determined using a standard method or an attribution method approved by the Commissioner General.

Approval from the tax authorities is not required to use the partial exemption standard method in Rwanda. Special methods are not allowed in Rwanda.

Capital goods. Input tax incurred in respect of capital goods purchased during the tax period is claimable if all goods or services supplied by a taxable person during a tax period are taxable supplies. Where a taxable person supplies both taxable and exempt goods and services, only input tax attributable to taxable supplies may be recovered.

Refunds. A taxable person may claim a refund of input tax in excess of output tax. The claim for a VAT refund can be made within one month after the date on which the tax became payable.

Pre-registration costs. A newly registered taxable person is allowed to claim input tax credit in respect of goods that were in their store or stock at the close of the last day prior to registration. Within one month after the date on which a person becomes registered, the person may file a claim for relief from VAT paid on stock held (goods held for trading) before registration.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Rwanda.

Noneconomic activities. Input tax incurred in relation to noneconomic activities is not recoverable in Rwanda.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Rwanda is not recoverable.

H. Invoicing

VAT invoices. A supplier of taxable goods and services must issue a tax invoice to the purchaser at the time of supply.

Credit notes. A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes must show the same information as a tax invoice. For a credit note to be valid, it must meet the following conditions:
- Reflect a genuine mistake, overcharge or agreed price reduction
- Be issued within 24 months from the date of original invoice issuance
- Be headed "Credit note"

Electronic invoicing. Electronic invoicing is mandatory in Rwanda for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory in Rwanda. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Rwanda.

The issuance of electronic invoices is required for all registered taxable persons, irrespective of the value or amount of the item being sold. However, non-registered suppliers are not authorized to issue electronic invoices, which makes them subject to a withholding tax of 15%. However, due to their nature some items, such as income on deposits, foreign exchange gains, etc., are not applicable for electronic invoicing.

Electronic invoicing using electronic billing machines (EBMs) supplied by vendors authorized by the tax administration is mandatory for all taxable persons, unless the taxable person in question has a specific exemption granted by the Commissioner General from the use of an EBM. In other words, every commercial invoice issued by a taxable person must invariably be accompanied by a corresponding EBM receipt generated from the EBM that is directly linked to the RRA IT system. There are prohibitive penalties for nonuse or fraudulent use of EBMs by taxable persons. There are also VAT incentives to reward final consumers who present the tax administration with an electronic invoice. The modalities and value of the reward will be gazetted through an Order of the Ministerial.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Rwanda. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Rwanda.

Proof of exports. Goods exported from Rwanda are zero-rated. However, to qualify for zero-rated exports must be supported by evidence that proves the goods left Rwanda. Suitable evidence includes the following documents:
- A sales invoice
- A bill of lading, road manifest or airway bill
- A Customs export entry (document issued by Customs as evidence that goods have been cleared to leave Rwanda's Customs territory)

Foreign currency invoices. Foreign currency invoices are handled in the same manner as invoices in the domestic currency, the Rwandan franc (RWF). Foreign denominated invoices are converted using the prevailing National Bank of Rwanda (BNR) exchange rate as at the invoice date. If there is no existing applicable exchange rate for a certain currency used by the BNR, the applicable rate is computed on the BNR exchange rate for the United States dollar (USD) and a published cross-rate for that currency in question against the USD.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Rwanda. As such, full VAT invoices are required.

Records. In Rwanda, examples of what records must be held for VAT purposes include the following:
- Sales and purchases records
- Record of assets and liabilities
- Records of daily income and expenses related to the business activity
- Records of stock inventory at the end of the accounting period
- Information related to controlled transactions

In Rwanda, VAT books and records must be held within the country, either on the premises of the taxable person or in any other place located in Rwanda.

Record retention period. The statutory period for archiving of accounting and tax records is 10 years starting from 1 January following the fiscal year to which they relate.

Electronic archiving. Electronic archiving is allowed in Rwanda. However, there are no specific provisions in the Rwandan VAT law on the electronic archiving of records. In practice, the tax administration requests for physical copies of tax records during a tax audit. It is therefore prudent for a taxable person who has an electronic archiving system to also maintain physical copies of the invoices.

I. Returns and payment

Periodic returns. The VAT tax period is either one month or calendar quarter. Returns must be filed by the 15th day after the end of the tax period. If the normal filing date falls on a public holiday or on a weekend, the VAT return must be submitted on the next working day after such day.

Periodic payments. Payment is due in full by the same date as the VAT return submission deadline, i.e., by the 15th day after the end of the tax period. A "nil" return must be filed if no VAT is payable. Tax payment must be made through cash, check or bank transfer. A refund claim return must be filed if input tax exceeds output tax in a given tax period.

Electronic filing. Electronic filing is mandatory in Rwanda for all taxable persons. Taxable persons are required to upload the relevant annexures and submit the tax declaration online (https://etax.rra.gov.rw/).

Payments on account. Payments on account are not required in Rwanda.

Special schemes. No special schemes are available in Rwanda.

Annual returns. Annual returns are not required in Rwanda.

Supplementary filings. No supplementary filings are required in Rwanda.

Correcting errors in previous returns. Taxable persons can revise previously submitted declarations at any time. However, if the revisions lead to an increase in the VAT payable, penalties and interest will apply. Nonetheless, the payment of penalties and interests can be waived in cases of

self-disclosure. The taxable person must apply in writing to the Commissioner General before making any revisions which result in a reduction of the VAT payable.

Digital tax administration. There are no transactional reporting requirements in Rwanda.

J. Penalties

Penalties for late registration. An administrative fine of 50% of the amount of output tax is assessed for the entire period of operation without VAT registration in the event of late registration by businesses that meet the turnover threshold.

In addition, non-registration may be assessed for RWF300,000 as a fixed administrative fine.

Penalties for late payment and filings. Administrative fines for non-declaration and nonpayment of tax are:
- 20% of tax due when the taxable person exceeds the time limit for declaration and payment for a period not exceeding 30 days
- 40% of tax the taxable person should have declared and paid, if they pay within a period ranging from 31 to 60 days from the time limit for the payment
- 60% of due tax, if the taxable person exceeds the time limit for declaration and payment by more than 60 days

In addition, nonpayment may be assessed for RWF300,000 as a fixed administrative fine.

Administrative fines for late payment of tax are:
- 5% of due principal tax, when the taxable person exceeds the time limit for payment for a period not exceeding 30 days from the fixed date of payment
- 10% of the principal tax due, when the taxable person exceeds the time limit for the payment of a period ranging from 31 to 60 days from the fixed date of payment
- 20% of due principal tax, when the taxable person exceeds the time limit for payment by more than 60 days from the fixed date of payment

Interest on late payment of tax is charged at a 1.5% per month, not compounded.

Penalties for noncompliance with electronic invoicing system. Individuals who are required to generate invoices using a recognized electronic invoicing system, except for those registered for VAT, risk incurring an administrative fine of two times the value of the transaction if they fail to do so. Moreover, unregistered VAT individuals who carry out taxable transactions and provide electronic invoices with an undervalued price or quantity are subject to an administrative fine of two times the value of the transaction. Additionally, individuals who repeatedly commit the offense within two years of the first penalty are liable for double the fine.

Note, "unregistered VAT individuals" are defined as individuals who have met the VAT registration threshold but have failed to register. The punitive penalties detailed above relates to "unregistered VAT individuals" and not "registered VAT individuals" since the noncompliance of "unregistered VAT individuals" is viewed as bordering on tax fraud.

Penalties for errors. The penalties for errors in Rwanda are the same as the penalties for late payment of tax (as outlined above).

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above. However the above penalties for non-registration and nonpayment may be imposed if the VAT registration detail errors result in such failures.

Penalties for fraud. Penalties for VAT offenses include up to 100% of tax evaded and imprisonment for a term of not less than two years and not more than five years upon conviction.

Personal liability for company officers. Directors who are directly involved in the control and management of a private company are jointly liable for any tax liabilities incurred by the company if it is evident that they intentionally or negligently caused the company to incur the tax liabilities. However, this liability is determined by a court of law. Applicable penalties and interest will be as outlined above.

Statute of limitations. The statute of limitations in Rwanda is five years. This is from 1 January of the following tax period. However, if it is revealed that the taxable person intended to evade tax, the time limit can be extended up to 10 years. There is no time limit for a taxable person to voluntarily correct errors in previous returns.

Saint Kitts and Nevis

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Direct queries regarding Saint Kitts and Nevis to the persons listed below in the Bridgetown, Barbados, office.

Indirect tax contacts

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Deirdre Craigwell-Gittens	+1 (246) 430 3900 deirdre.craigwell-gittens@bb.ey.com
Scott Barnett	+1 (246) 430 3805 scott.barnett@bb.ey.com

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 November 2010
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Inland Revenue Department (IRD) (https://www.sknird.com/value-added-tax-vat)
VAT rates	
Standard	17%
Reduced	10%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXX (9 digits)
VAT return periods	Monthly
Thresholds	
Registration	XCD150,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of taxable goods or services by a taxable person (registrant) in Saint Kitts and Nevis
- The importation of taxable goods from outside Saint Kitts and Nevis

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a

non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Saint Kitts and Nevis, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Saint Kitts and Nevis, the transfer of a taxable activity as a going concern, or part of a taxable activity that is capable of separate operations, is a supply of goods made in the course or furtherance of such taxable activity. A taxable activity or part of a taxable activity capable of separate operation is disposed of as a going concern where all of the goods and services necessary for the continued operation of the taxable activity or the part of the taxable activity are supplied to the transferee; and the transferor carries on, or is carrying on, that taxable activity or the part of the taxable activity up to the time of its transfer to the transferee.

Transactions between related parties. In Saint Kitts and Nevis, the VAT Act does not refer to specific valuation rules for transactions between related parties. However, services that are imported for no consideration or for a consideration which is less than the fair market value of the services, will be valued at the fair market value of the imported services where the supplier and the recipient are related persons. Similarly, where the supply of goods or services is made by a taxable person for no consideration or for a consideration which is less than the fair market value of that supply and the supplier and the recipient are related persons, the value of the supply will be the fair market value of the supply.

C. Who is liable

The Saint Kitts and Nevis VAT Act imposes a registration requirement on any person in Saint Kitts and Nevis whose total value of taxable supplies exceeds XCD150,000 during a period of 12 or fewer months.

A person that expects to make taxable supplies greater than XCD150,000 at the beginning of any period of 365 calendar days should also apply for VAT registration in Saint Kitts and Nevis.

Exemption from registration. A person shall not be required to register for VAT if the Comptroller of the Inland Revenue Department (IRD) is satisfied that the value of the taxable supplies exceeds the registration threshold solely as a result of:

- Cessation of a taxable activity carried on by the person
- Substantial and permanent reduction in the size and scale of a taxable activity carried on by the person

  Or
- Replacement of old capital goods used in connection with the person's taxable activity

Voluntary registration and small businesses. A person who makes or intends to make taxable supplies in Saint Kitts and Nevis, but is not required to register, may voluntarily register for VAT. This registration is done by way of an application to the Comptroller in the form approved by the Comptroller and must contain such further information as may be required. The decision to voluntarily register a person is at the discretion of the Comptroller and an applicant will receive the decision of the Comptroller within 30 days of receipt of the application.

The Comptroller will not accept an application where the person has no local fixed place of abode or business; does not keep proper records; the Comptroller has reasonable grounds to believe that the applicant will not keep proper records or will not submit regular and reliable tax returns; or the person has not complied with its obligations under the laws relating to tax including any laws relating to customs.

Group registration. Group VAT registration is not allowed in Saint Kitts and Nevis.

Fixed establishment. In Saint Kitts and Nevis, there is no legal definition of a fixed establishment for VAT purposes. A nonresident business that carries on a taxable activity would be required to register for VAT purposes if it meets the registration threshold (as outlined below).

Non-established businesses. Non-established businesses are required to register for VAT if they make taxable supplies in Saint Kitts and Nevis greater than the registration threshold. A non-established business refers to a person who supplies goods and services but does not have a fixed place of business.

Tax representatives. Tax representatives are not required in Saint Kitts and Nevis. However, a taxable person may appoint a tax representative if they choose to do so.

Reverse charge. The reverse charge applies to the importation of a taxable service if the imported service is used to make exempt supplies or is used for a private or domestic purpose. Where this occurs, the taxable person importing the service is responsible for the payment of the VAT chargeable to the service. Otherwise, the non-established business must register for VAT and charge VAT locally.

Domestic reverse charge. There are no domestic reverse charges in Saint Kitts and Nevis.

Digital economy. There are no specific rules relating to the taxation of the digital economy. Non-resident providers of electronically supplied services for business-to-consumer (B2C) and business-to-business (B2B) supplies would be required to register and account for VAT in Saint Kitts and Nevis. This would only be where they meet the VAT registration threshold, and where the services provided are physically performed or used in Saint Kitts and Nevis.

There are no other specific e-commerce rules for imported goods in Saint Kitts and Nevis.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Saint Kitts and Nevis.

Registration procedures. Taxable persons are required to first register with the IRD. To register for VAT the taxable person must submit copies of its incorporation documents (Memorandum and Articles of Association); its incorporation certificate; two copies of identification for each director/shareholder or owner of the entity; and a completed registration form. Following this, the taxable person should complete the prescribed VAT registration form and submit it to Inland Revenue Department for approval and processing. The locations are as follows:

Inland Revenue Department
Bay Road
Basseterre
St. Kitts

Inland Revenue Department
Main Street
Charlestown
Nevis

The IRD is required to provide a response on the entity's registration within 21 days, unless additional documentation is required.

There is no process for online VAT registration in Saint Kitts and Nevis.

Deregistration. A taxable person may deregister when they cease to carry on taxable activities and notifies the Comptroller in writing of such cessation within seven calendar days. The taxable person will ordinarily be deregistered with effect from the last calendar day of the tax period

during which all such taxable activities ceased or from such other time as the Comptroller may determine.

Changes to VAT registration details. A taxable person must notify the Comptroller, in writing, within 21 calendar days of any change in the name, address, place of business, constitution, or nature of the principal activity or activities of the taxable person; of any change of address from which, or name in which, any taxable activity is carried on by the taxable person; and any changes in circumstances if the taxable person ceases to operate or closes its taxable activity on a temporary basis, except where it closes due to a cessation of carrying on a taxable activity.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 17%
- Reduced rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods and services
- Flour
- Sugar
- Milk (not condensed, chocolate, cream or soy)
- Rice (white and brown)
- Oats
- Bread
- Infant formula
- Baby disposable diapers
- Adult disposable diapers
- Gas oils (including diesel)

Examples of goods and services taxable at 10%

- Hotel accommodation
- Restaurants
- Guest house
- Inn
- Supplied by a tour operator
- Apartment room or hotel with utilities or furnishings provided by the lessor

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Insurance (vehicle, medical, life, property)
- Transportation
- Education services (tuition fees)
- Interest on loans
- Electricity
- Water (domestic)
- Doctors and dentists (most services provided)
- A sale of real property

- Legal, accounting and record package services
- Notary services
- Actuarial services
- Data processing and payroll services
- Leases

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Saint Kitts and Nevis.

E. Time of supply

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

- The date on which the goods are made available or delivered to the recipient or the services are performed
- The date of issuance of the invoice by the supplier
- The date on which any consideration is received for the supply

A taxable person must account for VAT in the VAT period in which the time of supply occurs, regardless of whether payment is received.

Deposits and prepayments. There are no special time of supply rules in Saint Kitts and Nevis for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. Where goods or services are supplied under an agreement that provides for periodic payments, these supplies are treated as successively supplied for successive parts of the period of the agreement. Each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Goods sent on approval for sale or return. There are no special time of supply rules in Saint Kitts and Nevis for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Saint Kitts and Nevis for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Goods supplied under a rental agreement are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

A supply of goods under a layaway agreement (agreement by which a supplier agrees to hold goods secured by a deposit until the price is paid in full by the purchaser) occurs when the goods are delivered to the purchaser.

Imported goods. VAT is payable on the importation of taxable supplies. An import of goods occurs when the goods are entered for home use for the purposes of the Customs (Control and Management) Act. Entered means the acceptance and signature by the proper officer of an entry, specification or shipping bill and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the government in respect of the goods.

F. Recovery of VAT by taxable persons

The VAT paid by a taxable person is recoverable as input tax if it relates to goods and services acquired solely for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (that is, tax charged on supplies made) in the VAT return for each VAT period.

Where the total amount of input tax deductible by a taxable person exceeds the output tax for that VAT period, the excess is carried forward to the next tax period and treated as input tax deductible in that period. If any of the excess remains after being carried forward for four consecutive VAT periods, the taxable person may file with the tax authorities a claim for a refund of the amount remaining.

There is no set time limit for a taxable person to reclaim input tax in Saint Kitts and Nevis. This means that effectively the input tax may be carried forward indefinitely until it has been expended or until a refund is applied for using the prescribed form.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

- Personal vehicles
- Fees or subscriptions for memberships in recreational clubs
- Good or services for entertainment purposes (provided it is not related to a business use)
- Good or services for the repair or maintenance of personal vehicles

Examples of items for which input tax is deductible (if related to taxable business use)

- Business entertainment
- Travel expenses

Partial exemption. The Saint Kitts and Nevis VAT Act states that if all the supplies made by a taxable person during a tax period are taxable supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by a taxable person during the tax period are taxable supplies, a partial recovery calculation is required.

The amount of recoverable input tax is calculated based on the ratio of the value of taxable supplies made during the period compared to the total value of supplies (taxable plus exempt) made during the period.

Approval from the tax authorities is not required to use the partial exemption standard method in Saint Kitts and Nevis. Special methods are not allowed.

Capital goods. There are no specific rules for input tax recovery on capital goods in Saint Kitts and Nevis. The ordinary rules regarding the recovery of input tax therefore apply. Where a capital good is used to make both taxable and exempt supplies, the taxable person is required to apportion the input tax on a reasonable basis (as determined by the taxable person, but subject to possible review by the tax authorities).

Refunds. If the amount of input tax recoverable in a VAT period exceeds the amount of output tax payable for that VAT period, the excess may be refunded, provided that all VAT returns due have been submitted and the credit has been carried forward for four consecutive months.

A refund can be applied for with the Comptroller of Inland Revenue Department by submitting the specified form for the amount remaining with the documentation to the Comptroller. The Inland Revenue Department will verify all refund requests and issue refunds within three calendar months following the date the claim for the refund is filed; or if the Comptroller orders an audit, within 10 working days after the conclusion of the audit. Excess credits can also be utilized to clear off any other tax liability.

Pre-registration costs. Input tax incurred on pre-registration costs in Saint Kitts and Nevis is not recoverable.

Bad debts. A taxable person can claim bad debt relief for tax paid in respect of a taxable supply made by the taxable person where the whole or part of the consideration for the supply is subsequently treated as a bad debt. The taxable person claiming this relief must satisfy the Comptroller that reasonable efforts have been made to recover the amount due and payable.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Saint Kitts and Nevis.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Saint Kitts and Nevis is not recoverable.

H. Invoicing

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

Credit notes. A credit note or debit note must be issued when the quantity or consideration shown on a tax invoice is altered. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Saint Kitts and Nevis, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Saint Kitts and Nevis. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Saint Kitts and Nevis. The requirements related to electronic invoicing are the same as those for paper invoicing.

There are no provisions in the law for electronic invoicing in Saint Kitts and Nevis. However, in practice electronic invoicing can be used provided that the electronic invoice meets the same requirements as the standard paper invoice.

Simplified VAT invoices. Simplified VAT invoicing is allowed where the total consideration for the taxable supply is in cash and does not exceed XCD50.

Self-billing. Self-billing is not allowed in Saint Kitts and Nevis.

Proof of exports. VAT is charged at the zero-rate (0%) on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence (e.g., export certificate or other customs document) that confirms the goods have left Saint Kitts and Nevis.

Foreign currency invoices. Where an invoice is expressed in a currency other than the domestic currency, which is the Eastern Caribbean dollar (XCD), the following rules apply:
- In the case of imports, the amount is to be converted at the exchange rate as determined by the Customs (Control and Management) Act
- In all other cases, the amount is to be converted at the exchange rate applying between the currency and the Eastern Caribbean dollar at the time the amount is taken into account

Supplies to nontaxable persons. Where a taxable person makes a taxable supply to an unregistered person (i.e., B2C), the taxable person can provide the unregistered person with a sales receipt instead of a full VAT invoice.

Records. In Saint Kitts and Nevis, examples of what records must be held for VAT purposes include the following:
- Original tax invoices, tax credit notes and debit notes received
- Copies of all tax invoices, tax credit notes and tax debit notes issued by the taxable person
- Customs documentation relating to imports and exports by the taxable person

- Accounting records relating to taxable activities and any other business activities carried on in Saint Kitts and Nevis
- Accounting records relating to taxable activities and any other related business activities carried on outside of Saint Kitts and Nevis but effectively connected to the taxable person's taxable activities in Saint Kitts and Nevis
- Any other records as may be prescribed by the regulations

In Saint Kitts and Nevis, VAT books and records must be held within the country. A taxable person must maintain the records in Saint Kitts and Nevis and must be held in the English language.

Record retention period. Records must be retained for six years after the end of the tax period to which they relate.

Electronic archiving. Electronic archiving is allowed in Saint Kitts and Nevis. Paper archiving can also be used.

I. Returns and payment

Periodic returns. The VAT period in Saint Kitts and Nevis is the calendar month. The VAT return must be filed within 15 calendar days after the end of the tax period whether or not tax is payable in respect of that period.

Periodic payments. Any tax due for the period must be remitted by the same date as the return deadline, i.e., within 15 calendar days after the end of the tax period.

Payments to the IRD can be made by credit/debit card (in person at the tax authorities' offices), direct deposit, mail (a form and check), cash/check (in person at the tax authorities' offices) and e-payment (online).

Ideally, payment should be submitted with the return, but in some instances (e.g., for wire transfer and direct deposit) this may not be possible. In such instances the payment memo should indicate what the payment is in respect of. As VAT payments are made to a different account than other tax payments, the bank account number should be verified with the VAT Department before making VAT payments via wire or direct deposit.

Electronic filing. Electronic filing is allowed in Saint Kitts and Nevis, but not mandatory. An electronic filing system has been implemented online in Saint Kitts and Nevis (https://www.sknird.com/). However, taxable persons still have the option to file returns manually, i.e., by paper.

Payments on account. Payments on account are not required in Saint Kitts and Nevis.

Special schemes. *Secondhand goods scheme.* The secondhand goods scheme is mandatory for any taxable persons supplying secondhand goods. A taxable person supplying secondhand goods is allowed an input tax credit for the acquisition of secondhand goods if the supply to the taxable person was not a taxable supply; and the dealer sells the secondhand goods in a taxable supply on which tax is charged at the standard rate. The amount of input tax credit allowed is the tax fraction of 70% of the price for which the dealer sold the secondhand goods.

Annual returns. Annual returns are not required in Saint Kitts and Nevis.

Supplementary filings. No supplementary filings are required in Saint Kitts and Nevis.

Correcting errors in previous returns. An amended return can be filed in Saint Kitts and Nevis to correct any errors or omissions. Amended returns are filed in the same manner as normal returns (see detail outlined above). The amended return must be filed within three years after the return was filed.

Digital tax administration. There are no transactional reporting requirements in Saint Kitts and Nevis.

J. Penalties

Penalties for late registration. A taxable person who fails to apply for a VAT registration as prescribed shall be liable to pay a civil penalty equal to double the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the Comptroller.

A taxable person who fails to register for VAT is liable on summary conviction to a fine not exceeding XCD30,000 or to imprisonment for a term not exceeding two years or both.

Penalties for late payment and filings. A taxable person who fails to file a return within the required due date is liable to pay a civil penalty of XCD100 per month, or part of the month for the period during which the return remains unfiled.

A taxable person who for two or more consecutive or nonconsecutive tax periods fails to file returns within the specified time and manner is liable on summary conviction to a fine not exceeding XCD50,000 or to imprisonment for a term not exceeding three years or to both.

Penalties for errors. There are no specific penalties in Saint Kitts and Nevis for errors. However, a taxable person who commits an offense for which there is no penalty specified is liable on summary conviction to a fine not exceeding XCD10,000 or to imprisonment for a term of six months or both.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. However, a taxable person who commits an offense for which there is no penalty specified is liable on summary conviction to a fine not exceeding XCD10,000 or to imprisonment for a term not exceeding six months or both. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A taxable person who willfully evades or attempts to evade an assessment, payment or collection of tax commits a criminal offense and is liable on summary conviction to a fine not exceeding XCD100,000 or to imprisonment for a term not exceeding five years or both.

A taxable person who knowingly or recklessly makes a statement to a tax officer that is false or misleading in a material particular or omits any matter or thing without which the statement is misleading in a material particular and this results in the tax properly payable exceeding the tax that would be payable if that person was assessed on the basis that the statement were true, commits an offense and is liable on summary conviction to a fine not exceeding XCD100,000 or to imprisonment for a term not exceeding five years or both. The VAT Act also refers to a civil penalty equal to the greater of XCD20,000.

Personal liability for company officers. Where a corporation commits an offense under the Saint Kitts and Nevis VAT Act, the persons who were directors or other similar officers or were acting or purporting to act in such capacity are deemed to have committed the offense. However, those individuals may not be held liable where the offense was committed without that person's consent or knowledge, and if that person exercised all such diligence to prevent the commission of the offense as ought to have been exercised having regard to the nature of the person's function and all the circumstances.

The Saint Kitts and Nevis VAT Act does not provide specifically for directors being held liable for errors and omissions. The penalties and interest that apply under the Act are outlined above.

Statute of limitations. The statute of limitations in Saint Kitts and Nevis is three years. The Saint Kitts and Nevis VAT Act speaks to a period of three years before proceedings can be brought in specific instances. Where the offenses alleged have involved the doing of any act, proceedings may be commenced within three years after the discovery of the act; where the offense alleged

has involved the failure to do any act, proceedings may be brought within three years after the Comptroller has become aware of such failure; and where the offense alleged has involved the nondisclosure or incorrect disclosure by any person of information relating to that person's liability to tax for a tax period, proceedings may be brought within three years after its correct liability to tax has become final for that tax period.

Saint Lucia

ey.com/GlobalTaxGuides

Castries **GMT -4**

EY
2nd Floor
Mardini Building
Rodney Bay
Gros Islet
Saint Lucia

Direct all queries regarding Saint Lucia to the persons listed below in the Bridgetown, Barbados office.

Indirect tax contacts

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 October 2012
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Inland Revenue Department, VAT Section (www.irdstlucia.gov.lc)
VAT rates	
Standard	12.5%
Reduced	10%
Other	Zero-rated (0%) and exempt
VAT number format	123456-7
VAT return periods	Monthly
Thresholds	
Registration	XCD400,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the supply of goods and services by a taxable person in Saint Lucia and to importation of goods and services.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Saint Lucia, the following supplies of goods and services are subject to the "use and enjoyment" provisions (B2B/B2C), and are deemed to take place in St. Lucia if the recipient uses or obtains the advantage of the goods or services, and the supply would be subject to VAT if the supplier meets the VAT threshold:

- A transfer or assignment of a copyright, patent, license, trademark or similar right
- The service of a consultant, engineer, lawyer, architect or accountant
- The processing of data or supplying information or any similar service
- Advertising service
- The obligation to refrain from pursuing or exercising taxable activity, employment or a right described in this subsection
- The supply of personnel
- The service of an agent procuring for the agent's principal a service described in this section
- Leasing of tangible personal property, other than transport property
- The supply of goods via electronic commerce and the supply of internet access or similar services

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Saint Lucia, a TOGC is treated as zero-rated where the supplier and recipient have notified the Comptroller, in writing, of the details of the transaction.

Transactions between related parties. In Saint Lucia, for a transaction between related parties, the value for VAT purposes is calculated at the fair market value of the supply.

C. Who is liable

The Saint Lucia VAT Act imposes a registration requirement on any person in Saint Lucia whose total value of taxable supplies exceeds XCD400,000 during a period of 12 or fewer months.

A person that expects to make taxable supplies in excess of XCD400,000 at the beginning of any period of 365 calendar days must also apply for VAT registration in Saint Lucia.

Exemption from registration. International business companies were generally exempt from the VAT regime and were not required to register for VAT. However, this regime was altered/repealed in response to the OECD's BEPS initiative and the grandfathering period has ended. The VAT law in Saint Lucia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person who makes or intends to make taxable supplies in Saint Lucia may voluntarily register for VAT in Saint Lucia where their taxable turnover is below the VAT registration threshold. This registration is done by way of an application to the Comptroller in the form approved by the Comptroller and must contain such further information as may be required. The decision to voluntarily register a person is at the discretion of the Comptroller and an applicant will receive the decision of the Comptroller within 30 days of receipt of the application.

The Comptroller will not accept an application where the person has no fixed place of abode, does not keep good records, the Comptroller has reasonable grounds to believe that the person will not keep proper records or will not submit regular and reliable tax returns, or the person has not complied with the requirements of any law administered by the Inland Revenue Department.

Group registration. Group VAT registration is not allowed in Saint Lucia.

Fixed establishment. In Saint Lucia, there is no legal definition of a fixed establishment for VAT purposes. A nonresident business that carries on a taxable activity would be required to register for VAT purposes if it meets the registration threshold (as outlined below).

Non-established businesses. Non-established businesses are required to register for VAT if they make taxable supplies in Saint Lucia in excess of the registration threshold. A non-established business refers to a person who supplies goods but does not have a fixed place of business. An international business company is a company incorporated in Saint Lucia that does not carry on business with persons resident in Saint Lucia; does not own an interest in real property situated in Saint Lucia other than by holding a lease of property for the purpose of its operations; and does not carry-on banking, trust, insurance or re-insurance business activity without a specific license or provide a registered office for companies.

Tax representatives. Tax representatives are not required in Saint Lucia. However, a taxable person may appoint a tax representative if they choose to do so.

Reverse charge. The reverse charge applies to the importation of a taxable service if the imported service is used to make exempt supplies or is used for a private or domestic purpose. Where this occurs, the taxable person importing the service is responsible for the payment of the VAT chargeable to the service. Otherwise, the non-established business must register for VAT and charge VAT locally.

Domestic reverse charge. There are no domestic reverse charges in Saint Lucia.

Digital economy. There are no specific rules relating to the taxation of the digital economy. Nonresident providers of electronically supplied services for business-to-consumer (B2C) and business-to-business (B2B) supplies would be required to register and account for VAT in Saint Lucia. This would only be where they meet the VAT registration threshold.

There are no other specific e-commerce rules for imported goods in Saint Lucia.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Saint Lucia.

Registration procedures. Taxable persons are required to register in the prescribed form (by paper) with the Saint Lucia Inland Revenue Department and are required to provide the incorporation documents of the person being registered. The location is as follows:

Inland Revenue Department
VAT Section
Manoel Street
Castries
Saint Lucia, W.I.

Deregistration. A taxable person may deregister when they cease to carry on taxable activities and notifies the Comptroller in writing of such cessation within five working days. The taxable person will ordinarily be deregistered with effect from the last calendar day of the tax period during which all such taxable activities ceased or from such other time as the Comptroller may determine.

Changes to VAT registration details. A taxable person must notify the Comptroller, in writing, within 21 days of any change in the name, address, place of business, constitution or nature of the principal activity or activities of the taxable person; any change of address from which, or name in which, any taxable activity is carried on by the taxable person; and any changes in circumstances if the taxable person ceases to operate or close on a temporary basis, except where it closes to due to a cessation of carrying on a taxable activity.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 12.5%
- Reduced rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods and services
- Certain staple foodstuffs
- Fuel
- Goods supplied by licensed duty-free shop operators

Examples of goods and services taxable at 10%

- Hotel accommodation

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Medical services
- Education services
- Residential property sales
- Transportation services
- Betting and gaming
- Certain imports, for example:
  - Goods shipped or conveyed to Saint Lucia for transhipment to another country
  - Goods imported by nationals returning home for permanent residence in specified categories
  - Capital goods where specific conditions are met
  - Goods and services imported during a disaster alert or emergency that are not for resale

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Saint Lucia.

E. Time of supply

The time when VAT becomes due is called the "time of supply." In general, the time of supply for goods and services supplied by a taxable person is the earliest of the following events:
- The date of issuance of the invoice by the supplier
- The date on which any consideration is received for the supply
- The date on which the goods are made available to the recipient, or the services are performed

A taxable person must account for VAT in the VAT period in which the time of supply occurs, regardless of whether payment is received.

Deposits and prepayments. There are no special time of supply rules for deposits and prepayments in Saint Lucia. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. Where goods or services are supplied under an agreement that provides for periodic payments, these supplies are treated as successively supplied for successive parts of the period of the agreement. Each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Goods sent on approval for sale or return. There are no special time of supply rules in Saint Lucia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Saint Lucia for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Goods supplied under a rental agreement are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

A supply of goods under a layaway agreement (agreement by which a supplier agrees to hold goods secured by a deposit until the price is paid in full by the purchaser) occurs when the goods are delivered to the purchaser.

Imported goods. VAT is payable on the importation of taxable supplies. An import of goods occurs when the goods are entered for home use for the purposes of the Customs (control and management) Act. Entered means the acceptance and signature by the proper officer of an entry, specification or shipping bill and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the government in respect of the goods.

F. Recovery of VAT by taxable persons

The VAT paid by a taxable person is recoverable as input tax if it relates to goods and services acquired for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (that is, tax charged on supplies made) in the VAT return for each VAT period.

Goods or services are deemed to be for the purpose of making taxable supplies if the supplier acquired, imported or produced the goods or services for any of the following purposes:
- Its supply or resupply as a taxable supply
- Its consumption or use (whether directly or indirectly, wholly or partly) in producing goods or services for supply as a taxable supply
- Its consumption or use (whether directly or indirectly, wholly or partly) with respect to a commercial enterprise

Where the total amount of input tax deductible by a taxable person exceeds the output tax for that VAT period, the excess is carried forward to the next tax period and treated as input tax deductible in that period. If any of the excess remains after being carried forward for three consecutive VAT periods, the taxable person may file with the tax authorities a claim for a refund of the amount remaining.

There is no set time limit for a taxable person to reclaim input tax in Saint Lucia. This means that effectively the input tax may be carried forward indefinitely until it has been expended or until a refund is applied for using the prescribed form.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

- Personal vehicles
- Fees for memberships in recreational clubs

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business entertainment
- Travel expenses

Partial exemption. The Saint Lucia VAT Law states that if all the supplies made by a taxable person during a tax period are taxable supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the taxable person during the tax period are taxable supplies, a partial recovery calculation is required.

The amount of recoverable input tax is calculated based on the ratio of the value of taxable supplies made during the period compared to the total value of supplies (taxable plus exempt) made during the period.

Approval from the tax authorities is not required to use the partial exemption standard method in Saint Lucia. Special methods are not allowed in Saint Lucia.

Capital goods. There are no specific rules for input tax recovery on capital goods in Saint Lucia. The ordinary rules regarding the recovery of input tax therefore apply. Where a capital good is used to make both taxable and exempt supplies, the taxable person is required to apportion the input tax on a reasonable basis (as determined by the taxable person, but subject to possible review by the tax authorities).

Refunds. If the amount of input tax recoverable in a VAT period exceeds the amount of output tax payable for that VAT period, the excess may be refunded, provided that all VAT returns due have been submitted and the credit has been carried forward for three consecutive months. A refund can be applied for with the Comptroller of Inland Revenue Department by submitting a completed VAT Form 004. The Inland Revenue Department will verify all refund requests and issue refunds at the end of the following month if no audit is required. Excess credits can also be utilized to clear off any other tax liability.

Pre-registration costs. Input tax incurred on pre-registration costs in Saint Lucia is not recoverable.

Bad debts. A taxable person can claim bad debt relief for tax paid in respect of a taxable supply made by the taxable person where the whole or part of the consideration for the supply is subsequently treated as a bad debt. The taxable person claiming this relief must satisfy the Comptroller that reasonable efforts have been made to recover the amount due and payable.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Saint Lucia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Saint Lucia is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a tax invoice for all taxable supplies made to other taxable persons (i.e., B2B supplies). A tax invoice is necessary to support a claim for input tax deduction.

Credit notes. A credit note or debit note must be issued when the quantity or consideration shown on a tax invoice is altered. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Saint Lucia, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Saint Lucia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Saint Lucia. Note that there are no provisions in the law for electronic invoicing in Saint Lucia, but in practice, electronic invoicing can be used as long as an electronic invoice meets the same requirements as the standard paper invoice.

Simplified VAT invoices. Simplified VAT invoicing is allowed where the supply is made to a taxable person and the total consideration for the taxable supply is in cash and does not exceed XCD50.

Self-billing. Self-billing is not allowed in Saint Lucia.

Proof of exports. VAT is charged at the zero-rate (0%) on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence (e.g., export certificate or other customs document) that confirms the goods have left Saint Lucia.

Foreign currency invoices. Where an invoice is expressed in a currency other than the domestic currency, which is the Eastern Caribbean dollar (XCD), the following rules apply:
- In the case of imports, the amount is to be converted at the exchange rate as determined by the Customs (Control and Management) Act
- In all other cases, the amount is to be converted at the exchange rate applying between the currency and XCD at the time the amount is taken into account

Supplies to nontaxable persons. Where a taxable person makes a taxable supply to an unregistered person, the taxable person can provide the unregistered person with a sales receipt instead of a full VAT invoice.

Records. In Saint Lucia, examples of what records must be held for VAT purposes include the following:
- Original tax invoices, sales receipts, tax credit notes and tax debit notes received
- Copies of all tax invoices, sales receipts, tax credit notes and tax debit notes issued by the taxable person
- Customs documentation relating to imports and exports by the taxable person
- Accounting records relating to taxable activities carried on in Saint Lucia
- Any other records as may be prescribed by the regulations

In Saint Lucia, VAT books and records must be held within the country. A taxable person must maintain the records in Saint Lucia and must be held in the English language.

Record retention period. Records must be retained for six years after the end of the tax period to which they relate.

Electronic archiving. Electronic archiving is allowed in Saint Lucia. Paper archiving can also be used.

I. Returns and payment

Periodic returns. The VAT period in Saint Lucia is the calendar month. The VAT return must be filed within 21 calendar days after the end of the tax period.

Periodic payments. Any tax due for the period must be remitted by the same date as the return deadline, i.e., within 21 calendar days after the end of the tax period.

Payments to the IRD can be made by credit/debit card (in person at the tax authorities' offices), direct deposit, mail (a form and check), cash/check (in person at the tax authorities' offices) and e-payment (online).

Ideally, payment should be submitted with the return, but in some instances (e.g., for wire transfer and direct deposit this may not be possible). In such instances the payment memo should indicate what the payment is in respect of.

Electronic filing. Electronic filing is allowed in Saint Lucia, but not mandatory. An electronic filing system has been implemented online in Saint Lucia (https://efiling.govt.lc). However, taxable persons still have the option to file returns manually, i.e., by paper.

Payments on account. Payments on account are not required in Saint Lucia.

Special schemes. *Secondhand goods scheme.* Under the secondhand goods scheme, the total amount of input tax allowed as a deduction is the sum equal to 70% of the tax fraction, of the lower of the following:
- The amount paid for the goods
- The fair market value of the goods, which includes the tax

This applies to secondhand goods acquired in Saint Lucia during the tax period by a taxable person from a person (registered or not registered), in a transaction not subject to tax if the goods are taxable at a positive rate and are acquired for the purpose of making taxable supplies.

Annual returns. Annual returns are not required in Saint Lucia.

Supplementary filings. No supplementary filings are required in Saint Lucia.

Correcting errors in previous returns. An amended return can be filed in Saint Lucia to correct any errors or omissions. There are no rules on the timing of filing amended returns. Amended returns are filed in the same manner as normal returns (see detail outlined above).

Digital tax administration. There are no transactional reporting requirements in Saint Lucia.

J. Penalties

Penalties for late registration. A taxable person who fails to register is liable to a penalty equal to double the amount of output tax payable from the time the taxable person is required to apply for registration until the taxable person files an application for registration with the Comptroller.

Penalties for late payment and filings. A taxable person who fails to file a return within the required due date is liable to a penalty of XCD250 per month or part of the month for the period during which the return remains unfiled. Any VAT payable outstanding by the due date is liable to a penalty equal to 10% of the amount payable. Interest is charged at the rate of 1.25% per month or part of a month for the period the tax remains unpaid.

A taxable person who for two or more VAT periods fails to file returns within the specified time and manner is liable on summary conviction to a fine not exceeding XCD50,000 or to imprisonment for a term not exceeding three years or to both.

Penalties for errors. There are no specific penalties in Saint Lucia for errors. However, a taxable person who commits an offense for which there is no penalty specified is liable on summary conviction to a fine not exceeding XCD10,000 or to imprisonment for a term not exceeding one year or both.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. However, a taxable person who commits an offense for which there is no penalty specified is liable on summary conviction to a fine not exceeding XCD10,000 or to imprisonment for a term not exceeding one year or both. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A taxable person who willfully evades or attempts to evade an assessment, payment or collection of tax is guilty of a criminal offense and is liable on summary conviction to a fine not exceeding XCD100,000 or to imprisonment for a term not exceeding three years or both.

A taxable person who knowingly or recklessly makes a statement to a tax officer that is false or misleading in a material particular or omits any matter or thing without which the statement is misleading in a material particular and this results in the tax properly payable exceeding the tax that would be payable if that taxable person was assessed on the basis that the statement were true, that taxable person commits an offense and is liable on summary conviction to a fine not exceeding XCD100,000 or to imprisonment for a term not exceeding four years.

Personal liability for company officers. Where an offense under the Saint Lucia VAT Act has been committed by a company, every person who at the time of the commission of the offense was a director or other similar officer of the company, or was acting or purporting to act in such capacity, is deemed to have committed the offense. A person aiding and abetting the commission of an offense under the VAT Act commits the offense and is liable to the same penalties as the person committing the offense. The penalties and interest that apply under the Act are outlined above.

Statute of limitations. The statute of limitations in Saint Lucia is three years. Proceedings may be commenced where the offense alleged has involved the doing of any act, within three years after the discovery of the act; where the offense alleged has involved the failure to do any act, within three years after the Comptroller has become aware of such failure; where the offense alleged has involved the nondisclosure or incorrect disclosure by any person of information relating to that person's liability for a tax period, within three years after his or her correct liability to tax has become final for that tax period.

Saint Vincent and the Grenadines

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Direct all queries regarding Saint Vincent and the Grenadines to the persons listed below in the Bridgetown, Barbados, office.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	2007
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Inland Revenue Department (IRD) – VAT Implementation Department (www.irdvc.com)
VAT rates	
Standard	16%
Reduced	11%
Other	Zero-rated (0%) and exempt
VAT number format	123456-7
VAT return periods	Monthly
Thresholds	
Registration	XCD300,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- The supply of any taxable goods or taxable services by a taxable person (registrant) in Saint Vincent and the Grenadines
- The importation of taxable goods and services from outside Saint Vincent and the Grenadines

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction

where it has customers that are not taxable persons. In Saint Vincent and the Grenadines, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated. In Saint Vincent and the Grenadines, the supply of goods or services as part of the transfer of a taxable activity as a going concern by a registered person to another registered person is zero rated where the supply would have otherwise been a taxable supply that was not zero rated; and the supplier has agreed in writing with the recipient that the taxable activity is supplied as a going concern, and notified the Comptroller of the Inland Revenue Department (IRD), in writing, of details of the supplies treated as zero rated under this section because of the transfer, including quantities and values of things supplied.

Transactions between related parties. In Saint Vincent and the Grenadines where a taxable person makes a supply for no consideration, or for consideration that is less than the fair market value of the supply, to a related person who would not be entitled to a full input tax credit for the acquisition of the supply, the value of the supply is the VAT exclusive fair market value of the supply.

C. Who is liable

The Saint Vincent and the Grenadines VAT Act imposes a registration requirement on any person in Saint Vincent and the Grenadines whose total value of taxable supplies exceeds XCD300,000 during a period of 12 or fewer months.

A person that expects to make taxable supplies greater than XCD300,000 at the beginning of any period of 365 calendar days shall also apply for VAT registration in Saint Vincent and the Grenadines.

Exemption from registration. The VAT law in Saint Vincent and the Grenadines does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person who makes or intends to make taxable supplies in Saint Vincent and the Grenadines but is not required to register, may voluntarily register for VAT. This registration is done by way of an application to the Comptroller in the form approved by the Comptroller and must contain such further information as may be required. The decision to voluntarily register a person is at the discretion of the Comptroller and an applicant will receive the decision of the Comptroller within 21 days of receipt of the application.

The Comptroller will not accept an application where the person has no fixed place of abode or does not keep good records; also, if the Comptroller has reasonable grounds to believe that the person will not keep proper records or will not submit regular and reliable tax returns, or the person has not complied with the requirements of any law administered by the IRD.

Group registration. Group VAT registration is not allowed in Saint Vincent and the Grenadines.

Fixed establishment. In Saint Vincent and the Grenadines, there is no legal definition of a fixed establishment for VAT purposes. A nonresident business that carries on a taxable activity would be required to register for VAT purposes if it meets the registration threshold *(as outlined below).*

Non-established businesses. Non-established businesses are required to register for VAT if they make taxable supplies in Saint Vincent and the Grenadines greater than the registration threshold. A non-established business refers to a person who supplies goods and services but does not have a fixed place of business.

Tax representatives. Tax representatives are not required in Saint Vincent and the Grenadines. However, a taxable person may appoint a tax representative if they choose to do so.

Reverse charge. The reverse charge applies to the importation of a taxable service if the imported service is used to make exempt supplies or is used for a private or domestic purpose. Where this occurs, the taxable person importing the service is responsible for the payment of the VAT chargeable to the service. Otherwise, the non-established business must register for VAT and charge VAT locally.

Domestic reverse charge. There are no domestic reverse charges in Saint Vincent and the Grenadines.

Digital economy. There are no specific rules relating to the taxation of the digital economy. Non-resident providers of electronically supplied services for business-to-consumer (B2C) and business-to-business (B2B) supplies would be required to register and account for VAT in Saint Vincent and the Grenadines. This would only be where they meet the VAT registration threshold, and where the services provided are physically performed or used in Saint Vincent and the Grenadines.

There are no other specific e-commerce rules for imported goods in Saint Vincent and the Grenadines.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Saint Vincent and the Grenadines.

Registration procedures. Taxable persons are required to register using a paper-based prescribed form with the IRD and are required to provide the incorporation documents of the person being registered. The registration must be lodged with the Comptroller within 21 days of the date on which the person becomes required to apply for registration. Provided all documents are in order, the IRD should process the VAT registration application within approximately one week.

Deregistration. A taxable person may deregister when they cease to carry on taxable activities and notifies the Comptroller in writing of such cessation within seven working days.

The taxable person will ordinarily be deregistered with effect from the date set out in the notice of cancellation, which must not be less than two years after the date on which the registration commenced or such earlier date as the Comptroller considers appropriate, unless the person will not continue to make taxable supplies.

Changes to VAT registration details. A taxable person must notify the Comptroller, in writing, within 14 days of any change in the name, address, place of business, or nature of the principal activity or activities of the taxable person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 16%
- Reduced rate: 11%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods and services

- Certain staple foodstuffs
- Fuel
- Computers
- Goods supplied by licensed duty-free shop operators

Examples of goods and services taxable at 11%

- Hotel accommodation
- Diving services, marine or land tour services.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Medical services
- Education services
- Residential property sales
- Transportation services
- Betting and gaming

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Saint Vincent and the Grenadines.

E. Time of supply

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

- The date of issuance of the invoice by the supplier
- The date on which any consideration is received for the supply
- The date on which the goods are made available to the recipient or the services are performed

A taxable person must account for VAT in the VAT period in which the time of supply occurs, regardless of whether payment is received.

Deposits and prepayments. There are no special time of supply rules in Saint Vincent and the Grenadines for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. Where goods or services are supplied under an agreement that provides for periodic payments, these supplies are treated as successively supplied for successive parts of the period of the agreement. Each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.

Goods sent on approval for sale or return. There are no special time of supply rules in Saint Vincent and the Grenadines for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Saint Vincent and the Grenadines for supplies of reverse charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. Goods supplied under a rental agreement are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier

A supply of goods under a layaway agreement (agreement by which a supplier agrees to hold goods secured by a deposit until the price is paid in full by the purchaser) occurs when the goods are delivered to the purchaser.

Imported goods. VAT is payable on the importation of taxable supplies. An import of goods occurs when the goods are entered under the Customs (Control and Management) Act or in any other case, on the date the goods are brought into Saint Vincent and the Grenadines. Entered means the acceptance and signature by the proper officer of an entry, specification or shipping bill and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the government in respect of the goods.

F. Recovery of VAT by taxable persons

The VAT paid by a taxable person is recoverable as input tax if it relates to goods and services acquired for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (i.e., tax charged on supplies made) in the VAT return for each VAT period.

Goods or services are deemed to be for the purpose of making taxable supplies if the supplier acquired, imported or produced the goods or services for any of the following purposes:
- Its supply or resupply as a taxable supply
- Its consumption or use (whether directly or indirectly, wholly or partly) in producing goods or services for supply as a taxable supply
- Its consumption or use (whether directly or indirectly, wholly or partly) with respect to a commercial enterprise

Where the total amount of input tax deductible by a taxable person exceeds the output tax for that VAT period, the excess is carried forward to the next tax period and treated as input tax deductible in that period. If any of the excess remains after being carried forward for three consecutive VAT periods, the taxable person may file with the tax authorities a claim for a refund of the amount remaining.

There is no set time limit for a taxable person to reclaim input tax in Saint Vincent and the Grenadines. This means that effectively the input tax may be carried forward indefinitely until it has been expended or until a refund is applied for using the prescribed form.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes.

Examples of items for which input tax is nondeductible

- Personal vehicles
- Fees for memberships in recreational clubs

Examples of items for which input tax is deductible (if related to taxable business use)

- Business entertainment
- Travel expenses

Partial exemption. The Saint Vincent and the Grenadines VAT Act states that if all the supplies made by a taxable person during a tax period are taxable supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the taxable person during the tax period are taxable supplies, a partial recovery calculation is required.

The amount of recoverable input tax is calculated based on the ratio of the value of taxable supplies made during the period compared to the total value of supplies (i.e., taxable plus exempt) made during the period.

Approval from the tax authorities is not required to use the partial exemption standard method in Saint Vincent and the Grenadines. Special methods are not allowed. Note the approval by the IRD is not outlined in the legislation, but in practice it is not required.

Capital goods. There are no specific rules for input tax recovery on capital goods in Saint Vincent and the Grenadines. The ordinary rules regarding the recovery of input tax therefore apply. Where a capital good is used to make both taxable and exempt supplies, the taxable person is required to apportion the input tax on a reasonable basis (as determined by the taxable person, but subject to possible review by the tax authorities).

Refunds. If the amount of input tax recoverable in a VAT period exceeds the amount of output tax payable for that VAT period, the excess may be refunded, provided that all VAT returns due have been submitted and the credit has been carried forward for three consecutive months.

A refund can be applied for with the Comptroller of the IRD by submitting an application, which is a paper-based prescribed form. The IRD will verify all refund requests and issue refunds at the end of the following month if no audit is required. Excess credits can also be utilized to clear off any other tax liability.

Pre-registration costs. Input tax incurred on pre-registration costs in Saint Vincent and the Grenadines is not recoverable.

Bad debts. A taxable person can claim bad debt relief for tax paid in respect of a taxable supply made by the taxable person where the whole or part of the consideration for the supply is subsequently treated as a bad debt. The taxable person claiming this relief must satisfy the Comptroller that reasonable efforts have been made to recover the amount due and payable.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Saint Vincent and the Grenadines.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Saint Vincent and the Grenadines is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a tax invoice for all taxable supplies made to other taxable persons (i.e., B2B supplies). A tax invoice is necessary to support a claim for an input tax deduction.

Credit notes. A credit note, or debit note must be issued when the quantity or consideration shown on a tax invoice is altered. Credit and debit notes must contain broadly the same information as a tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Saint Vincent and the Grenadines, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Saint Vincent and the Grenadines. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Saint Vincent and the Grenadines. The requirements related to electronic invoicing are the same as those for paper invoicing.

There are no provisions in the law for electronic invoicing in Saint Vincent and the Grenadines. However, in practice, electronic invoicing can be used provided that the electronic invoice meets the same requirements as the standard paper invoice.

Simplified VAT invoices. Simplified VAT invoicing is allowed in Saint Vincent and the Grenadines, where a taxable person uses the simplified VAT accounting method. This method is allowed where supplies made by a taxable person through its taxable activity include retail sales or the taxable person's annual turnover of supplies is less than XCD500,000.

Self-billing. Self-billing is not allowed in Saint Vincent and the Grenadines.

Proof of exports. VAT is charged at the zero-rate (0%) on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence (e.g., export certificate or other customs document) that confirms the goods have left Saint Vincent and the Grenadines.

Foreign currency invoices. Where an invoice is expressed in a currency other than the domestic currency, which is the Eastern Caribbean dollar (XCD) the amount is to be converted at the exchange rate applying between the currency and XCD at the time the amount is taken into account.

Supplies to nontaxable persons. Where a taxable person makes a taxable supply to an unregistered person (i.e., B2C), the taxable person can provide the unregistered person with a sales receipt instead of a full VAT invoice.

Records. In Saint Vincent and the Grenadines, examples of what records must be held for VAT purposes include the following:
- Original tax invoices, sales receipts, tax credit notes and tax debit notes received
- Copies of all tax invoices, sales receipts, tax credit notes and tax debit notes issued by the taxable person
- Customs documentation relating to imports and exports by the taxable person
- Accounting records relating to taxable activities carried on in Saint Vincent and the Grenadines
- Any other records as may be prescribed by the regulations

In Saint Vincent and the Grenadines, VAT books and records must be held within the country. A taxable person must maintain the records in Saint Vincent and the Grenadines and those records must be in the English language.

Record retention period. Records must be retained for seven years after the end of the tax period to which they relate.

Electronic archiving. Electronic archiving is allowed in Saint Vincent and the Grenadines. Paper archiving can also be used.

I. Returns and payment

Periodic returns. The VAT period in Saint Vincent and the Grenadines is the calendar month. The VAT return must be filed within 15 calendar days after the end of the tax period.

Periodic payments. Any tax due for the period must be remitted by the same date as the return deadline, i.e., within 15 calendar days after the end of the tax period.

Payments to the IRD can be made by credit/debit card (in person at the tax authorities' offices), direct deposit, mail (a form and check), cash/check (in person at the tax authorities' offices) and e-payment (online).

Ideally, payment should be submitted with the return, but in some instances (e.g., for wire transfer and direct deposit this may not be possible). In such instances the payment memo should indicate what the payment is in respect of.

Electronic filing. Electronic filing is allowed in Saint Vincent and the Grenadines, but not mandatory. An electronic filing system has been implemented online in Saint Vincent and the Grenadines (https://etaxsvg.gov.vc). However, taxable persons still have the option to file returns manually, i.e., by paper.

Payments on account. Payments on account are not required in Saint Vincent and the Grenadines.

Special schemes. There are no special schemes in Saint Vincent and the Grenadines. Whilst there are no special schemes included in the VAT law, there is the simplified VAT accounting method

available to taxable persons. This method is allowed where supplies made by a taxable person through its taxable activity include retail sales or the taxable person's annual turnover of supplies is less than XCD5 million. For further details, see the subsection *Simplified VAT invoices* above.

Annual returns. Annual returns are not required in Saint Vincent and the Grenadines.

Supplementary filings. No supplementary filings are required in Saint Vincent and the Grenadines.

Correcting errors in previous returns. An amended return can be filed in Saint Vincent and the Grenadines to correct any errors or omissions. The request must be in writing specifying the grounds on which the request is being made and must be made within three years after the end of the tax period to which the return relates.

Digital tax administration. There are no transactional reporting requirements in Saint Vincent and the Grenadines.

J. Penalties

Penalties for late registration. A taxable person who fails to apply and got a VAT registration as prescribed shall be liable to a penalty equal to double the amount of output tax payable from the time the taxable person is required to apply for registration until the taxable person files an application for registration with the Comptroller.

Penalties for late payment and filings. A taxable person who fails to file a return within the required due date is liable to a penalty of XCD500 per month or 5% of the VAT payable for the period to which the return relates for each month in which the return remains outstanding until the return is filed or an assessment is issued in respect of the period to which the return relates.

Any VAT payable outstanding by the due date is liable to a penalty equal to 20% of the amount payable. Interest is charged at the rate of 1.25% per month or part of a month for the period the tax remains unpaid.

Penalties for errors. There are no specific penalties in Saint Vincent and the Grenadines for errors. However, a taxable person who commits an offense for which there is no penalty specified is liable on summary conviction to a fine not exceeding XCD10,000 or to imprisonment for a term not exceeding one year or both.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above. However, a taxable person who commits an offense for which there is no penalty specified is liable on summary conviction to a fine not exceeding XCD10,000 or to imprisonment for a term not exceeding one year or both.

Penalties for fraud. A taxable person who willfully evades or attempts to evade an assessment, payment or collection of tax is guilty of a criminal offense and is liable on summary conviction to a fine not exceeding XCD25,000 or to imprisonment for a term not exceeding two years or both.

A taxable person who knowingly or recklessly makes a statement to a tax officer that is false or misleading in a material particular or omits any matter or thing without which the statement is misleading in a material particular and this results in the tax properly payable exceeding the tax that would be payable if that taxable person was assessed on the basis that the statement were true, that taxable person commits an offense and is liable to a penalty the greater of XCD250.

Personal liability for company officers. Where a corporation fails to pay an amount of tax required, the persons who were directors at the time the corporation was required to pay such amount, are

jointly and severally liable, together with the corporation, to pay the amount and any interest or penalties attaching to such amount.

The Saint Vincent and Grenadines VAT Act does not provide specifically for directors being held liable for errors and omissions. The penalties and interest which apply under the Act are outlined above.

Statute of limitations. The statute of limitations in Saint Vincent and the Grenadines is six years. The Saint Vincent and the Grenadines VAT Act states that if the Comptroller is not satisfied as to the accuracy of a VAT return lodged by the person, the Comptroller may not make an assessment, including an amended assessment, more than six years after the end of the tax period to which the assessment relates. In the case of an assessment where the person has been paid a refund or allowed an input tax credit as prescribed, to which the person is not entitled, the Comptroller may not make an assessment, including an amended assessment, more than six years after the date on which the refund was paid, or, if an input tax credit was allowed, more than six years after the end of the tax period in which the credit was allowed. The exemption to the above cases occurs where the taxable person committed fraud or willful default in furnishing the return for the tax period or in applying for the refund.

São Tomé and Príncipe

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São Tomé and Príncipe **GMT 0**

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The Value-Added Tax (VAT) Code was published by way of Law no. 13/2019 of 6 November 2019 and was scheduled to enter into force 1 March 2020. Due to delays on technical means, by way of Law no. 3/2020 of 16 April 2020, the VAT Code's effective date was postponed. The Decree-Law no. 21/2022 of 19 July 2022 makes the first amendment to Law no. 13/2019 of 6 November 2019 and republished the VAT Code. The VAT Code is now in force from 1 June 2023. The VAT Code revoked, inter alia, the Consumption Tax Code and some Stamp Duties rules.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposto sobre o Valor Acrescentado (IVA)
Date introduced	1 June 2023
Trading bloc membership	African Continental Free Trade Area (AfCFTA)
Administered by	Tax Directorate (Direção de Impostos) (https://impostos.financas.gov.st/)
VAT rates	
Standard	15%
Reduced	2%, 7%, 7.5%
Other	Zero-rated (0%) and exempt
VAT number format	Taxpayer Number ("Número de Identificação Fiscal – NIF") 8 numerical digits (XXXXXXXX)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supply of goods or services made in São Tomé and Principe (STP) by a taxable person
- Import of goods
- Reverse-charge services received by a taxable person in STP

Supplies of goods and services and imports of goods carried out in the Exclusive Economic Zone and Continental Shelf (*Zona Económica Exclusiva e Plataforma Continental*), are not taxable

operations when the acquirer's main activity is in the exploration and extraction of hydrocarbon sector.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In STP, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in STP. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In STP, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

Any business entity or individual that operates independently, and on a regular or occasional basis, and carries out an economic activity, including the production, trade or services, extractive activities, agricultural, forestry, cattle and fisheries, is required to register for VAT.

Individuals or entities that incorrectly issue invoices with VAT, as well as acquirers of supplies made by nonresident entities subject to the reverse charge, are also liable to register and account for VAT.

Government entities and other public bodies are only required to register for VAT as far as they carry out taxable transactions.

Exemption from registration. Only government entities or public bodies that do not carry out taxable transactions, are exempt from registering for VAT in STP.

Voluntary registration and small businesses. Entities that are deemed VAT exempt (if not having reached, in the previous calendar year, a turnover equal to or greater than STN1 million) may opt to register for VAT (i.e., be included in the standard regime).

Group registration. Group VAT registration is not allowed in STP.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in STP (as defined in the VAT law), if it has a headquarters, characterized by a sufficient degree of permanence and an adequate structure, in terms of human and technical resources, which carry out activities of production, trade or services.

Non-established businesses. The VAT law in STP does not provide for a definition on non-established business but provides for specific rules on non-established businesses without a fixed establishment, notably the need to appoint a fiscal representative.

Non-established businesses that are subject to VAT in STP should register for VAT and follow the same procedure as established entities, except when following the simplified regime. *At the time of preparing this chapter, the simplified registration regime is still to be implemented.*

Tax representatives. For the operations where the reverse charge is not applicable, a non-established business (without a fixed establishment) operating in STP must appoint a tax representative who is registered for VAT in STP and will be responsible for complying with the reporting obligations, such as filing the VAT returns. Appointing a representative is not mandatory when a non-established business (which does not have a permanent establishment) operating in STP opts

for the simplified registration regime. *At the time of preparing this chapter, the simplified registration regime is still to be implemented.*

Reverse charge. The reverse-charge mechanism applies to supplies made by non-established businesses to STP resident taxable persons (i.e., business-to-business [B2B] supplies). Under the reverse-charge mechanism, the taxable person that receives the supply must self-account for the VAT due. The reverse charge does not apply to supplies to private persons or to nontaxable legal persons (i.e., business-to-consumer (B2C) supplies).

Domestic reverse charge. The domestic reverse-charge mechanism applies to supplies made by STP resident taxable persons for civil construction works.

Digital economy. There are no specific VAT rules regarding the digital economy in STP.

Nonresident providers of electronically supplied services for B2C supplies would be required to register and account for VAT in STP.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in STP. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in STP.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in STP.

Vouchers. The VAT Code defines vouchers as an instrument that translates into a prepayment that entitles one to receive goods or services or a discount. Vouchers can be (i) single-purpose (*Unifuncionais*) when the goods to be delivered or the services to be supplied, the potential suppliers and the place of delivery of the goods or services are identified at the time the voucher is issued, or (ii) multi-purpose, in all other cases, including digital currency.

For single-purpose vouchers, VAT is due and payable at the time the voucher is issued/assigned by the taxable person in whose name the transfer of the voucher is made. On the other hand, for multi-purpose vouchers, VAT is due and payable at the time the taxable person supplies the goods or services that the voucher relates to, regardless of any assignments that may have previously occurred.

Registration procedures. Note that according to STP rules, there is no concept of a "VAT registration number." It is a general tax ID issued that covers VAT as well as other taxes.

The declaration of beginning of a taxable activity must be submitted to the Tax Directorate, by electronic means, up to 15 days prior to the taxable person starting the taxable activities. The tax authorities will then review the application within 30 days and submit a notification to the taxable person. If no notification is received, the statement is tacitly accepted and registration is issued.

Deregistration. Taxable persons must, within 30 days from the date of ceasing taxable activity, submit by electronic means a declaration of the cancelation of activity to the Tax Directorate. The tax authorities can declare, on their own authority, the ceasing of a taxable activity of a taxable person when it is clear that no activity is being carried out nor is the intention to start.

Changes to VAT registration details. When any of the details stated in the declaration of beginning of activity (other than the sales volume) is modified, the taxable person must file a declaration of changes of activity. This statement needs to be submitted by electronic means, within 30 days from the date of the declared change in the activity.

The declaration should also be submitted when taxable person wants to waive the special exemption regime, or given the conditions are met, change from the normal standard VAT regime to the exemption regime.

The tax authorities then will review the declaration within 30 days and then issue a notification to the taxable person. If no notification is received, the statement is tacitly accepted.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15%
- Reduced rate: 2%, 7%, 7.5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Export of goods – either dispatched to a foreign country by the seller or someone acting on their behalf or dispatched to the Exclusive Economic Zone and Continental Shelf when the acquirer's main activity is in the exploration and extraction of hydrocarbon sector
- Supply, conversion, repair, maintenance, freight and rental, including leasing, of vessels and aircraft affected to hydrocarbon exploration and extraction or sea navigation companies, as well as the supply, rental and conversion of the objects incorporated in the vessels and aircraft used for their exploitation
- Transport of passengers, cargo or mail proceeding to other counties and to STP islands
- Inputs related to special customs regimes (notably with entities located in free zones)

Note the wording in the VAT code refers to payment of fees (*pagamento de taxas*), which is different from payment of tax (*pagamento do imposto*).

Examples of goods and services taxable at 2%

- 2% monthly fee of 1/12 of STN100,000 for taxable persons with annual turnover under STN100,000

Examples of goods and services taxable at 7%

- 7% fee over the annual turnover amount for taxable persons with sales volume between STN100,000 and STN1 million

Examples of goods and services taxable at 7.5%

- 7.5% applicable mostly to basic food basket (Annex I of the VAT Code), such as rice, bread, milk, beans and soap

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Services of life-insurance and reinsurance
- Financial intermediation services, except for those which a specific fee or consideration, is charged for the service
- Transfer of gold for investment purposes
- Transfer of immovable property for residential purposes, excluding its first transfer
- Leasing of immovable property for residential purposes

- Supply of goods and services related to health, such as the provision of medical and health services and closely related operations carried out by public hospitals, dispensaries and similar entities, as well as the supply of medicinal products and other pharmaceutical products intended exclusively for therapeutic purposes
- Supply of goods and services related to education and training, such as education food and related services, carried out by public establishments registered in the competent ministry, as well as the supply of services for the purpose of vocational training and related services and goods

Option to tax for exempt supplies. The option to tax exempt supplies is not available in STP.

E. Time of supply

The time when VAT becomes due in STP is called the "time of supply" or "tax point." The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. Customs rules apply to imports.

An invoice must be issued before the 5th business day following the basic time of supply. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due on the deadline to raise the invoice.

Deposits and prepayments. For deposits and prepayments, an invoice should be raised at the time payment is received (even if prior to the supply of goods or services). As such, the tax point for VAT for the supply of deposits and prepayments is at the time the invoice is raised.

Continuous supplies of services. For continuous supplies of goods and services, based on agreements foreseeing successive payments, the time of supply occurs at the end of the period concerning each payment.

Goods sent on approval for sale or return. Generally, a taxable supply of goods is deemed to have taken place when consigned goods are not returned to the supplier within a year.

Reverse-charge services. There are no special time of supply rules in STP for supplies of reverse-charge services (for both non-established businesses and resident taxable persons, i.e., the reverse-charge and domestic reverse-charge). As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in STP for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. For the supply of imported goods, VAT is due upon importation and subject to import rules.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax incurred with the acquisition of goods and services used for taxable purposes. A taxable person generally recovers input tax by deducting it from output tax charged on the supplies carried out.

Input tax includes VAT charged on goods and services supplied in STP and VAT paid on imports of goods.

The time limit for a taxable person to reclaim input tax in STP is five years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by a taxable person). In addition, input tax may not be recovered with respect to certain business expenses.

Examples of items for which input tax is nondeductible

- Acquisition, import, leasing, including financial leasing, use, transformation and repair of pleasure boats, helicopters and airplanes
- Acquisition or importation of tobacco

Examples of items for which input tax is deductible (if related to taxable business use)

- Acquisition, import, lease, use, conversion and repair of motor vehicles light passenger transport vehicles with less than nine seats, motorcycles and motorcycles
- Acquisition of gasoline
- Transport and travel of the taxable person and its staff
- Accommodation, food, drinks and other operations rations relating to the reception and hospitality of the taxable person, its personnel or customers

Partial exemption. A supplier of both taxable and exempt supplies is required to apportion input tax incurred in respect of supplies made by them. A taxable person may claim the whole of input tax directly attributable to taxable supplies but is not allowed to claim input tax directly attributable to exempt supplies.

VAT directly related to making exempt supplies is not recoverable. A taxable person that makes both exempt and taxable supplies cannot recover input tax in full. This situation is referred to as "partial exemption." A pro rata percentage can be used to calculate the amount of eligible input tax.

Approval from the tax authorities is not required to use the partial exemption standard method in STP. Special methods are not allowed in STP.

Capital goods. In STP there are no special input tax recovery rules for capital goods. The normal rules outlined above apply.

Refunds. A taxable person may claim a refund (in part or in total) where the excess of input tax over output tax has been carried forward for more than three months. VAT refunds, when due, must be paid within until the end of the fourth month after the request has been made.

Pre-registration costs. Input tax incurred on pre-registration costs in STP is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in STP.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities, is not recoverable in STP.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in STP is not recoverable.

H. Invoicing

VAT invoices. Issuance of an invoice is mandatory for each supply of goods (including exports) and services. An invoice is necessary to support a claim for input tax deduction.

Invoices should be issued by the 5th business day following the taxable event and issued in duplicate, be duly dated and issued in a sequential manner.

Invoices should be processed via computer systems. The relevant data must be inserted by the computer program or billing system duly authorized by the Tax Directorate.

Credit notes. A VAT credit note may be used to reduce the amount of VAT charged on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply.

Under the Legal Regime for Invoices and Equivalent Documents, invoices or equivalent documents are replaced by guides or return notes (*guias ou notas de devolução*). Whenever the taxable person has the need to rectify or to replace an invoice or equivalent documents, the replacing documents should contain the mention *"Rectificação ou substituição,"* as well as the identification of the document that is being rectified or replaced. Credit and debit notes are invoices, simplified invoices and receipts amending documents. The credit note should contain the mention *"Rectificação ou anulação." At the time of preparing this chapter, the new VAT law for invoices and equivalent documents is silent on credit notes. However, this regime is expected to be updated in line with the new wording of the VAT code in respect to VAT adjustments.*

Electronic invoicing. Electronic invoicing is allowed in STP, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in STP. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in STP. The requirements related to electronic invoicing are the same as those for paper invoicing.

Note that electronic invoicing in STP relates to invoices raised by computer systems. Invoices can either be raised by computer systems or in paper (printed paper or non-electronic format by way of forms obtained in authorized print shops).

Taxable persons wishing to issue invoices or equivalent documents through computer systems should request advance approval from the Tax Directorate.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in STP. As such, full VAT invoices are required. *However, at the time of preparing this chapter the detail provided in the VAT law has not been made clear how it will be implemented in practice.*

Self-billing. Self-billing is not allowed in STP.

Proof of exports. The required document to evidence that a supply of goods has left the country, to be treated as an export, and zero-rated, is the export declaration (*declaração de exportação*), where the elements related to the goods are declared. The customs value should be mentioned in an invoice as, according to the legal framework on invoices, an invoice should be raised per supply of goods.

Foreign currency invoices. Invoices cannot be issued in a foreign currency in STP. All invoices must be issued in the domestic currency, which is the São Tomé and Príncipe dobra (STN). This is except for import and export invoices and invoices must also be issued in the Portuguese language.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in STP.

Records. In STP, examples of what records must be held for VAT purposes include all invoices or equivalent documents.

In STP, VAT books and records must be held within the country. VAT books and records may be held outside of the country only if the records are electronically archived. However, note that digital archives of invoices or equivalent documents is allowed but it does not replace the obligation to store and archive documentation within the national territory.

Record retention period. All invoices or equivalent documents must be kept for five years at the business's headquarters or establishments located in STP.

Electronic archiving. Electronic archiving is allowed in STP. Electronic archiving of invoices issued electronically and processed by computer is permitted provided that the complete access to data is ensured, as well as the integrity of origin and content and its readability.

I. Returns and payment

Periodic returns. The tax period is a calendar month. VAT returns are due on a monthly basis. The due date is the last day of the month following the taxable period.

Periodic payments. VAT due must be paid by the same date as the VAT return deadline, i.e., by the last day of the month following the taxable period. Payment of VAT due may be made by any means of payment that is legally permitted.

In addition, for import VAT, this is due per import, and the assessment is made by the Customs Offices, in line with the Customs provisions currently in force.

Electronic filing. Electronic filing is mandatory in STP for all taxable persons. *However, at the time of preparing this chapter, the VAT Code does not provide details on how this is carried out in practice.*

Payments on account. Payments on account are not required in STP.

Special scheme. *Special regime.* Taxable persons with sales volume between STN100,000 and STN1 million and that did not waive the exemption regime are subject to a 7% fee over the annual turnover. For a sales volume under STN100,000, there is a 2% monthly fee of 1/12 of STN100,000 for taxable persons with annual turnover under STN100,000.

Annual returns. Annual returns are not required in STP.

Supplementary filings. No supplementary filings are required in STP.

Correcting errors in previous returns. If a taxable person discovers an error or an omission from a previous periodic declaration, this must be corrected by submitting an amended VAT return. This is mandatory when there is an underpayment of VAT due. Such amendments can be made without any penalty until the end of the following period. If the error is in favor of the State, the correction is optional and can be carried out within one year.

Digital tax administration. There are no transactional reporting requirements in STP.

J. Penalties

The penalties listed below are applied in full (i.e., the maximum amount) where fault behavior applies. In the case of neglect behavior, the penalty can be reduced to half (of both the minimum and maximum). Additionally, when the fine depends on the tax amount, the fine cannot be higher than STN100 million.

Penalties for late registration. The general penalty applicable to the late of filing any document (other than a tax return) will apply for the late registration for VAT, as the VAT registration form falls under the definition of "any document." This penalty ranges between STN500,000 and STN5 million.

Penalties for late payment and filings. Late payment is punishable by a fine between the amount of the tax due and double this amount. Nevertheless, if the payments are made within 10 days after the due date, the value of the fine is of 5% of the missing tax, with a minimum of STN5,000. If the late payment occurs after 90 days of the due date, the amount of the fine increases to between the amount of tax due and triple this amount.

Late filing of a VAT return (up to 30 days after the deadline) is punishable by an amount between STN500,000 and STN5 million. If the VAT return is filed after 30 days of the deadline, the penalty increases to between STN1 million and STN5 million.

Late payment interest is computed over the outstanding tax amount.

Late communication (up to 30 days) of the invoices' data is punishable by an amount between STN5,000 and STN30,000. Lack of this communication (in general or late communication after 30 days), or communication with errors is punishable with by an amount between STN1,000 and STN50,000.

Penalties for errors. VAT returns and other documents containing omissions and inaccuracies are punishable with an amount between STN1 million and STN50 million.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Fraud with relevant tax documents will be punished with a fine between STN1 million to STN50 million.

Personal liability for company officers. In general terms, directors may be held accountable only where there is an outstanding debt that has already transitioned to enforcement proceedings and where the company does not hold enough goods to settle that debt directly.

Statute of limitations. The statute of limitations in STP is five years. This is counted from the beginning of the calendar year following the one in which the error occurred.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	ضريبة القيمة المضافة
Date introduced	1 January 2018

Trading bloc membership	Gulf Cooperation Council (GCC) Greater Arab Free Trade Area (GAFTA)
Administered by	Zakat, Tax and Customs Authority (ZATCA – https://zatca.gov.sa/en)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	Numeric account number composed of 15 digits (E, 012345678912345)
VAT return periods	Quarterly (general rule) Monthly (if annual taxable supplies exceed SAR40 million)
Thresholds	
Registration	SAR375,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services made in Saudi Arabia by a taxable person
- The acquisition of goods or services received in Saudi Arabia by a taxable person
- Reverse-charge services received by a taxable person in Saudi Arabia
- Taxable imports of goods received by a taxable person in Saudi Arabia

In some cases, supplies may be outside the scope of VAT, e.g., when supplies are:
- Made by a nontaxable person
- Made outside Saudi Arabia (but note special place-of-supply rules for certain international services, e.g., electronically supplied services)
- Not made in the course of an economic activity

In other cases, supplies not usually in the scope of VAT are deemed to be taxable supplies such as supplies for nil consideration, subject to certain exclusions.

Real estate transaction tax. Real estate transaction tax (RETT) is levied in lieu of VAT on real estate supplies made in Saudi Arabia. RETT is effective in Saudi Arabia from 4 October 2020 and is charged at 5% based on the total value of the real estate disposed, regardless of its condition, shape or use at the time of disposal.

RETT shall be levied based on the agreed value between the contracting parties, provided that the agreed value is not less than the fair market value of the real estate on the date of disposal. RETT applies regardless of whether the recipient is a resident in Saudi Arabia or not. The seller shall be obligated to discharge the tax liability to ZATCA. However, both seller and buyer shall be jointly responsible for any tax obligations.

The RETT Implementing Regulations provides the following key exemptions in whole or in part (but not limited to):
1. Disposal of the real estate in the case of division or distribution of the inheritance.
2. Disposal of the real estate for free for a "family," charitable or licensed charity endowment.
3. Disposal of the real estate for a governmental entity or for public legal persons or entities and projects of public interest, and for the purposes of this paragraph, public interest shall mean entities and institutions that carry this status under the Civil Associations and Institutions Law.
4. Disposal of the real estate by a governmental entity as a public authority outside the framework of economic, investment or commercial activity.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Saudi Arabia, the VAT legislation contains provisions for determining place of supply for wired and wireless telecommunication services and electronically supplied services based on the place of actual use and enjoyment of the services. Examples of wired and wireless telecommunications and electronic services include (but not limited to):

a. Any service relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems
b. The transfer or assignment of the right-to-use capacity for such transmission, emission or reception
c. The provision of access to global information networks
d. The provision of audio and audiovisual content for listening or viewing by the general public on the basis of a program schedule by a person that has editorial responsibility
e. Live streaming via the internet
f. Supplies of images or text provided electronically, such as photos, screensavers, electronic books and other digitized documents or files
g. Supplies of music, films and games, and of programs on demand
h. Online magazines
i. Website supply or web hosting services
j. Distance maintenance of programs and equipment
k. Supplies of software and software updates
l. Advertising space on a website and any rights associated with such advertising

Accordingly, for any supply of wired and wireless telecommunication services or electronically supplied services made within Saudi Arabia by a nonresident supplier to a customer who is not registered for the purposes of VAT, the nonresident supplier shall be obligated to register for VAT and discharge the applicable VAT on such supplies made.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Saudi Arabia, a TOGC is treated as outside the scope of VAT where the following conditions are met:

a. The goods and services transferred are capable of being operated as an economic activity in their own right, and the recipient immediately following the transfer uses those goods and services to carry on that same economic activity. Based on the guidelines issued by the ZATCA, this requirement is considered to be fulfilled upon satisfaction of the following points:
   - There must be a form of cohesion between the goods and services at hand in such way that collectively they are capable of being operated as a separate business.
   - The person acquiring the goods and services should start to use the goods and services acquired as soon as commercially feasible.
   - The person acquiring the goods and services should use these for the purpose of carrying on a business (economic activity).
   - The business that is carried on should be the same as that carried on by the transferor.
b. The recipient is a taxable person or becomes a taxable person as a result of the transfer.
c. The supplier and the recipient agree in writing in advance of the transfer date that they wish the transfer to be viewed as a transfer of an economic activity for the purposes of the VAT regulations.

Transactions between related parties. In Saudi Arabia, for a transaction between related parties, the value for VAT purposes is calculated at its fair market value (FMV), instead of any actual consideration paid, in cases where each of the following applies:
a. A supply is made between related persons, as defined in Saudi Arabian legislation
b. The consideration for the supply is less than the FMV of the supply
c. The customer is not entitled to a full input tax deduction in relation to the supply

The FMV is considered to be the consideration that would be payable for a similar and contemporaneous supply of goods or services freely offered and made between persons who are not related persons. A similar and contemporaneous supply means another supply of goods or services supplied at the same time that are either identical to, or closely or substantially resemble, the goods and services being supplied. This shall be ascertained based on all relevant factors, including the characteristics, quality, quantity of the goods and services, the place and date of supply, and the reputation of the supplier.

In cases where the value of a similar and contemporaneous supply cannot be ascertained, the taxable person or authority may prescribe an alternative FMV based on other comparable transactions that resemble the supply of goods and services, or the costs of the supplier to make the supply, whichever is higher (with the decision of the tax authority to prevail in the event of a difference).

C. Who is liable

A "taxable person" in Saudi Arabia is a person who conducts an economic activity independently for the purpose of generating income and is registered, or required to register, for VAT in Saudi Arabia.

Every person who has a place of residence in Saudi Arabia must register for, collect and remit VAT where the total value of all taxable supplies made in Saudi Arabia in the past 12 months or expected taxable supplies in the next 12 months exceeds SAR375,000. The total value of taxable supplies includes all supplies of goods and services subject to VAT at the rate of 15% or 0%. The total value of taxable supplies also includes the following:
- Nominal supplies
- Receipt of reverse-charge supplies
- After a ZATCA order announces the full implementation of VAT in the GCC and the introduction of the Electronic Services System, intra-GCC supplies made from Saudi Arabia to a VAT-registered person in another GCC Member State will not be subject to Saudi Arabian VAT but will count toward the total value of taxable supplies. *At the time of preparing this chapter, as all the GCC Member States have not implemented VAT, the Electronic Services System is not effective.*

The value of taxable supplies does not include the following:
- Value of exempt supplies
- Supplies taking place outside the scope of VAT in Saudi Arabia
- Revenue from the sale of capital assets

In cases where the tax authority has evidence or reason to doubt that a taxable person will not pay the VAT in an accurate and timely manner, it may require that a cash security or a bank guarantee is provided as a precondition for VAT registration, subject to several requirements.

Imports into Saudi Arabia by a taxable person or nontaxable person are subject to VAT, with the actual payment of VAT required to be made to customs at the point of import. Authorization may be granted to registered taxable persons to make the payment of VAT through its tax return as opposed to at customs. Despite there being a customs union in the GCC, in cases where a resident nontaxable person in Saudi Arabia imports goods with a value exceeding SAR10,000 into Saudi

Arabia from another GCC Member State, and cannot prove at the time of such entry that VAT was paid on the purchase of those goods in such GCC Member State, that person is deemed to make an import of those goods and VAT shall be payable on such imports.

Goods or services that a taxable business supplies to itself are not taxable (with the exception of nominal supplies, i.e., deemed supplies). This includes instances where one member of a VAT group provides services to another member of that group.

Exemption from registration. A taxable person who at any time has annual supplies made in Saudi Arabia that exceed the mandatory registration threshold, but which are exclusively zero-rated supplies, is excluded from the requirement to register. They may, however, elect to register voluntarily. Exempt supplies do not count toward voluntary or mandatory registration thresholds.

Voluntary registration and small businesses. A person who has a place of residence in Saudi Arabia who is not obligated to register for VAT (as per the rules outlined above), may apply for VAT registration if its total value of taxable supplies in the past 12 months or expected taxable sales in the next 12 months are between SAR187,500 and SAR375,000. A person can also register voluntarily if their expenses in the past, or next 12 months, equal or exceed SAR187,500.

Group registration. Two or more legal persons may apply for VAT registration as a VAT group if all the following conditions are met:

- Each group member must perform an economic activity and be a legal resident in Saudi Arabia.
- 50% or more of the capital of each legal person, or ownership or control of 50%, or more of the voting rights or value, in both or all the group members, is held by the same person or group of persons, whether directly or indirectly (i.e., under common control).
- At least one of the group members must independently meet the taxable sales threshold for VAT registration.

All members of a VAT group in Saudi Arabia are jointly and severally liable for VAT debts and penalties.

An application to form a VAT group must be made by a taxable person. This person will be the representative member of the VAT group and will have the primary obligation to comply with the obligations and the rights of the group on behalf of all members of the group, without prejudice to the joint liability of the other members of the group.

The VAT group registration takes effect from the first day of the month following the month in which the application is approved or such later date as determined by the tax authority. If the application is approved, the tax authority will issue a new VAT identification number to the VAT group representative on behalf of the VAT group and suspend the existing VAT identification numbers of members who are individually registered for VAT.

The tax authority may issue a notice to two or more taxable persons who are not part of any VAT group, but who are eligible to form one together, that they are considered to be in a VAT group from any prospective date. Such notice may only be issued where the VAT registration of each taxable person results or will result in the accrual of a VAT advantage. There is no minimum time period required for the duration of a VAT group. Changes to the VAT group (e.g., addition or deletion of members) may be done as and when necessary.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Saudi Arabia, as any fixed location for a business, other than the place of business, in which the business is carried out and is distinguished by the permanent presence of human and technical resources in such a way as to enable the person to supply or receive goods or services.

Non-established businesses. Every taxable person who does not have a place of residence in Saudi Arabia and is not registered with the Saudi Arabia tax authority, but is obligated to pay VAT

on supplies made or received by that person in Saudi Arabia, must apply to the tax authority for registration within 30 days of the first supply on which that person was obligated to pay VAT. All nonresident taxable persons have the option to appoint a local, approved tax representative who is jointly and severally liable for the VAT the business owes. However, where a tax representative has not been appointed, nonresident taxable persons are required to submit a financial or a bank guarantee for the purposes of VAT registration in Saudi Arabia.

Tax representatives. The tax authority may approve persons who wish to act as tax representatives or tax agents for taxable persons in respect of their VAT obligations in Saudi Arabia. The tax authority has published a list of approved tax representatives and approved tax agents on its website.

All nonresident taxable persons have an option to appoint a tax representative resident in Saudi Arabia to represent them in all VAT related matters. That representative, once approved by the tax authority, can submit VAT returns, and settle payments, to the tax authority and correspond with the tax authority on the taxable person's behalf. The tax representative shall be jointly liable for the payment of any VAT due by the taxable person, until such date that the tax representative is confirmed by the tax authority as ceasing to act on behalf of that taxable person. In the instance a tax representative is not appointed, the nonresident taxable person is mandatorily required to appoint a third party, established in Saudi Arabia, to comply with the requirements of keeping invoices, bills, documents, books and records as prescribed in the VAT legislative provisions.

The requirement for resident taxable persons to notify ZATCA of the appointment of a tax agent no longer applies.

Reverse charge. The reverse-charge mechanism must be applied when a VAT-registered business imports a taxable service from a nonresident. The taxable person registered for VAT in Saudi Arabia is required to account for VAT on the transaction using the reverse-charge mechanism.

A VAT-registered recipient resident in Saudi Arabia must self-account for the VAT through its VAT return, by way of the reverse-charge mechanism, by assessing and accounting for the VAT charged on the supplies received, if:
- The place of supply for the goods or services is in Saudi Arabia.
- The supplier is not resident in Saudi Arabia.

According to a circular issued by the Saudi Arabia tax authority, in certain instances where the place of supply is determined to be in Saudi Arabia based on the special rules, a reverse charge may not apply and instead the nonresident supplier may have to register for VAT in Saudi Arabia.

Domestic reverse charge. There are no domestic reverse charges in Saudi Arabia.

Digital economy. Supply of wired and wireless telecommunications services and electronic services have special place of supply rules in Saudi Arabia. In cases where wired and wireless telecommunications services and electronic services are provided at a telephone box, a telephone kiosk, a Wi-Fi hot spot, an internet café, a restaurant, a hotel lobby or in other cases where the physical presence of the customer at a particular location is needed for those services to be provided, the customer consumes and enjoys the services at that location.

In all other cases, the customer consumes and enjoys the service at the place where their usual place of residence is.

Special rules apply to determine the place of supply of electronic services. Primarily, VAT applies in the country in which the services are actually used or benefited from. Practical factors that are useful in determining where the electronic services are used are as follows:
- If the service is provided in a specific location – the place of supply is where the customer must be physically present (in a specific location) to receive the service

- If the service is not provided in a specific location, e.g., if due to the portability of the electronic service, it can be accessible from multiple locations, the customer's usual place of residence is deemed the place of actual use

In determining the customer's usual place of residence, the following information may be relied upon by the supplier:
- The invoicing address of the customer
- The bank account details of the customer
- The internet protocol address used by the customer to receive the electronic services
- The country code of the SIM card used by the customer to receive the electronic services

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT in Saudi Arabia. The customer is required to self-account for the VAT via the reverse-charge mechanism. See the *Reverse charge* subsection above.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for VAT in Saudi Arabia.

There are no other specific e-commerce rules for imported goods in Saudi Arabia.

Online marketplaces and platforms. There are special rules for taxable persons liable to VAT where electronically supplied services are supplied in Saudi Arabia through an online interface or portal acting as intermediary for a non-established business.

Where electronically supplied services are supplied in Saudi Arabia through an online interface or portal acting as intermediary for a non-established business, the operator of the interface or portal is presumed to purchase the services from the non-established business and to supply those same services in their own name. This does not apply in cases where both of the following conditions apply:
- The non-established business is expressly indicated as the supplier during the online sales process in the contractual arrangements between the parties and on the invoice or receipt issued by the operator of the interface or portal.
- The operator of the interface or portal does not authorize charging the customer for the delivery of the services or the delivery itself or set the general terms and conditions of the supply.

In cases where both the conditions are present, the intermediary is not considered as acting in its own name as a principal, hence, the non-established business is liable to pay and account for VAT on electronic services supplied.

Registration procedures. Where the person has a requirement to register, they must apply to the tax authority to register within 30 days of the end of that month. The registration will take effect from the start of the next month following the month in which the registration application is submitted or from the start of the first month in which its annual supplies were expected to exceed the threshold.

Businesses can register for VAT using the application portal that is accessible on the ZATCA's website. To register for VAT, taxable persons need a valid tax identification number (TIN). If the business does not have a TIN, it is required to register for one on the ZATCA's website prior to VAT registration. To register, the eligible person must provide the following, at the minimum:
- Taxable person details (e.g., legal name, address, contact number)
- Financial details – projected and actual taxable sales for the next and last year, respectively; and projected and actual taxable expenses for the next and last year, respectively

A VAT registration application can be submitted through the tax authority portal or through electronic mail.

The tax authority has developed an online portal, which is available on its website, where taxable persons can verify suppliers and customers' VAT registration numbers.

Deregistration. Where a taxable person ceases to carry on an economic activity, including cases where a legal person ceases to exist as a legal person, that taxable person shall deregister. Deregistration will take effect from the date determined by the Saudi Arabia tax authority after its approval of the deregistration.

Where at the end of any month, a nonresident taxable person has not made any taxable supplies in Saudi Arabia in the most recent 12-month period, the taxable person must deregister.

At the end of any month, a resident taxable person (having been registered for at least 12 months) is required to deregister where all the following occur:
- The total value of annual supplies or annual expenses in the last 12 months is less than the voluntary registration threshold.
- The total value of annual supplies made in Saudi Arabia or annual expenses in the last 24 months does not exceed the mandatory registration threshold.
- The total value of annual supplies or annual expenses in that month and the subsequent 11 months is not anticipated to exceed the voluntary registration threshold.

A taxable person shall apply for deregistration to the Saudi Arabia tax authority within 30 days of any of the cases above. Where the taxable person does not apply for deregistration to the tax authority, the tax authority may deregister that person. In such a case, the tax authority will issue a notification.

Deregistration is optional if:
- A business's taxable supplies in the last 12 months are between SAR187,500 and SAR375,000
- A business's expected taxable supplies in the next 12 months (current month included) are between SAR187,500 and SAR375,000

The deregistration takes effect on the date determined by the tax authority after its approval of the deregistration. A taxable person may not apply to deregister voluntarily in cases where it has been registered for less than 12 months. The tax authority may refuse an application for deregistration where it does not have sufficient evidence that a taxable person is eligible to deregister.

Changes to VAT registration details. Where any of the taxable person's information changes from that provided in the application or otherwise currently recorded, that person is required to notify the tax authority of the change within 20 days of that change taking place. The mode of notification is not specified, but it is presumed to be electronically through the online portal.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 15%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

The standard rate of VAT at 15% increased from 5% to 15% with effect from 1 July 2020. As a transitional measure, the previous rate of 5% could have been applied for goods or services supplied on or after 1 July 2020 in any of the following cases:
- If the supply is under a contract or agreement entered prior to 11 May 2020 and the recipient of the supply under such contract can recover the VAT in full or is a government entity – until the contract renewal, expiry or 30 June 2021, whichever is earlier

- If a tax invoice was already issued prior to 11 May 2020 for supplies to be made on or after 1 July 2020 – to the extent of the supplies covered in the invoice and performed or completed on or before 30 June 2021

The following imports of goods, which are not subject to customs duties, are exempt from import VAT:

- Goods for diplomatic and military use that are exempt from customs duties
- Imports of personal effects and household appliances being moved into Saudi Arabia that are exempt from customs duties in accordance with the Unified Customs Law
- Imports of returned goods that are fully exempt from customs duties
- Low value imports of personal items and gifts carried in travelers' personal luggage, within the limits set by the Customs Department for relief from customs duties collection

Examples of goods and services taxable at 0%

Saudi Arabia will treat intra-GCC products in the same way as non-GCC imports for the purposes of VAT, until the full integration of the Electronic Services System. This means that the concept of the implementing states is currently not live and that supplies to GCC residents are treated in the same way as supplies to non-GCC residents.

- A direct export from Saudi Arabia to a place outside of the GCC territory
- Services provided to non-GCC residents.
- Within international transport, zero-rated goods and services include:
  - International transport of passengers and goods
  - Vehicles and equipment to be used for international transportation
  - Certain goods and services provided in connection with international transportation
- Medicines and medical goods considered as qualifying medicines and qualifying medical goods as per the classification issued by the Ministry of Health or any other competent authority from time to time; qualifying medicines and medical goods will be part of the Ministry of Health's formulary drug list
- Investment metals: two types of transactions involving qualifying investment metals (gold, silver and platinum of 99% purity or higher) are zero-rated:
  - A producer or refiner's original sale of investment metal
  - Any further sale of gold, silver and platinum where the purity level remains
- Supply of military supplies to designated military forces in Saudi Arabia, given that the supply is made by a designated taxpayer who is licensed by the General Authority of Military Industries (GAMI)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Certain financial and insurance services: this does not include instances where consideration payable is by way of explicit fees.
- Real estate: due to the introduction of the real estate transaction tax (RETT) from 4 October 2020 onward (see the *Real estate transaction tax* subsection above, under *Section B. Scope of the tax* for further details), certain transactions such as the supply by way of sale, lease, license or rental of a real estate property (except for the lease of commercial property) are now exempt from VAT. The supply of hotel accommodation, non-hotel but serviced accommodation or residential property held out for rent in a similar manner to hotel or serviced accommodation will not qualify for exemption. Any lease of commercial property or property designated or used for commercial purposes will also not qualify for exemption.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Saudi Arabia.

E. Time of supply

The general time of supply rules for goods and services is the earlier of:
- Date of issuing a tax invoice
- When the goods or services are supplied
- When any payment is received to the extent of the payment

Deposits and prepayments. A deposit for a supply designed to be paid by the customer as an advance payment that will be considered as an initial payment for the supply or subsequent payments will create a tax point when received.

The tax point for an advance payment is whichever of the following happens first:
- The date the VAT invoice is issued for the advance payment
- The date the advance payment is received

VAT is due on the advance payment in the VAT return for the period when the tax point occurs.

A security deposit is not treated as a consideration for a supply unless the deposit is applied, either in part or full, as consideration for a supply, or it is forfeited in relation to defaulting the performance of the obligation. Apart from security deposits, a prepayment or deposit intended by the payer and recipient to eventually form part of the consideration for an identifiable supply creates a tax point when received.

Continuous supplies of services. In cases where goods or services are supplied and the invoice or agreement between the supplier and customer states that consideration is due and payable in periodical installments, a separate supply in respect of each installment takes place on the earlier of the due date for the payment of that installment or the date of actual payment.

In all other cases where supplies of goods or services are made on a continuing basis, a separate supply takes place on the earlier of the date an invoice is issued, or payment is made in respect of those goods or services, to the extent of the amount invoiced or paid.

If no payment has been received or no invoice has been issued in relation to a continuous supply of goods or services by a taxable person, the supply is deemed to take place on the date falling 12 months after the later of:
- The date on which the supply of goods or services commences
- The previous date on which the supply took place by reason of an invoice being issued or payment being made

Goods sent on approval for sale or return. There are no special time of supply rules in Saudi Arabia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Saudi Arabia for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in Saudi Arabia for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. A taxable person may apply for authorization for the payment of VAT on imports to be made through that taxable person's VAT return, instead of being collected by the Customs Department on importation entry (effectively postponed import VAT accounting). The tax authority will primarily approve larger volume importers for this option.

Supply of oil, gas, water or electricity through a distribution network. The supply of oil, gas, water or electricity through a distribution network that is not made on a continuing basis, takes place at the earlier of:
- The date an invoice is issued by the supplier in respect of those goods
- The date that payment is received by the supplier in respect of those goods

Deemed supply on deregistration. A deemed supply made as a result of the cessation of a taxable person's economic activity takes place on the date of deregistration of that taxable person.

Supply to government entity. Where a supply of goods and services is made to a government entity in accordance with contracts concluded under the Government Tenders and Procurement Law, the time of supply is the earlier of the issuance of payment order to the supplier or the date the consideration (or part thereof) is received.

F. Recovery of VAT by taxable persons

A taxable person may deduct input tax charged on goods and services supplied to it, to the extent these are received in the course of carrying on an economic activity and constitute:
- Taxable supplies, including zero-rated supplies
- Internal supplies, including input tax paid on imports from other GCC Member States; note that if the supplier resides in a GCC Member State that has not implemented VAT, the import VAT will be treated as if it came from outside the GCC
- Taxable imports from outside the GCC, meaning that VAT paid on taxable imports from outside the GCC is deductible if it used to supply zero-rated or standard-rated goods or services

A valid VAT invoice or customs document is required for an input tax deduction.

The time limit for a taxable person to reclaim input tax in Saudi Arabia is five years, following the end of the calendar year in which the taxable supply takes place.

A taxable person may claim a refund of the amount of excess VAT paid, in any of the following circumstances:
- Upon filing a VAT return for a tax period where net tax is an amount due to the taxable person
- Where the taxable person has paid an amount in excess of the amount of VAT paid
- Where the taxable person has a VAT credit balance

In all these cases, the standard practice is to carry forward the amount in the VAT account, unless the taxable person requests a refund.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used in the course of carrying on the taxable person's economic activity.

Examples of items for which input tax is nondeductible
- Any form of entertainment, sporting or cultural services
- Catering services in hotels, restaurants and similar venues
- The purchase or lease of "restricted motor vehicles," related services and fuel used in restricted motor vehicles; this also includes the repair, alteration, maintenance or similar services on restricted motor vehicles
- Any other goods and services used for a private or nonbusiness purpose

Examples of items for which input tax is deductible (if related to a taxable business use)
- Goods and services used in making taxable supplies (e.g., raw materials for use in construction of a dwelling for sale)
- Goods and services used in making out-of-scope supplies, where those supplies would have been taxable if made in Saudi Arabia

Partial exemption. Input tax directly related to the making of exempt supplies is not recoverable. Where input tax incurred is attributable to both taxable and exempt supplies, only the amount attributable to taxable supplies (in accordance with the partial exemption calculation) can be recovered. The default method of proportional deduction of input tax is calculated on the basis of a fraction where:
- The numerator is the value of taxable supplies made by the taxable person in the last calendar year

- The denominator is the total value of taxable supplies and exempt supplies made by the taxable person during the last calendar year
- The value of taxable supplies or exempt supplies made by the taxable person in the fraction, include those supplies that do not take place in Saudi Arabia, but that would have been either taxable or exempt supplies if they had taken place in Saudi Arabia

The fraction outlined above, shall not include:
- Supplies of capital assets by the taxable person
- Supplies taking place outside of Saudi Arabia that are supplied from an establishment of the taxable person outside of Saudi Arabia

At the end of the calendar year, the taxable person using the default method must compare the values used in the fraction during that year with the actual values of supplies made in that calendar year and make an adjustment to input tax in the final VAT return for that calendar year to reflect the correct proportional deduction based on the actual supplies for the entire year.

Special methods are allowed in Saudi Arabia. A taxable person may submit an application to use an alternative proportional deduction method to the default method in cases where that alternative method more accurately reflects the use of goods and services supplied to that taxable person. In cases where the application is approved, the tax authority shall prescribe a time period during which the alternative method may or must be used. Such period may be for a maximum of five years, following which a new application must be submitted.

Approval from the tax authorities is not required to use the partial exemption standard method in Saudi Arabia.

In cases where the taxable person incurs input tax on goods and services that are not used to make taxable supplies, but are used for the following:
- In respect of raising capital for an ongoing economic activity to the extent this constitutes the making of taxable supplies by way of the issues of share capital or debt
- For a business activity that is treated as outside the scope of VAT, such as a transfer of an economic activity, or part of an economic activity as a going concern
- For another one-off event that is incidental to the economic activity to the extent this constitutes the making of taxable supplies

Such input tax shall be deductible in accordance with the proportion of the overall economic activity of the taxable person that constitutes the making of taxable supplies, determined using the applicable proportional deduction method.

Capital goods. If capital assets are bought after registering for VAT, then the full amount of input tax can be deducted immediately, in case the full amount is paid up front, and the intended use of the capital asset is the making of zero-rated or standard-rated supplies. However, if the price is paid in installments, VAT is accounted for with the periodic payments in line with the time of supply rules.

In cases where capital assets have already been bought before registration and VAT has been paid on it, the input tax paid can still be deducted after registration with its value capped by the net book value. Net book value is determined in accordance with the accounting standard of the taxable person, such as straight-line depreciation. This is covered in more detail in the *Pre-registration costs* subsection below.

A taxable person shall adjust previously deducted input tax in relation to a capital asset in cases where the taxable person's input tax decreases or increases as a result of a change in the way the taxable person uses the asset or a change in the VAT status of such use.

The adjustment period is 6 years in respect of moveable tangible or intangible capital assets and 10 years in respect of immovable capital assets that are permanently attached to land or real estate, starting from the date of purchase of the capital asset by the taxable person. Should the life of the capital assets (determined in accordance with the accounting practice of the taxable person) be less than the otherwise corresponding adjustment period, the adjustment period shall instead be the life of the capital asset, with any part years counting as one year.

At the time a taxable person acquires a capital asset, input tax shall initially be deducted in accordance with the intended use of the goods. During the adjustment period, an adjustment to the deduction must be made following any year in which the actual use of the capital asset differs from that initial intended use. Capital expenditure incurred on a capital asset already owned by the taxable person (i.e., to construct, enhance or improve it) counts as expenditure or additional expenditure acquiring it; the adjustment period (or additional adjustment period) for such expenditure shall commence on the date of completion of such works.

At the end of each 12-month period, a taxable person shall calculate the amount of input tax potentially subject to adjustment using the fraction: initial input tax deduction divided by the adjustment period and shall make an adjustment to the amount of the input tax deducted, based on the actual use of the capital asset during that year.

The taxable person shall make an adjustment to the input tax in the tax return for the last tax period that falls in the 12-month period. Under the law, the 12-month period starts from the date of acquisition of each asset.

In cases where there is a permanent change in the use of a capital asset due to the sale or disposal of the capital asset by a taxable person, the taxable person must adjust the input tax deduction for the remainder of the adjustment period for the capital asset in the tax period in which it is sold. No adjustment to the input tax deducted for the remainder of the adjustment period is needed if the capital asset is destroyed or stolen or ends its useful life earlier than accounted for.

Refunds. When a taxable person submits its VAT return, it can request to receive any refund associated with that return as a tax credit. In that case, the tax authority will automatically apply the refundable amount to the taxable person's balance on its next VAT return or at any other time.

Input tax can be deducted in the tax period when the supply is invoiced, in line with the invoice accounting practices. If the business is approved for cash accounting, then the input tax can only be deducted in the tax period when the invoice is actually paid.

However, a taxable person may submit a request to the tax authority for refund in any circumstances outlined above, at the time the VAT return is filed or at any other time within five years following the end of the calendar year for which the circumstances relate.

Pre-registration costs. A taxable person is entitled to deduct input tax incurred by it in respect of services supplied to it during the period of six months before the effective date of registration, provided that:

- The services are purchases to be used for supplies outlined above
- The services have not been supplied onward or used in full by the taxable person prior to the registration date
- The services are not of a type that is restricted from deduction

A taxable person is entitled to deduct input tax incurred by it in respect of goods supplied to it or goods imported by it before the effective date of registration, provided that:

- The goods are purchased or imported to be used for supplies outlined in the *Recovery of VAT by taxable persons* subsection, and where VAT cannot be wholly attributed to such, an apportionment is used

- In cases where the goods are capital assets, these have a positive book value at the date of registration
- The goods have not been supplied onwards by the taxable person or used in full by the taxable person prior to the registration date
- The goods are not of a type that is restricted from deduction

Bad debts. In cases where a taxable person does not receive all or part of the consideration for a taxable supply made by them, the taxable person may reduce their output tax for the VAT amount calculated on the consideration not paid in the VAT return in which all the following conditions are met:

- The taxable person has previously included VAT calculated on the taxable supply as output tax on a VAT return and made payment of the VAT due
- The consideration is in respect of a supply of goods or services made to a customer who is not a related person
- A period of at least 12 months has passed from the date of the taxable supply
- The taxable person holds a certificate from their certified accountant indicating that the unpaid consideration has been written off in their books
- In cases where the total amounts unpaid by the customer exceeds SAR100,000, formal legal procedures have been taken to collect the debts without success and the taxable person can provide evidence of these procedures, such as the issuance of a judicial ruling, evidence of the debtor's bankruptcy or a court order indicating any other formal recovery procedure

A taxable person using the cash accounting basis cannot make any adjustment for nonpayment, as outlined above.

Noneconomic activities. Input tax may not be recovered on purchases of goods and services that are not used in the course of carrying on the taxable person's economic activity.

The tax authority may allow designated persons not carrying on an economic activity, or those engaged in designated economic activity, to apply for a refund of VAT paid by them on supplies of goods or services received in Saudi Arabia. The Minister of Finance may issue an order setting out a list of persons considered an eligible person. Foreign governments, international organizations, diplomatic and consular bodies, and missions may also be authorized by the Minister of Finance as an eligible person to request the refund of VAT incurred on goods and services in Saudi Arabia.

G. Recovery of VAT by non-established businesses

Refund mechanism. The tax authority has launched an e-services portal for the submission of VAT refund applications for nonresident businesses that have incurred VAT in Saudi Arabia but are not registered as a taxable person in Saudi Arabia, and therefore were not able to recover VAT in the past. The process of submitting VAT refund applications consists of three main steps:

- Creating an account on the ZATCA e-services portal (one-time process)
- Registering as an "eligible person" and obtaining the individual identification number (one-time registration)
- Submission of periodic VAT refund applications (once registration as "eligible person" is approved)

In February 2023, the ZATCA issued a circular regarding submission of nonresident VAT refunds, the salient points of which are as follows:

- Eligible person's submission of VAT refund request:
  - The person applying for refund must have been approved by the tax authority as an "eligible person" and should use the identification number issued to them in all correspondence with the tax authority, including in submission of refund requests.

  - The application must be submitted electronically via the tax authority's online services portal, with all supporting documents attached. The tax authority has the right to request any of these supporting documents in paper form.
  - When submitting a VAT refund request, the tax invoices must be available in compliance with the statutory requirements as per Article 53 of the Saudi Arabian VAT Implementing Regulations and electronic invoicing regulations.
  - The nonresident taxable person should also have proof of payment of the amounts indicated in the tax invoices.
- Tax authority's process for processing VAT refund request:
  - The tax authority may request tax invoices or additional information from the eligible person (paper or electronic copies). The additional information should be provided to the tax authority within 20 days from the date of the ZATCA's request.
  - After the ZATCA has processed the application, it must issue a notice to the eligible person, including the result of its review. A nonresident taxable person has the right to object to the tax authority's decision.
  - Following the tax authority's audit, the tax authority should refund the amounts approved within 60 days from the date of issuance of the notice.

GCC businesses. Persons who are registered for VAT in another GCC Member State may submit an application for refund of VAT incurred in Saudi Arabia in accordance with the mechanism above.

Non-GCC businesses. Input tax incurred by non-established businesses that are not registered for VAT in Saudi Arabia is recoverable. Persons who carry on an economic activity in a country outside of the GCC territory may apply to be considered as an eligible person and able to request a refund of VAT incurred on supplies of goods or services made to that person in Saudi Arabia. A person will be considered as an eligible person in the following cases:

- If the person is established in a country with a transaction tax system similar to VAT, and that person is registered for that tax in that country.
- If the person is established in a country with a transaction tax system similar to VAT and that country allows a similar mechanism to provide refunds of tax to residents of Saudi Arabia who are charged tax in that country.

The person wishing to request a refund of VAT shall submit an application to the tax authority as per the aforementioned process.

Refund of VAT to tourists. The tax authority may authorize one or more providers to carry out a tourist refund scheme facilitating refunds of VAT incurred in Saudi Arabia by tourists. The tax authority shall publish a list of all authorized providers.

Tourists who can prove they are not resident in another GCC Member State, may apply directly to the approved provider for a refund of VAT on goods that are purchased in Saudi Arabia, which will not be used while in Saudi Arabia and that will be exported to a place outside of the GCC territory.

A refund application must be submitted by the tourist to the authorized provider while the tourist is still present in Saudi Arabia.

The authorized provider shall collect evidence of payment of VAT and on the eligibility of goods for refund. It shall also carry out a check of the application before submitting the applications to the tax authority for approval.

In cases where an application in respect of any tourist is approved, the tax authority will make payment of the refund amount to the provider. The provider is obliged to make payment to the tourist but may deduct a percentage of the VAT refund as a commission.

However, practically, the rules and the manner in which such refunds can be claimed by tourists has not been notified by the ZATCA.

H. Invoicing

VAT invoices. Effective from 4 December 2021, each resident taxable person must issue or arrange for the issuance of an electronic tax invoice (e-invoice) through compliant electronic solutions in respect of either of the following events:

- Any taxable supply of goods or services that it has made to another taxable person or to a nontaxable legal person
- Any payment made in respect of a supply of goods or services to a taxable person or nontaxable legal person before that supply takes place

Any such e-invoice must be issued at the latest the 15th day of the month following the month in which the supply took place.

Credit notes. A VAT credit note may be used to reduce the amount of VAT charged on a supply. Alternatively, if both parties agree, the customer can issue a VAT debit note. A valid debit note places the same legal obligations on both parties as a valid VAT credit note and must fulfill the same conditions. A credit or debit note issued must contain a reference to the sequential number of the VAT invoice issued in respect of the initial supply to which the credit or debit note relates. Such credit or debit note shall include the information required to be shown on a VAT invoice. Taxable persons are required to issue credit notes (and debit notes) in a structured electronic format through electronic means.

Electronic invoicing. Electronic invoicing is mandatory in Saudi Arabia for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Saudi Arabia.

Electronic invoicing is mandatory for taxable persons that are resident in Saudi Arabia, or a customer or any third party that issues a tax invoice on behalf of the taxable person that is a resident in Saudi Arabia.

Mandatory electronic invoicing is being rolled out in two phases in Saudi Arabia. For the first phase, effective from 4 December 2021, all resident taxable persons (excluding non-established businesses) and any other parties issuing tax invoices subject to VAT on behalf of suppliers will be required to generate and store tax invoices and debit/credit notes through compliant electronic solutions.

For the second phase, which is effective from 1 January 2023, persons subject to e-invoicing must integrate their systems with the tax authority's e-invoicing platform. Invoices for B2B and B2G supplies under Phase 2 need to be approved by the tax authority before issuing to customers.

The integration phase is being implemented in waves and based on the announcement on the ZATCA portal, resident businesses should comply with the e-invoicing Phase 2 requirements as follows:

- Wave 1: VAT-registered taxable persons whose taxable turnover is more than SAR3 billion in 2021 must integrate with the ZATCA's Fatoora portal from 1 January 2023 to 30 June 2023.
- Wave 2: VAT-registered taxable persons whose taxable turnover is more than SAR500 million up to SAR3 billion in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 July 2023 to 30 December 2023.
- Wave 3: VAT-registered taxable persons whose taxable turnover is more than SAR250 million up to SAR500 million in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 October 2023 to 31 January 2024.

- Wave 4: VAT-registered taxable persons whose taxable turnover is more than SAR150 million up to SAR250 million in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 November 2023 to 29 February 2024.
- Wave 5: VAT-registered taxable persons whose taxable turnover is more than SAR100 million up to SAR150 million in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 December 2023 to 31 March 2024.
- Wave 6: VAT-registered taxable persons whose taxable turnover is more than SAR70 million up to SAR100 million in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 January 2024 to 30 April 2024.
- Wave 7: VAT-registered taxable persons whose taxable turnover is more than SAR50 million up to SAR70 million in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 February 2024 to 31 May 2024.
- Wave 8: VAT-registered taxable persons whose taxable turnover is more than SAR40 million up to SAR 50million in 2021 or 2022 must integrate with the ZATCA's Fatoora portal from 1 March 2024 to 30 June 2024.

Generation of e-invoices must include all fields in accordance with the VAT regulations in addition to the VAT number of the customer, if the customer is a registered VAT taxable person. There are separate sets of requirements mandated, from an e-invoicing perspective, for tax invoices and simplified tax invoices. For further details, see the *Simplified VAT invoices* subsection below.

Note that electronic invoicing has not changed the requirements for issuing invoices, debit notes or credit notes as contained in the VAT legislation, and therefore the issuance of invoices, debit notes or credit notes must be adhered to in accordance with the provisions of the VAT law and its implementing regulations.

Simplified VAT invoices. A simplified VAT invoice is required to be issued by a taxable person for taxable supplies of goods or services made to anyone other than another taxable person, a nontaxable legal person, an institution or to any other entity established in Saudi Arabia in accordance with the applicable regulations. Further, a simplified VAT invoice may be issued for a supply of goods or services valued at less than SAR1,000. A simplified VAT invoice may not be issued in respect of an internal supply or an export of goods.

A simplified VAT invoice must include the following details:
- The date the invoice is being issued
- The full name, address and tax identification number of the supplier
- The description of the goods or service supplied
- The total consideration payable for the goods or services
- The VAT payable or a statement that the consideration is inclusive of VAT in respect of the supply of the goods or services

In addition, a summary VAT invoice can be used covering all supplies of goods and services for a given month where this is to one customer. The monthly summary VAT invoice must meet all the requirements of a normal tax invoice. It may include more than one separate supply of goods or services, provided all supplies included on a summary VAT invoice are made by the same supplier and within the same tax period.

From 4 December 2021, taxable persons are required to issue simplified VAT invoices in a structured electronic format through a compliant electronic solution that will include a mandatory QR code. The QR code must indicate at a minimum the seller's name, VAT registration number of the seller, time stamp of the invoice, the VAT amount and the total invoice amount.

Self-billing. Self-billing is allowed in Saudi Arabia. A self-billed VAT invoice may be issued by the customer on behalf of a supplier in respect of a taxable supply made to the customer, subject

to the tax authority's approval, provided that a prior agreement between the supplier and the customer has been made to this effect. Such agreement must confirm a procedure for the acceptance of each invoice by the supplier of the goods or services and include an undertaking by the supplier not to issue VAT invoices in respect of those supplies. The supplier and customer should be registered with the tax authority for VAT purposes. The self-billed tax invoice should state that it was issued by the customer on behalf of the supplier.

Proof of exports. VAT is charged at a zero-rate on supplies of exported goods or intra-GCC supplies of goods. However, to qualify as VAT-free, export and intra-GCC supplies must be supported by evidence that the goods have left Saudi Arabia. Acceptable proof includes the following documentation:

- For exports, export documentation issued by the Customs Department or equivalent Department of another GCC Member State, showing the goods being formally cleared for export on behalf of the supplier or customer of that supply, commercial documentation identifying the customer and the place of delivery of the goods, transportation documentation evidencing the delivery to or receipt of goods outside of the GCC territory
- For intra-GCC supplies, commercial documentation identifying the customer and the place of delivery of the goods, transportation documentation evidencing the delivery or receipt of goods in the GCC Member State of destination and a customs declaration if applicable

Foreign currency invoices. Invoices can be issued in foreign currency. However, the VAT amount should be reflected on the invoice in the domestic currency, which is the Saudi riyal (SAR).

Supplies to nontaxable persons. In the tax authority's invoicing guideline, it allows for the issuance of a simplified tax invoice for supplies made to any person who is a nontaxable natural person (individual). The tax authority accepts that suppliers of consumer goods and services may presume that transactions with individuals in a retail environment are made to a nontaxable natural person, unless the supplier has reason to believe its customer is a taxable person or a legal person.

Records. In Saudi Arabia, examples of what records must be held for VAT purposes include the following:

- All tax invoices issued and received
- Books and accounting documents
- Contracts or agreements for large sales and purchases or relevant correspondence detailing the particulars of those supplies
- Bank statements and other financial records
- Import, export and shipment documents
- Other records relating to the calculation of VAT and preparation of VAT returns

In Saudi Arabia, VAT books and records must be held within the country. For further details see subsection *Electronic archiving* below.

Record retention period. The invoices, books, records and accounting documents required to be maintained by a taxable person, shall be kept for a minimum of six years from the end of the tax period to which they relate, in case of audit.

Records with respect to capital assets must be kept for a minimum of the adjustment period for these capital assets – six years for tangible and intangible assets and 10 years for immovable assets like real estate – plus an additional five years from the date of purchase. In total that is 11 to 15 years.

Electronic archiving. Electronic archiving is allowed in Saudi Arabia. Taxable persons are required to maintain their VAT records inside Saudi Arabia. Records must either be physical documents inside Saudi Arabia or stored electronically, where the physical server is also inside

Saudi Arabia. This also applies to nonresident taxable persons in whose case their designated tax representative is responsible for records maintenance according to these principles. Multinational companies that centralize their record keeping outside Saudi Arabia, must have a terminal inside Saudi Arabia where their Saudi Arabian-related VAT records are accessible.

Other relevant requirements for keeping records electronically for VAT purposes include:
- Original supporting documents for all entries in accounting books shall be kept locally
- The taxable person shall document computer data entry and processing system of accounting entries for reference, if necessary
- The taxable person shall have necessary security measures and adequate controls that can be reviewed and examined to prevent tampering

The tax authority may review the systems and programs applied by the taxable person to prepare its computerized accounts.

I. Returns and payment

Periodic returns. The VAT return of a taxable person must be filed by the taxable person, or a person authorized to act on its behalf for each tax period with the tax authority, no later than the last day of the month following the end of the tax period to which the VAT return relates. This deadline applies whether such date is a working day or a nonworking day. A VAT return filed validly on behalf of a taxable person shall be considered that taxable person's self-assessment of VAT due for that tax period.

For taxable persons whose annual value of taxable supplies exceeds SAR40 million during the previous 12 months or is expected to exceed in the following 12 months, the tax period shall be monthly. For all other taxable persons, the standard tax period shall be three months. If a taxable person's annual value of taxable supplies does not exceed this value, they may submit an application to use a monthly tax period.

A taxable person who has used the monthly tax period for two years may submit an application to use a tax period of 3 months, provided that taxable person's value of annual taxable supplies during the last 12 months does not exceed the SAR40 million value.

The tax authority may with a reasoned decision, obligate a taxable person to change their tax period.

Periodic payments. Payment of VAT due by a taxable person in respect of a tax period must be made at the latest by the last day of the month following the end of that tax period. The person making the payment must provide details of the tax identification number of the taxable person and the tax period or tax periods to which the period relates.

Businesses must pay the tax authority the VAT they owe via a bank transfer to the tax authority's designated account using the SADAD payment system.

The net VAT payable by a taxable person in respect of a tax period is calculated by deducting the total input tax (including input tax on imports) allowed to the taxable person during the tax period from the total amount of output tax payable in respect of all taxable supplies made by the taxable person in Saudi Arabia during the tax period. This calculation method is known as the invoice accounting basis.

When the tax authority receives a payment from a taxable person, it will first be applied to the balance of the tax period to which the payment refers. Any excess balance will be applied to penalties, fines or charges owing from any previous tax period, and the remainder will then be applied to outstanding balances for other tax periods, starting from the oldest period with a balance payable.

The tax authority may offset any VAT credit balance against any other taxes due by the taxable person. The tax authority shall notify the taxable person where an offset of a credit balance is carried out.

If a VAT return is in a refund position, the balance can be carried forward and set off against a future payment or a refund can be requested. For VAT returns in a net refund, this option is to be selected at the time of submitting the VAT return.

Where any relevant VAT amount is expressed in a currency other than SAR, the amount must be converted to SAR using the daily rate prescribed by the Saudi Arabian Monetary Authority on the date that the relevant VAT amount becomes due.

Electronic filing. Electronic filing is mandatory in Saudi Arabia for all taxable persons. Taxable persons have to login to the ZATCA portal (https://zatca.gov.sa/en) and submit the VAT return electronically. Supporting documents can be uploaded and amendments can be filed through the portal. The option for paper filing is not available in Saudi Arabia.

Payments on account. Payments on account are not required in Saudi Arabia.

Special schemes. *Secondhand goods.* A taxable person may apply to account for VAT payable on a supply of eligible used goods, using the profit margin method. The taxable person may not use this method until it has received notification from ZATCA that it is approved. A supply of eligible used goods must meet all of the following criteria:

- The supply is that of used goods situated in Saudi Arabia, and the goods are of a type that ZATCA has specified are eligible for VAT to be calculated using the profit margin method.
- The goods were purchases by the taxable person in a supply made to the taxable person in Saudi Arabia by a nontaxable person, by a taxable person outside of their economic activity, or by a supplier applying the profit margin method in all cases where such a taxable person did not deduct any input tax on their purchase of the goods.
- The taxable person meets the criteria in respect of the purchase and supply of such eligible used goods.

A supply of goods that are situated outside of Saudi Arabia, or that move to or from Saudi Arabia as part of the supply to, or supply by, the taxable person is not a supply of eligible used goods.

VAT invoices issued for supplies of eligible used goods by a taxable person must clearly refer to the taxable person's use of the profit margin method and must not show any amount of VAT charged in respect of any supply.

In cases where a taxable person purchases the eligible used goods from a nontaxable person, the taxable person must issue an invoice in respect of the purchase to that nontaxable person. This invoice must include:

- The name, address and tax identification number of the taxable person
- The name and address of the nontaxable person
- The date of the purchase
- Details of the goods purchases, including any relevant registration number or other details that ZATCA may specify
- The consideration payable in respect of the purchase of the goods

The profit on a supply of eligible used goods is calculated as the consideration for the supply of the eligible used goods by the taxable person, less the consideration payable in respect of the purchase of the eligible used goods. The profit does not include any expenses or other amounts incurred by the taxable person in respect of the supply. In cases where the profit calculated of any supply is zero, or results in a negative amount, the value of that supply by the taxable person is zero.

A taxable person must not deduct input tax in respect of any amount of VAT charged to it or included in the consideration for the purchase of eligible used goods.

On 19 May 2023, the tax authority announced the effective date for using the profit margin method in relation to the supply of eligible used goods (used cars) to be from 1 July 2023 onward. In this regard, the tax authority outlined the following:

- Conditions for applying the profit margin method:
  - The car must be classified as a "qualifying used vehicle" by the authority
  - The used car must be registered in Saudi Arabia
  - The person must be licensed to undertake the activity of car trading
  - The person obtains the approval of the tax authority to use a profit margin method on used cars
  - The taxable person has not incurred input tax according to the usual method in respect of the consideration paid when purchasing an eligible used car
  - The taxable person must not have deducted any input tax imposed or included in the consideration paid when purchasing an eligible used car
  - Fulfilling the requirements of the tax invoice and keeping records in accordance with the provisions of Article 48 and Article 53 of the Regulations Implementation of the VAT system
- Conditions to classify a car as "qualifying used vehicle":
  - The car is registered in Saudi Arabia
  - The used car has been driven on the road for personal or business purposes
  - The used car must be suitable for reuse as is or after introducing some improvements, provided that such improvements do not change the basic characters of the vehicle
- List of goods excluded from the application of the profit margin method:
  - New cars
  - Cars imported into Saudi Arabia, even if they are used outside Saudi Arabia
  - Any car that is purchased and VAT is calculated separately on the invoice according to the usual way
  - Vehicles not classified as eligible used cars by the tax authority
- Additional details to be included in invoices for supplies of eligible used goods:
  - The title of the invoice should refer to profit margin (whether the invoice is standard or simplified)
  - The chassis number of the car should be included
  - Indicate that the consideration is inclusive of VAT and imposed on the profit margin

Cash accounting. As an exception to the requirement to use the invoice accounting basis, a taxable person may apply to calculate net VAT due for a tax period on a cash accounting basis provided that the annual value of taxable supplies in the past calendar year does not exceed SAR5 million, and the anticipated value of taxable supplies in the current calendar year is not expected to exceed SAR5 million.

However, a taxable person who has received notification of a VAT violation in the last 12 months is not eligible to use the cash accounting basis.

A taxable person using the cash accounting basis shall only include output tax and input tax in their VAT return in respect of supplies of goods and services for which and to the extent that payment has been made.

Annual returns. Annual returns are not required in Saudi Arabia.

Supplementary filings. No supplementary filings are required in Saudi Arabia.

Correcting errors in previous returns. In cases where the taxable person becomes aware of an error or incorrect amount in a filed tax return or becomes aware of such facts that should have led it to be aware of such error or incorrect amount, which has resulted to the amount of tax payable

to the tax authority being understated, that person must notify the tax authority within 20 days of becoming aware of the error or incorrect amount by filing a submission to correct the relevant tax return. If the understatement of the net tax is less than SAR15,000, the taxable person may correct that error by adjusting the net tax in its next tax return.

In cases where the taxable person becomes aware of an error or an incorrect amount in a filed tax return that has resulted in the amount of tax payable to the tax authority being overstated, the taxable person may correct that error at any time by adjusting the tax in any tax return in a later date of discovering the error. Further, no correction to any tax return relating to an overstatement of tax in respect of a tax period may be made after a period of five years has passed from the end of the calendar year in which the tax period takes place.

Corrections of tax returns are made online through the ZATCA portal (https://zatca.gov.sa/en).

Digital tax administration. There are no transactional reporting requirements in Saudi Arabia.

J. Penalties

Penalties for late registration. Any taxable person who has not applied for VAT registration within the set time frame, shall be fined SAR10,000.

Penalties for late payment and filings. If a taxable person recognizes an error in a VAT return that it has already submitted, it has 20 days to notify the tax authority of the error by submitting a correction form. If the error results in a discrepancy of VAT owed under SAR15,000, the correction can be made by adjusting the net VAT in the business's next VAT return. Any taxable person who carries out the following:

- Files an incorrect VAT return to the Saudi Arabia tax authority
  Or
- Amends a VAT returns after filing or files any document with the tax authority due by them that results in an error in the calculation of the VAT amount resulting in an amount that is less than the VAT due

Shall be liable to a fine equal to 50% of the value of the difference between the calculated VAT and the VAT due; the tax authority has the power to remove or reduce the penalty set out above

Any taxable person that fails to submit a VAT return within the set time frame, shall be liable to a fine of not less than 5% and not more than 25% of the value of the VAT that they would have had to declare.

Any taxable person who fails to pay the VAT due during the set time frame shall be liable to a fine equal to 5% of the value of the unpaid VAT for each month or part thereof for which the VAT has not been paid.

An assessment issued by the tax authority in cases where a taxable person has failed to file a VAT return can be withdrawn after the filing of a completed VAT return for that tax period by the taxable person or a person authorized to act on its behalf.

The Saudi Arabia tax authority may make a VAT assessment of a taxable person irrespective of a VAT return filed by the taxable person. The tax authority may make a new VAT assessment to amend a previous assessment made by it. The tax authority must notify the taxable person of a VAT assessment.

The tax authority may not issue or amend an assessment in respect of any tax period after a period of five years has passed from the end of the calendar year in which the tax period falls.

In cases where any transaction is being carried out with the intention of breaching the provisions of the VAT law and regulations, or in cases where a person is required to register but fails to do

so, the tax authority may issue or amend assessments up to a period of 20 years from the end of the calendar year in which the tax period falls.

Penalties for errors. In cases where a taxable person becomes aware of an error or an incorrect amount in a filed VAT return or becomes aware of such facts that should have led it to be aware of such an error or incorrect amount, which has resulted in the amount of VAT payable to the tax authority being understated, that person must notify the tax authority within 20 days of becoming aware of the error or incorrect amount by filing a submission to correct the VAT return.

In cases where a taxable person becomes aware of an error or an incorrect amount in a filed VAT return that has resulted in the amount of VAT payable to the tax authority being overstated, the taxable person may correct that error at any time by adjusting the VAT in any tax return in a later date of discovering the error.

Subject to the above, if the understatement of net VAT by the taxable person is less than SAR5,000, the taxable person may correct that error by adjusting the net VAT in its next VAT return.

No correction to any VAT return relating to an overstatement of VAT in respect of a tax period may be made after a period of five years has passed from the end of the calendar year in which the tax period takes place.

A non-registered taxable person shall be liable to a fine not exceeding SAR100,000 for issuing a VAT invoice without prejudice to any stricter penalty set out by any other law.

A fine not exceeding SAR50,000 shall be imposed on any taxable person that:
- Has not kept VAT invoices, books, records and accounting documents for the set time frame, and the fine shall be per tax period
- Prevents or obstructs the employees of the Saudi Arabia tax authority or anyone working for the tax authority from performing their duties
- Violates any other provision of the law or implementing regulations

If the same violation is repeated within three years from the date of issuing the final decision of a previous penalty, the fine, pursuant to that decision imposed on the violator, may be doubled.

The decision issued by the Saudi Arabia tax authority to impose a penalty, may include the publication of its content at the cost of the violator, in a local newspaper issued in the place of the taxable person's residence. If there is no newspaper in their place of residence, it shall be published in a local newspaper in the nearest area to them or by any other appropriate means, depending on the type of violation, its gravity and its effects, after the decision is deemed final.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax evasion shall be punishable by a fine of not less than the amount of VAT due and not more than three times the value of the goods or services that are the subject of the evasion. For example, this could be where a taxable person submits false documents to evade the payment of the VAT due or to reduce its value, or where a taxable person moves goods in or out of Saudi Arabia without paying the VAT due.

Where a supplier charges and collects VAT from customers, without the supplier being VAT registered, they shall be fined up to SAR100,000.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Saudi Arabia. While there are no provisions in the VAT legislation to assign a personal penalty or fine on the directors of the taxable

person, in practice, company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Saudi Arabia.

Statute of limitations. The statute of limitations in Saudi Araba is five years. Generally, the ZATCA may not issue or amend an assessment in respect of any tax period after a period of five years from the end of the calendar year in which the tax period falls. However, in case a taxable person has an intent to breach the VAT provisions, the ZATCA may issue or amend assessments up to a period of 20 years from the end of the calendar year in which the tax period falls.

Tax amnesty. In March 2020, the ZATCA introduced economic relief initiatives to alleviate the economic impact of COVID-19 for businesses in the country. The initiatives included a tax amnesty program to provide relief to taxpayers from fines relating to tax returns, subject to certain conditions. The relief initially covered the period from 18 March to 30 June 2020 and was extended twice until 30 September 2020 and until 30 June 2021.

On 1 June 2022, the ZATCA announced the relaunch of the tax amnesty program, which was extended from 1 December 2022 for an additional six months until 31 May 2023. The ZATCA also issued an updated version of simplified guidelines, explaining the benefit of the extended tax amnesty initiative. The amnesty initiative applies to fines and penalties relating to the following taxes:
- VAT
- Withholding tax
- Excise tax
- Corporate income tax
- Real estate transaction tax

The amnesty provides exemption from unpaid fines, including:
- Fines resulting from late registration in all tax systems or tax laws
- Payment delay fines and delay in filing a tax return in all tax systems
- Fines resulting from correcting a tax return
- Fines resulting from field detection of violations of tax and e-invoicing

The amnesty initiative excludes the following fines:
- Fines paid before the effective date of the initiative
- Fines resulting from tax evasion violations
- Fines for late payment associated with the tax principal, included in an installment plan, which becomes payable after the expiration of the amnesty period on 31 May 2023

On 25 July 2023, the tax authority announced through its website that it is further extending the cancellation of fines and exemption of financial penalties for certain taxes, starting from 1 June 2023 through 31 December 2023. The tax authority has also published an updated English version of the simplified guide "Cancellation of Fines and Exemption of Financial Penalties," which provides further elaboration on the tax amnesty program, including the exemptions available to taxable persons.

The new and extended amnesty program covers the following:
- Exemption from unpaid fines for VAT returns filed up to the tax period of April 2023, including:
- Fines resulting from late registration under all tax laws and regulations
- Delayed payment fines and overdue tax return submission fines under all tax laws and regulations
- VAT return correction penalty
- Fines for violations of VAT field detection and e-invoicing, based on Article 45 of the VAT law

- Exemption from late-payment fines in the instalment plan approved by the ZATCA on payments due after the end of the period of the initiative
- Exclusions for fines paid before 1 June 2022, as well as for fines resulting from tax evasion violations, including late registration, delayed payment, return amendments and field detection

The exemption shall be subject to specific conditions, including:

- Registration of non-registered persons in the tax system, where registration is mandated
- Submission to the ZATCA of all pending tax returns not previously submitted or correctly reported, and payment of the resulting tax debt principal; alternatively, applying for installments after submitting the returns

Senegal

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	23 June 1979
Trading bloc membership	West African Economic and Monetary Union (WAEMU) Economic Community of West African States (ECOWAS)
Administered by	Senegal Tax Authorities/Direction Générale des impôts et domaines (DGID) (https://www.dgid.sn/)
VAT rates	
Standard	18%
Reduced	10%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID number – 9 digits, 1 letter
VAT return periods	Monthly (normal tax regime); Quarterly (simplified tax regime)
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Senegal by a taxable person
- The importation of goods

For VAT purposes, the territory of Senegal includes the land territory, continental shelf, territorial waters and the exclusive economic zone.

Note that agricultural and employment activities (within the meaning of the Labor Code) are outside the scope of VAT in Senegal.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Senegal, no services are subject to the "use and enjoyment" provisions. As per the Senegalese General Tax Code (SGTC), a service is only taxable in Senegal when it is territorially linked in Senegal. A service provision is linked territorially to Senegal when the service is used there or when the person on whose behalf the service is rendered is established there.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as exempt from VAT. In Senegal, a TOGC is treated as exempt from VAT when a TOGC is subject to registration duty. A TOGC is subject to 5% registration duty under the provisions of article 472.11.5 of the Senegal General Tax Code. There are no additional conditions.

Transactions between related parties. In Senegal, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the Senegal tax authorities (*Direction Générale des impôts et domaines [DGID]*) has the power to restore prices charged by related entities using the method of comparison with free market prices or other methods of price determination set by the Organisation for Economic Co-operation and Development (OECD).

C. Who is liable

A taxable person (and, as such, VAT is payable) in Senegal is any person who carries out an economic activity independently and regardless of the location, whatever the purpose or the results obtained.

Persons or bodies governed by public law are also subject to VAT, where they carry out industrial and commercial activities and where they are these are carried out by means and methods comparable to those used by individuals or legal entities governed by private law.

Exemption from registration. The VAT law in Senegal does not contain any provision for exemption from registration. This covers all taxable persons, even those carrying out transactions exempt from VAT. This is because there is no tax registration for a specific tax in Senegal. Instead, there is a single register which allows a taxable person to pay all the taxes to which it is liable. As such, VAT registration is covered by the general tax registration, and is mandatory for all taxable persons to register. However, for taxable persons carrying out transactions that are outside the scope of VAT, there is no provision in the SGTC requiring them to register for VAT, and so are exempt from registration.

Voluntary registration and small businesses. The VAT law in Senegal does not contain any provision for voluntary registration for legal entities. However, individuals can choose between the actual or flat tax regime (*Contribution Globale Unique [CGU]*) depending on their turnover and the nature of the activity carried out. Taxable persons whose turnover does not exceed XOF50 million may opt for the CGU regime. Under this regime, they cannot charge VAT. However, the option must be notified to the DGID no later than 31 January of the fiscal year. The option is total and irrevocable. It takes effect from 1 January of the fiscal year.

Group registration. Group VAT registration is not allowed in Senegal.

Fixed establishment. In Senegal there is no legal definition of a fixed establishment for VAT purposes. However, the permanent establishment (PE) rules for direct taxes also apply to VAT. There is no legal definition of a PE in the SGTC. Therefore, the criteria used by the tax authorities to qualify as a PE are those defined by the OECD. Therefore, there is a PE in Senegal if it meets the following conditions:

- When there exists a fixed business installation through which a company carries out all or part of its activity
- The term PE includes in particular:
  - Place of management
  - Branch
  - Office
  - Factory
  - Workshop
  - Mine, oil or gas well, quarry or other place of extraction of natural resources
  - Extraction of natural resources
- A construction or assembly site lasting more than 12 months

However, where a double tax treaty (DTT) exists between Senegal and the country of residence, the determination of PE will depend on the criteria and conditions set out in the DTT.

Non-established businesses. A "non-established business" is an enterprise which does not have a permanent professional establishment (i.e., a PE, see the *Fixed establishment* subsection above) in Senegal through which it provides services or supplies goods. Such an establishment cannot be registered for VAT in Senegal.

However, when a non-established business conducts taxable operations in Senegal, these operations are treated as taxable. For transactions taxable under VAT in Senegal, a non-established business must appoint a tax representative to carry out the formalities of declaration and payment of resident entity or the tax is paid by the purchaser or beneficiary of the service. See the subsections *Tax representatives* and *Reverse charge* below.

Tax representatives. As mentioned above, non-established businesses are required to nominate a tax representative for VAT purposes in Senegal. The tax representative must be accredited by the territorially competent tax department and a taxable person identified for VAT in Senegal.

In case of default (nonpayment of VAT due within the legal deadline), the designated representative is responsible for the payment of the VAT due.

If a tax representative is not appointed, VAT and penalties are payable by the beneficiary of the taxable transaction, i.e., the customer (also called "reverse VAT" *[TVA pour compte]*).

Reverse charge. The reverse-charge mechanism applies when a Senegalese taxable person receives a service from a non-established business that does not have an accredited tax representative in Senegal (i.e., a business-to-business [B2B] supply).

Domestic reverse charge. There are no domestic reverse charges in Senegal.

Digital economy. Nonresident providers of electronically supplied services for B2B and business-to-consumer (B2C) supplies would be required to register and account for VAT in Senegal.

Under Article 35 of Finance Act for FY2024, nonresident providers of electronically supplied services for B2B supplies are now required to register and account for VAT on supplies in Senegal while the customer is still required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above). Note that local businesses must collect VAT and pay it on behalf of the foreign supplier (i.e., via the reverse- charge mechanism) only when the beneficiary of the service is an individual that is not subject to VAT. Clarifications must be made by order of the Minister of Finance.

Any taxable person who supplies goods or services digitally (i.e., via the internet) to another taxable person (i.e., B2B) or ordinary consumer (i.e., B2C) can issue a standardized electronic invoice.

There are no other specific e-commerce rules for imported goods in Senegal.

Online marketplaces and platforms. Article 35 of the Finance Act for FY2024 outlines provisions for the taxation of digital services. When the place of taxation of a digital service provided by a foreign natural or legal person is located in Senegal, VAT is collected and paid on behalf of the supplier by the intermediary who carried out the transaction. Nonresident providers who have their own technology and performing digital services are also subject to the obligation to collect and reverse the VAT relating to these operations via such intermediaries. VAT shall apply to the price of the digital services and, where applicable, to the commissions received by the intermediaries.

Digital services are defined as the supply of intangible goods or services carried out in an automated manner on a computer and/or electronic network. Intermediaries are those involved in online sales digital platforms, marketplaces or online marketplaces that bring together suppliers and marketplaces which bring together suppliers and their customers to enable them to conclude transactions using information technology.

The provisions of this article apply where the customer is an individual not subject to VAT in Senegal or to those that are a registered entity, i.e., for B2C and B2B supplies.

Registration procedures. All Senegalese companies or foreign entities that have a PE in Senegal must be registered for VAT (and effectively all taxes) before commencing taxable activities in Senegal, or at the latest within 20 days of opening the establishment or commencing their activities.

The application for registration must be made physically to the head of the relevant tax department (the one in the place where the business is located).

The documents and information below must be attached/mentioned to the application letter:
- National identity card for partners of Senegalese nationality
- National identity card or passport for partners of foreign nationality
- Certificate of Registration in the Companies Register (*registre du commerce et du crédit mobilier [RCCM]*)
- Company name
- Bank details
- Title deed or duly registered lease contract
- Legal form and statutes
- Tax stamp of XOF2,000

It takes no more than one month to receive the tax ID number from the tax authorities.

Deregistration. The only tax deregistration procedure in Senegal is the declaration of cessation of activities that the taxable person must file to the tax authorities.

Changes to VAT registration details. Any substantial change affecting the operations of a taxable person (i.e., change of name of the business, change of activity and/or place of business, cessation of business, change of manager, direct or indirect transfer of shares or change of capital structure or shareholding) must be notified to the DGID. Notifications must be made within 20 days of the change. The notification of the change is carried out by a simple letter indicating the nature of the change to be filed to the tax authorities by the taxable person (with the official documents justifying the change).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 18%
- Reduced rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Direct exports of goods and similar transactions and services directly related to these transactions
- Imports of goods placed under a suspensive customs procedure and the provision of services relating to goods placed under the customs transit procedure
- Imports, deliveries and services carried out for the benefit of holders of an authorization for exploration for hydrocarbons or a permit for the search for mineral or petroleum substances and their subcontractors recognized as such, throughout the term of the permit or authorization and their renewals and during the development phase
- Financial transactions and insurance and reinsurance services, which are subject to specific taxation
- Imports and resales in the same condition of goods delivered to the State, municipalities and public establishments in so far as such products are exempt from import duties
- Services provided for the direct needs of vessels destined for an industrial or commercial activity on the high seas

Examples of goods and services taxable at 10%

- Services provided by approved tourist accommodation establishments such as hotels, motels, holiday villages, hostels, village camps, hotel residences and furnished flats

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Medicines and pharmaceutical products, as well as deliveries of equipment and specialized products for medical activities
- Unprocessed foodstuffs of primary necessity, the list of which is fixed by order of the Minister of Finance
- School or university education provided by public or private establishments, or by a similar entity
- Rental of bare buildings for residential use
- Seeds, fertilizers, plant protection products, poultry and livestock feed, pure-bred breeding stock, hatching eggs, day-old chicks directly involved in a plant or animal production cycle

Option to tax for exempt supplies. The option to tax for VAT can be made for the following supplies:
- Sales by farmers of their produce (i.e., products they have grown or raised in the course of their farmer operations)
- Public passenger transport operations carried out by transporters holding regulatory authorizations and using fixed prices set by the authorities

The option to tax for VAT is global. It applies to all transactions carried out by the taxable person. It may be exercised at any time by letter addressed to the head of the competent tax service. It is only applicable to supplies made from the date of receipt of the option letter. The option is irrevocable.

E. Time of supply

In Senegal, the time when VAT becomes due is called the "chargeable event" (i.e., time of supply), while the date on which the payment of VAT becomes compulsory for the supplier and deductible for the taxable person is called the "payability." The chargeable event for VAT is constituted by:

- Supply of the goods or work for sales, real estate and contract work
- First use in the case of self-supply of goods or real estate
- Performance of the services rendered for the supply of services
- Release for consumption in the customs sense for imports
- Collection of the price or rent for:
  Leasing or Islamic finance transactions
  – Transactions paid out of State or local authority funds or subject to the withholding tax sytem
  – Transactions carried out by members of approved management centers subject to the simplified actual system. They must regularize all their taxable transactions carried out during the year by the end of the third month following the end of the financial year

However, if an invoice is sent before the goods or services are supplied, the chargeable event is deemed to occur at the time the invoice is issued.

In the event of collection of the price or of advances before the goods or services are supplied or before an invoice is issued, the chargeable event is deemed to occur at the time of collection of the amount collected.

The payability for supplies of goods and services is the month following the chargeable event and no later than the 15th of that month.

Deposits and prepayments. The time of supply rule for deposits and prepayments varies for the supply of goods or services. For supplies of goods or merchandise, the time of supply of deposits and prepayments is when the goods are delivered or when the price or part of the price is paid to the supplier. For services, the time of supply is when the service is performed or when the price or part of the price is paid to the service provider.

Continuous supplies of services. For periodic payments or continuous payments for continuous supplies of services or goods, the chargeable event for VAT occurs each time an invoice is paid or issued.

Goods sent on approval for sale or return. There are no special time of supply rules in Senegal for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). However, VAT is due by the following:

- When supplies are made for sales of goods
- When services are rendered for supplies
- When an invoice is sent for both cases

If the goods are returned to the seller, the seller may issue a corrected invoice, or a credit note with reference to the original invoice. If the goods are not sold but not returned, VAT does not apply in the case of gifts of low value or samples for business purposes. A low-value gift is a gift with a unit value of XOF20,000 or less excluding tax.

Reverse-charge services. The time supply rule for the supply of reverse-charge services provided by non-established business is the performance of the service or the payment of an invoice by the recipient of the service.

Leased assets. Leasing tangible or intangible assets is a continuous supply and the chargeable event occurs each time an invoice is issued, or rent is paid. Furthermore, the treatment does not vary according to the type of lease and there is no transfer of ownership of the underlying assets leased.

Imported goods. The time of supply rule for the import of goods is the moment when the goods are put into consumption from a customs perspective. That is, the moment when the goods cross the customs border.

F. Recovery of VAT by taxable persons

A taxable person may recover the VAT incurred (i.e., the input tax) on the acquisition of goods and services for the following:
- Normal and necessary operating requirements
- A taxable transaction that is effectively taxed or exempted in respect of exports or similar transactions, the supply of goods and services under the free trade regime and the international transport of goods to a foreign country

The taxable person recovers the input tax on purchases or imports by deducting it from the tax collected on the supplies of goods or services (i.e., the output tax).

The input tax is only deductible by the customer if it is payable by the supplier, service provider or customer who has paid the VAT on its behalf.

To deduct input tax, the taxable person must ensure that the VAT meets the following conditions:
- Appears on the purchase invoices issued by suppliers or service providers, provided that these invoices are correctly worded, contain all the compulsory information outlined in the SGTC and are issued by taxable persons subject to the real tax regime.
- Has been paid on importation by the taxable person or on its behalf and that it holds the customs documents which designate it as the actual recipient of the goods.

Taxable persons shall also be required to meet the following conditions:
- Indicate, for each supplier, at the time of deduction on the back of the VAT return or on an accompanying document:
  - Supplier's tax identification number (*Numéro d'Identification National des Entreprises et des Associations [NINEA]*) or the number and date of the declaration for release for consumption
  - Name and address of the supplier
  - Nature of the good or service purchased
  - Purchase price
  - VAT invoiced or paid at customs
  - Deductible tax borne
- Justify the effectiveness of the transaction and its use for the purposes of their taxable or deductible operations

In addition to the above, taxable persons are entitled to deduct all, or part of the deductible input tax incurred, depending the circumstances, which appears correctly on an amending invoice issued to them by their suppliers as a result of an error or an adjustment. However, these invoices must correctly show the amended tax with an indication, if applicable, of the tax initially invoiced or the references of the initial invoice.

The time limit for a taxable person to recover input tax in Senegal is two years. The time limit starts from the acquisition of the goods or services.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (e.g., goods acquired for private use or services used for making exempt supplies). In addition, certain transactions subject to VAT are expressly excluded from the right of deduction *(see list below)*.

Examples of items for which input tax is nondeductible

- Costs of accommodation, catering, receptions, shows and the hire of tourist vehicles and passenger transport (with the exception of costs incurred by professionals in the tourism, catering and show business sectors and car dealerships as a result of their taxable activity)
- Costs of advertising goods and services for which advertising is prohibited
- Goods and services acquired by companies, but used by third parties, managers or employees of these companies
- VAT charged on services provided by a foreign supplier that are not considered a transfer of know-how (except for some that were subject to withholding tax)
- Services relating to goods excluded from the right to deduction
- Purchase or hire of vehicles or machines, whatever their nature, designed to transport people or for mixed use, when they are not intended to be resold as new or hired by a professional hire

Examples of items for which input tax is deductible (if related to taxable business use)

- Any input tax incurred by a taxable person on a transaction that meets the definition of a taxable transaction and is actually taxed may be deducted unless it is specifically stated that it is a transaction in respect of which VAT cannot be deducted by law (i.e., the SGTC)

Partial exemption. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." The SGTC provides one method to recover VAT where a taxable person makes both exempt and taxable supplies. According to this method, VAT is only deductible under a percentage.

The deductible proportion applied results from the ratio of between:

- The total amount, determined per calendar year, of turnover excluding VAT relating to taxable transactions and exempt transactions giving rise to the right of deduction
- The total amount, determined per calendar year, of all turnover excluding VAT earned by the business

The deductible proportion must be adjusted at the end of each calendar year when the initial deduction made is higher or lower than the one the taxable person was entitled to make.

Approval of the tax authorities is not required to use the standard partial exemption method in Senegal. Special methods are not allowed in Senegal.

Capital goods. In Senegal there are no special input tax recovery rules for capital goods. The normal rules outlined above apply.

Refunds. If the amount of deductible input tax incurred during a quarterly period exceeds the amount of output tax collected during that period, the taxable person has a VAT credit which it can claim back from the DGID.

However, the following taxable persons may submit their claim for refund in the month following the month in which the unused VAT credit was established:

- Export businesses (defined as those businesses which achieve at least 80% of their turnover from exports)
- Businesses carrying out contracts or similar agreements with the State, public institutions and national companies financed by external aid or loans

All claims for refunds must be accompanied by the supporting documents that led to the VAT credit (e.g., supplier invoices, copies of contracts, details of taxable and exempt turnover, declarations of the release for consumption of imported products or goods, VAT payment receipts, copies of export invoices, proof of payment for exported operations). In addition, all claims for VAT credit refunds can be made either physically or electronically in accordance with the procedures set out by the decision of the Director-General of Taxes and Customs. *At the time of preparing this chapter, this decision has not been published.*

It should be noted that any credit not claimed within a period of two years will be automatically canceled and may not be charged or refunded.

Pre-registration costs. Input tax incurred on pre-registration costs in Senegal is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Senegal. For this purpose, the taxable person must declare the tax in advance and attach the following:
- Copy of its debt certificates
- Proof of actual payment of the related VAT
- Proof that all legal means have been exhausted against the recalcitrant debtor

There are no specific procedures for claiming bad debt relief, except when the parties involve initiate legal proceedings. In this case, the rules of the Uniform Act on Simplified Procedures for Debt Claim and Execution will be applied.

Except for banks where it is considered that there is a bad debt when the arrears of the debtor on an important credit due to the banking group exceeds 90 days (i.e., three months), there is no specific deadline for the other taxable persons. Thus, for the latter, the deadline for characterizing a bad debt will depend on the commercial relationship between the parties.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Senegal.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Senegal is not recoverable.

H. Invoicing

VAT invoices. Taxable persons must generally provide a standardized invoice for all taxable supplies made. The invoice shall be issued at the latest upon delivery of the goods or provision of the services. Any document which modifies the initial invoice must clearly show the references of the initial invoice with any modification of the VAT charged.

Credit notes. In the case of canceled, terminated or unpaid supplies, the change in VAT shown on the document requires a rectifying invoice referencing the original invoice. Transactions relating to canceled or unpaid supplies are canceled at the supplier's premises where the amount of these transactions has been charged to turnover. Where the canceled, terminated, or unpaid transactions have entitled the taxable person to a refund, it must send its customer a duplicate of the original invoice stating that the transaction has been canceled or terminated or that the invoice has remained unpaid and mentioning the amount of VAT which cannot be deducted for the customer. The customer must make the corresponding deductions on its next VAT return

Electronic invoicing. Electronic invoicing is allowed in Senegal, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Senegal. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Senegal. The requirements related to electronic invoicing are the same as those for paper invoicing.

Specifically taxable persons who supply goods or services digitally (i.e., via the internet) to another taxable person (i.e., B2B) or to an ordinary consumer (i.e., B2C) can issue a standardized electronic invoice. For further details, see the subsection *Digital economy* above.

Electronic documents are accepted for invoicing purposes in the same way as paper documents, provided that the authenticity of the origin of the data they contain, and the integrity of their content are guaranteed. However, in practice, the electronic invoicing provision does not provide clear information on the formal and substantive requirements for electronic invoices. Nevertheless, the electronic invoice must, for VAT compliance, comply with the conditions laid down by the SGTC.

Simplified VAT invoices. Certain taxable persons may issue other types of documents other than a full VAT invoice (i.e., nonstandard invoices). These include entry tickets, transport and toll tickets, documents issued by electronic vending machines or electronic systems.

Self-billing. Self-billing is not allowed in Senegal.

Proof of exports. The requirements for invoicing exports are that the invoice must state the following:
- Country of destination
- Names and addresses of the consignees
- Amount of the invoice

It should be noted that exports, being zero-rated, will not be subject to VAT on the invoice. The proof of exports to evidence the zero-rating is provided by the production of export documents duly approved by the customs services. These include, for example, export declarations, air waybills, bills of lading and international transport documents.

Foreign currency invoices. Invoices can be issued in a foreign currency. If done so, the countervalue in the domestic currency, which is the West African CFA franc (XOF), should also be indicated (including the total amount before tax and the collected VAT). It is also recommended that the exchange rate be mentioned in the invoice.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Senegal. As such, full VAT invoices are required.

Records. In Senegal, examples of what records must be held for VAT purposes include accounting books, registers, invoices, VAT returns, proofs of payment, and generally any document used or drawn up for the purpose of VAT reporting in Senegal.

In Senegal, VAT books and records must be held within the country. Such records must be made available upon request of the DGID and provided within a timely manner.

Record retention period. All invoices or equivalent documents must be kept by a taxable person for 10 years.

Electronic archiving. Electronic archiving is allowed in Senegal. Backup copies of invoices or equivalent documents may be archived in all support media (i.e., on paper and electronically). However, when invoices and supporting documents are electronically recorded, the taxable person must guarantee immediate, complete, and online access to them at the first request for transmission during an on-site control by the tax authorities.

I. Returns and payment

Periodic returns. VAT returns must be submitted monthly for taxable persons under the normal tax regime. The normal tax regime applies to taxable persons whose annual turnover, including all taxes, exceeds XOF100 million.

VAT returns must be submitted quarterly for taxable persons under the simplified tax regime. The simplified tax regime applies to taxable persons with annual turnover, including all taxes, of between XOF50 million and XOF100 million.

The VAT return and payment of VAT must be made by the 15th of the month following the tax period. Furthermore, a nil VAT return must be filed where the taxable person has not carried out any taxable transactions in a given tax period.

Periodic payments. VAT must be paid monthly for taxable persons under the normal tax regime. VAT must be submitted quarterly for taxable persons under the simplified tax regime.

The VAT is due by the same deadline as the filing deadline, which is the 15th of the month following the tax period. For imports, VAT is paid at the time of the chargeable event.

For taxable persons registered with the Direction of Major Companies and the Medium-sized Companies Centre 1, payment of VAT due must be made electronically via the e-TAX platform.

For taxable persons who are registered with other tax offices, payment must be made by cheque deposited at the relevant tax office

Electronic filing. Electronic filing is mandatory in Senegal for all taxable persons. VAT returns and their appendices must be filed electronically on the e-TAX platform for large and medium-sized companies as well as regulated professional companies and in the *Mon Espace Perso* platform for small companies.

Payments on account. Payments on account are not required in Senegal. However, payments on account are allowed for suspended VAT for taxable persons approved under the Investment Code. The law allows the VAT due to be settled by installments over a period not exceeding 12 months. For further details on the suspended VAT regime, see the subsection *Special schemes* below.

Special schemes. *Normal tax regime.* The normal tax regime applies to taxable persons whose annual turnover, including all taxes, exceeds XOF100 million. Under this regime, VAT returns must be submitted monthly.

Simplified tax regime. The simplified tax regime applies to taxable persons with annual turnover, including all taxes, of between XOF50 million and XOF100 million. Under this regime, VAT returns must be submitted quarterly.

Flat tax regime. The flat tax regime (*Contribution Globale Unique [CGU]*) is optional for taxable persons whose turnover does not exceed XOF50 million. Under this regime, such taxable persons cannot charge VAT. However, the option must be notified to the DGID no later than 31 January of the fiscal year. The option is total and irrevocable. It takes effect from 1 January of the fiscal year.

Suspended VAT regime. The suspended VAT regime consists in authorizing certain taxable persons to acquire goods and services without immediate payment of the VAT due. It therefore has the effect of deferring the liability to pay VAT to a later date. It is neither an exemption nor a revenue write-off but only a deferral payment of VAT over time and without interest. This regime is for taxable persons benefiting from an agreement to the Senegalese Investments Code within

the framework of their program of investments and to property promoters engaged in a program of construction of buildings for housing use approved by the Senegalese State. For further details, see the subsection *Payments on account* above.

Withholding tax. The withholding tax scheme is a special system for settling VAT that consists of the customer withholding the amount of VAT invoiced by its supplier. Thus, contrary to ordinary law, in the context of transactions subject to withholding tax, the VAT is withheld by the beneficiary of the supply or service, who is responsible for paying it back in full to the Treasury. The VAT withholding tax scheme applies when the operations are the subject of contracts paid by the following parties:

- The State, local authorities, public establishments, national companies, companies with a majority public shareholding and operators or concessionaires of public services, in particular water, electricity and telephone services
- Building companies affiliated to the DGE
- Producers or importers of cement
- Distributors of petroleum products (for transport in connection with the sale or resale of the abovementioned products)

Secondhand goods. This scheme applies to suppliers who, in the course of their economic activity, purchase secondhand goods for resale. Secondhand goods are considered to be tangible movable goods that can be reused in their original state or after repair, other than precious metals or stones. These traders charge VAT on the margin when they purchase, with a view to resale, goods from the following:

- Nontaxable persons (i.e., B2C)
- Another taxable person insofar as the supply of the goods by this other taxable person has been exempt from VAT
- Another trader in secondhand goods under the margin scheme

The taxable amount is then equal to the difference between the selling price, excluding VAT, charged by the secondhand goods trader and the purchase price of the same goods. Finally, resales that are not subject to the margin scheme are subject to the normal VAT scheme. The secondhand goods trader retains the right to deduct VAT on goods acquired for resale according to the rules of ordinary law.

Annual returns. Annual returns are not required in Senegal.

Supplementary filings. *Transaction statement.* A taxable person is required to attach to the return a detailed statement of the taxable or exempt transactions carried out by it or returned to it, the amount of tax due, the deductions to be made and the adjustments to be made. In the case of exemptions, the taxable person must indicate for each transaction the invoice number, the amount, the exact identity of the customer and the reason for the exemption.

In practice, taxable persons must attach to the VAT return a statement detailing the deductions made. This statement should highlight the supply of goods and services as follows:

- Name and tax identification number of the supplying taxable person
- Amount of deductible tax paid
- Nature of the goods or services supplied

For import transactions, the person liable for payment is obliged to show separately, in the declaration for release for consumption, the customs value of the goods or product concerned, the amount of the customs duty and the product concerned, the amount of import duties and other

taxes and duties taxes and duties assessed by Customs. The declaration for release for consumption must include the tax identification number of the taxable person. Import VAT is assessed by the customs administration, together with customs duties and specific taxes, on the basis of the declaration of release for consumption.

Correcting errors in previous returns. Taxable persons can correct errors in previously submitted VAT returns by filing a corrective or supplementary return, before receiving a notice of adjustment, a notification of reassessment or automatic taxation from the DGID.

A taxable person can correct errors in previous returns by writing to the DGID and providing details of the errors and previous returns. Such disclosures must be made by paper. *At the time of preparing this chapter, the digital platform (e-TAX) does not allow to make an online rectifying return.*

Digital tax administration. There are no transactional reporting requirements in Senegal.

J. Penalties

Penalties for late registration. Failure to register for VAT (and subsequently all other taxes in Senegal) and declare existence within the legal time limit may result in a fixed fine of XOF200,000.

Penalties for late payment and filings. Any taxable person who has not paid its VAT due, duties, fees and levies due within the legal time limits must pay simple late payment interest of 5% calculated on the unpaid balance. Each additional month or portion of month of delay gives rise to the payment of an additional interest of 0.5%.

In addition, the failure to pay back the collected VAT gives rise to the application of legal penalties at the rate of 50% of the tax due. This rate is increased to 100% in the event of a repeat offense.

The failure to file a VAT return on time may be subject to a fixed fine of XOF200,000 without prejudice to interest on late payment at the rate outlined above. Furthermore, when the failure to file a VAT return is detected during an inspection by the tax authorities, it is subject to a legal penalty of 50% of the undeclared amounts as specified in the text.

Penalties for errors. Deficiencies, omissions or inaccuracies affecting the VAT basis, and which have led the DGID to make adjustments, give rise to the application of a simple late payment interest rate of 5%, calculated on the unpaid balance. Each additional month or fraction of a month of delay gives rise to the payment of an additional interest of 0.5%, calculated on the basis of the amount of VAT payable by the taxable person. This is the case when the taxable person proceeds by itself to rectify its errors by means of rectifying declarations which result in supplements.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of XOF200,000, which can be increased to a maximum of XOF1 million. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any fraudulent activity, concealment or bad faith in a declaration or document containing information to be retained for the assessment or settlement of VAT will result in the application of a penalty of 50%, increased to 100% in the event of a repeat offense, of the amount due without prejudice to criminal proceedings.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in Senegal. However, they may be held complicit in errors, omissions and fraud in the returns. In this case, the penalties are a fine of between XOF5 million and XOF25 million and imprisonment for between two and five years.

Statute of limitations. The statute of limitations in Senegal is 4 or 10 years. The DGID have, in principle, four years to investigate and detect errors and impose penalties. However, the right of resumption of the DGID is exercised until the end of the 10th year following the year in respect of which the tax is due only where the taxable person has engaged in an occult activity. This is defined as when the taxable person has not filed the prescribed returns within the legal period, did not declare its activity to the competent tax department or performed an illegal activity.

There is no time limit for taxable persons to voluntarily correct errors in their previous VAT returns. No correction can be made by the taxable person after receipt of a notice of adjustment, a notification of reassessment or automatic taxation.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Porez na dodatu vrednost (PDV)
Date introduced	1 January 2005
Trading bloc membership	Central European Free Trade Agreement (CEFTA)
Administered by	Serbian tax administration (https://www.purs.gov.rs/en.html)
VAT rates	
Standard	20%
Reduced	10%
Other	Zero-rated (0%) and exempt
VAT number format	123456789 (9 digits)
VAT return periods	Monthly or quarterly
Thresholds	
Registration	RSD8 million
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services deemed to take place in the Republic of Serbia (referred to as "Serbia" in this chapter) performed by taxable persons in Serbia against consideration while performing their regular business activity
- Importation of goods into Serbia, regardless of the status of the importer
- Services purchased by taxable person in Serbia from service providers whose place of business is outside Serbia, with Serbia regarded as the place of supply (subject to the reverse-charge mechanism)

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Serbia, the effective use and enjoyment rules apply only to business-to-consumer (B2C) supplies of telecommunication services and of services provided electronically.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Serbia, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The acquirer of assets is a taxable person (i.e., registered for VAT), or would become a taxable person (i.e., registered for VAT) based on such acquisition
- The acquirer would continue to perform the same business activity

Transactions between related parties. In Serbia, for a transaction between related parties, the value for VAT purposes is calculated at the open market value. As of 1 January 2023, for transactions involving related parties (defined by the Corporate Income Tax Law as persons with whom there are family or other personal ties, management, ownership, membership, financial or legal ties, including the relationship between employer and employee and members of the employee's family household) in which the consideration is lower than the market value and the acquirer is not entitled to a full deduction of input tax, the VAT base will be determined at market value.

The concept of market value is also specified to represent the total amount that the customer would pay at the time of supply of such goods or services to an independent supplier in Serbia.

C. Who is liable

Any person (entity or individual) who supplies goods and/or services, and on that account generates revenues in this regard, in the course of the person's independent business activity, is liable for VAT. The obligation to register for VAT purposes and to calculate VAT is triggered when total turnover, except for the supply of exempt services, in the previous 12 months exceeds RSD8 million. A taxable person whose taxable turnover exceeds RSD8 million in the previous 12 months is obliged to submit a registration form for VAT to the tax authorities no later than the end of the first period for submitting a VAT return.

In addition, a taxable person is also considered to be an open investment fund, i.e., an alternative investment fund that does not have the statutes of a legal entity and that is entered in the appropriate register in accordance with the law.

Exemption from registration. The VAT law in Serbia does not contain any provision for exemption from registration. However, there is an exemption for non-established business supplies to taxable persons, as outlined in the *Non-established businesses* subsection below.

Voluntary registration and small businesses. An option is available for small taxable persons and farmers (annual turnover below RSD8 million) to register for VAT by submitting a registration VAT form to the tax authorities, thereby acquiring the rights and obligations to compute and deduct VAT. The minimum obligation to be VAT registered from voluntarily registering to account and pay VAT is for two years.

Group registration. Group VAT registration is not allowed in Serbia.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Serbia, where any organizational unit of a legal entity throughout which it can conduct business.

Non-established businesses. A "non-established business" is a business that does not have a registered establishment in Serbia. A foreign entity that supplies goods or services in Serbia is obliged to appoint a tax representative and register as a taxable person (only one tax representative can be appointed, either an individual or a legal entity). Foreign entities that make taxable supplies of goods and services provided exclusively to Serbian taxable persons, the State, government departments and similar bodies are not obliged to appoint a tax representative and register for VAT purposes, since in such cases the "reverse-charge" mechanism is applied.

A non-established business that does not make any supplies of goods or services in Serbia may claim a VAT refund, under prescribed conditions.

Tax representatives. A tax representative appointed in the Republic of Serbia by a foreign entity that does not have a legal presence in the Republic of Serbia is considered to be a tax debtor for VAT purposes. The tax representative is jointly and severally liable for all liabilities of the foreign entity. In case the foreign entity fails to appoint a tax representative, the recipient of the goods/services will be considered as a tax debtor for VAT purposes. A VAT representative must be resident in Serbia and have been registered for VAT for at least 12 months before applying to be a tax representative. The tax representative should comply with all the foreign entity's VAT obligations, including accounting for VAT liabilities and dealing with VAT recovery on behalf of the foreign entity.

Reverse charge. According to Serbian tax legislation, the reverse-charge mechanism is applied for services supplied by a non-established business to a business that is established and registered for VAT in Serbia, i.e., a business-to-business (B2B) supply, for which the place of supply is Serbia, if the foreign services provider does not appoint a tax representative in Serbia.

Domestic reverse charge. A domestic reverse charge also applies on the sale of secondary raw materials and services that are directly related to these goods provided by another VAT taxable person. Secondary raw materials are defined as the by-product of goods that have undergone a manufacturing process, such as metal, wood, plastic, paper and glass. Services that are directly related to secondary raw materials are sorting, cutting, partitioning, cleaning, polishing and pressing of such materials.

In addition, reverse charge applies in some specific situations of construction services (if the value of the respective services exceeds RSD500,000) and transfer of real estate. Finally, in accordance with the amended VAT law, reverse charge also applies in some specific situations of electric power and natural gas supplied through transport grids and distribution networks, where the buyer has acquired these supplies for further sale.

Digital economy. Specific rules apply to electronically provided services. In general, the place of supply of electronically provided services by an overseas business to both businesses and private individuals in Serbia is deemed to be the place where the recipient of services has its seat or a permanent branch office, i.e., Serbia.

Additionally, guidelines are in place in Serbia, defining the criteria and assumptions for determining the place of establishment, permanent establishment, permanent residence or residence of the recipient of telecommunication services, radio and television broadcasting services and services supplied electronically, applicable as of 1 January 2020.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies would be required to register and account for VAT in Serbia.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Serbia. Instead, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above).

If an overseas business has not appointed a VAT representative, VAT with respect to electronically provided services should be calculated by the service recipient by reverse charge. However, if there is a collection agent in Serbia that charges the individuals (or other nontaxable persons) on behalf of an overseas service provider, such collection agent is obliged to calculate and pay VAT.

Note that if permanent and temporary residence of the provider or recipient of the services are not the same place, the place of supply of the service is determined according to the place of temporary residence.

There are no other specific e-commerce rules for imported goods in Serbia.

Online marketplaces and platforms. Online markets are regulated by Serbian electronic trade law. Freedom to provide cross-border services is prescribed and the conditions under which it can be restricted. Cross-border service provision is the provision of services in Serbia or the EU, where the service provider is not established or is not resident in the territory of the country where the service is provided. In particular, the freedom to provide cross-border services enables domestic providers registered in Serbia to provide information society services in EU Member States to beneficiaries established/residing in the EU, under the same conditions as EU service providers would. At the same time, it enables EU providers to provide information society services in the Republic of Serbia.

Vouchers. As of 1 January 2020, the concept of a voucher is introduced. A voucher is defined as an instrument for which there is an obligation to be accepted as a fee or part of the fee for the goods/services provided, under condition that the following is stated on the voucher or related document: type of goods/services provided; identity of the supplier of the goods/services; terms of use of the voucher.

The VAT law distinguishes between single-purpose (SPV) and multi-purpose vouchers (MPV). The essence of distinguishing between SPV and MPV is reflected precisely in the tax treatment of issuing and transferring these vouchers. Namely, in the case of transfer of SPV, any transfer made by the VAT taxable person on its own behalf is considered as a turnover of goods or services to which the voucher relates, while the delivery of goods or services to the voucher holder is not considered as a separate transaction. On the other hand, the transfer of an MPV is not considered as a turnover of goods and services, but the delivery of goods, that is, the provision of services for which a fee is paid by a voucher is regarded as a taxable event.

Registration procedures. A registration form (EPPDV) is filed by the taxable person. After conducting the appropriate procedure, the tax authorities will issue a certificate of VAT registration. The VAT registration form EPPDV must be submitted to the tax authorities electronically via the tax authorities' portal. A taxable person whose taxable turnover exceeds RSD8 million in the previous 12 months is obliged to submit a registration form for VAT to the tax authorities no later than the end of the first period for submitting a VAT return.

Deregistration. A VAT taxable person whose taxable turnover is below RSD8 million in the previous 12 months may submit a request for VAT deregistration. This request must contain information about the date when the taxable person ceased to perform VAT activities, and it should be submitted to tax authorities within the calendar month in which said cessation has occurred. Request for deregistration is submitted on a ZBPDV form electronically via the tax authorities' portal. Along with the ZBPDV form, the taxable person must also submit a census list in PDF form, which must contain the following information:

- Capital assets used within the taxable person's business, that are held on the date of VAT deregistration activity, for which there is an obligation to correct the previous input tax deduction claim

- Facilities/buildings where the taxable person carries out its taxable activities, which the taxable person owns on the date of VAT deregistration, for which there is an obligation to correct the previous input tax deduction claim
- Other goods that the taxable person possesses at the date of VAT deregistration, on the basis of which it was entitled to recover its previous input tax deduction claim, or on the basis of which it is obliged to calculate VAT as a tax debtor
- Investments in facilities subject to the obligation to correct the deduction of the previous input tax deduction claim, on the date of VAT deregistration
- Investments in objects for which there would be an obligation to correct the deduction of the previous input tax deduction claim, had they been completed by the date of VAT deregistration
- Given advance funds on the basis of which it was entitled to deduct the previous input tax deduction claim

After conducting the appropriate procedure and if the taxable person's prior obligations arising from VAT are settled, tax authorities issue a certificate of VAT deregistration on a PBPDV form.

The tax authority merely informs the taxable person that the deregistration process has been successfully completed. Otherwise, the tax authorities would have notified the taxable person electronically about any perceived deficiencies via the tax authorities' portal. This is used for any changes in a taxable person's status, and as such no additional notifications are required.

Changes to VAT registration details. If the taxable person changes its address, name of company, activity type, etc., such change should be reported to the Serbian Business Register Agency within 15 days (relevant documentation can be submitted online). The Serbian Business Register Agency forwards that information to the tax administration. Also, note that changes such as the change of tax period (e.g., quarterly to monthly) should be requested directly from tax administration by 15 January. From 1 January 2020, such requests must be submitted electronically via the tax administration portal (e-porezi).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rate: 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- International transportation services and related supplies
- Supplies of goods and services relating to aircrafts and ships used in international traffic

Examples of goods and services taxable at 10%

- Supply of medicines and medical care devices (e.g., prosthesis)
- Supply of a wide range of food products

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt goods and services

- Properties (except for first-time transfer of ownership)

- Land
- Supply of goods for which acquirer did not have the right to deduct input tax
- Rental of flats if used for housing
- Financial services
- Insurance services
- Postal services
- Education services
- Religious services
- Printing and sale of publications
- Public broadcasting services (except those with commercial character)

Option to tax for exempt supplies. The second and every other transfer of ownership of buildings and building units is not subject to VAT but to non-recoverable transfer tax. However, it is possible that the buyer and the seller (as registered taxable persons) instead opt for application of VAT, provided that the buyer is entitled to fully recover VAT deriving from that supply.

E. Time of supply

The time of supply for a supply of goods takes place on the earlier of the following:
- When the supply of goods is performed
- When the payment is made, if the compensation or a part of the compensation has been collected prior to the sales of goods
- Incurrence of the liability to pay a customs debt on the importation of goods, and if there is no such liability, at the moment on which the liability to pay that debt would arise

A supply of goods is considered to be "performed" on the date when the dispatch or transport of the goods starts or on the date when ownership of the goods is transferred to the purchaser (if transport is not included). The time of supply of imported goods is considered to be the date on which the goods arrive in the Serbian customs territory.

The time of supply for a supply of services takes place on the earlier of the following:
- When the supply of services is performed
- When the payment is made, if the compensation or part of the compensation has been collected prior to the supply of services
- When the invoice is issued – applicable only for the services of transfer of IP rights and granting the right to use IP rights

Services are considered to be "performed" on the date when the provision of the individual service is finished or when the legal basis for the provision of time (limited or unlimited service) is finished. Apart from this, if periodical invoices are issued for the service, the supply of that service is considered finished on the last day of the tax period for which that invoice relates. If the payment is made before the delivery of goods or services, the moment of supply is the moment when the payment is made.

Deposits and prepayments. There are no special time of supply rules in Serbia for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Serbia for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

However, for the supply of electricity, as well as in the case of supply of services for bringing electricity into the energy system, the supply is considered completed and the service is considered provided on the day of issuance of an invoice.

Goods sent on approval for sale or return. There are no special time of supply rules in Serbia for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. There are no special time of supply rules in Serbia for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The Serbian VAT law does not explicitly distinguish between financial and operating leasing. However, there are separate guidelines that set out the conditions that must be fulfilled for a lease to be regarded as a sale of goods. If a lease is regarded as a sale of goods, the time of supply is when the goods are handed over, i.e., the leasing provider issues an invoice containing the total amount of VAT base and the total amount of the calculated VAT. On the other hand, if a lease is regarded as a service, the time of supply is when the leasing provider issues an invoice for each individual lease installment in which the amount of the lease installment and the amount of VAT (calculated on the lease installment) is disclosed.

Imported goods. VAT upon importation is due once the goods are placed in Serbian customs territory unless the goods are placed in some of the suspension customs regimes.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Serbia, VAT paid on imports of goods and VAT applied to reverse-charge services.

The time limit for a taxable person to reclaim input tax in Serbia is five years. A taxable person may exercise the right to recover input tax within five years from the day when the statute of limitations began to run, i.e., from the first day of the year following the year in which taxable person acquired the right for reclaiming input tax.

Nondeductible input tax. Effectively, any expenditure that is not business related is nondeductible from an input tax perspective.

Examples of items for which input tax is nondeductible

- In many cases, expenditures related to acquisition and import of cars, boats, yachts, motorcycles, aircraft, fuel and spare parts, as well as goods and services related to their maintenance and storage
- Expenditure related to business entertainment, including catering, gifts, sporting events, recreation and other costs incurred in favor of business partners, potential business partners, representatives of business partners and other individuals, for which there is no legal obligation
- Expenditure related to meals and transportation of employees or other persons engaged in work, to or from the work

Examples of items for which input tax is deductible (if related to a taxable business use)

- Accommodation
- Employee expenses
- Car hire
- Business maintenance costs

Partial exemption. If acquired goods or services are used partly for purposes of taxable supplies and partly for exempt supplies, the taxable person may not deduct input tax totally. This situation

is known as "partial exemption." The taxable person should divide that part of the input tax relating to taxable supplies and that which does not relate to taxable supplies, based on the economic background of supply. If this is not possible, then the calculation of the amount of input tax that may be recovered is made on a pro rata basis by using the following formula:

$$\frac{\text{Amount of deductible input tax x taxable turnover + exports}}{\text{Taxable turnover + exports + exempt supplies}}$$

Total turnover, which is the divisor in the above equation, is the turnover executed from 1 January of the current year until the end of the tax period for which the VAT return is submitted.

The taxable person is not obliged to perform division of the input tax if the established percentage of proportional VAT deduction is at least 98%.

Approval from the tax authorities is not required to use the partial exemption standard method in Serbia. Special methods are not allowed in Serbia.

Capital goods. Capital goods are facilities and equipment that are used in a business over several years. Input tax is generally deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted if the taxable person's partial exemption recovery percentage changes in the period of 5 years from the first usage of the equipment, 10 years from the first usage of the facilities and 10 years from finishing the investment in the facilities.

A capital goods adjustment applies for a period represented in the difference between the aforementioned periods (5/10 years) and the period in which the taxable person had the right to deduct input tax. Exceptionally, the taxable person does not have an obligation to adjust input tax on the capital goods in the case of disposal of the equipment and facilities that may be considered as a functional unit.

Refunds. If the input tax is higher than the output tax, the taxable person has a right to obtain a refund or to use this amount as a tax credit. The input tax credit can be carried forward to future tax periods to offset output tax.

In order to claim the input tax refund, the taxable person must tick the box in its VAT return or by submitting a subsequent request to the tax authorities for the input tax refund.

The refund should be performed, at the latest, 45 days after the deadline for submission of the tax return for the current period (or 15 days after the deadline for the taxable persons who mostly perform supply of goods abroad, i.e., a predominant exporter). The tax administration is liable to pay interest on delayed tax reimbursements at the same rate of penalty interest that applies to taxable persons for late payments of VAT (this is the annual reference rate of the National Bank of Serbia, plus 10 percentage points).

Pre-registration costs. This occurs in the tax period in which the supply of goods with the right to deduct input tax was performed.

The taxable person may deduct input tax for the goods purchased within 12 months before starting to carry out taxable activities and that are in its possession on said day under fulfilling prescribed conditions.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Serbia. The taxable person may claim the bad debt relief on the price that has not been paid by the customer. This is only allowed if they have received a final binding court decision on the completed bankruptcy proceedings and/or on the ground of a certified minutes on compulsory settlement with debtors. No other documentation is required.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Serbia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Serbia is recoverable. Non-established businesses may obtain refunds of VAT incurred in Serbia solely if they do not perform any supply of goods or services in Serbia (to the extent the input tax deduction would also be allowed for resident/established businesses), except for international transportation services and under the terms of reciprocity. The refund request is submitted annually, and the deadline for submission is 30 June for the purchases made in the previous year.

H. Invoicing

VAT invoices. A taxable person must provide a VAT invoice for all taxable supplies made, including exports. The invoice must comply with the requirements set out in the VAT law and the rulebook on.

Credit notes. A VAT credit note may be used to reduce the VAT charged on a supply of goods or services – provided the buyer is a taxable person and has confirmed that the input tax has been corrected; a debit note may be used to increase the amount of VAT. Tax credit and debit notes must be cross-referenced to the original VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Serbia for certain taxable persons.

Scope of electronic invoicing. For B2B and business-to-government (B2G) supplies, electronic invoicing is mandatory in Serbia. For B2C supplies, electronic invoicing is not allowed in Serbia. For B2B and B2G supplies, this covers supplies made by public sector entities, private sector entities (including entrepreneurs) and VAT representatives for foreign companies. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Serbia.

The law on electronic invoicing (LEI) entered into force on 7 May 2021. The law regulates the issuance, sending, receipt, processing, storage, content and elements of electronic invoices, in transactions between public sector entities, between private sector entities, between public and private sector entities, and other transactions of importance for electronic invoicing. In addition, LEI introduced a special obligation to record all VAT that is not already included in invoices issued through the system (i.e., in cases where a VAT debtor is not obliged to issue e-invoice).

Transactions in scope of LEI are delivery of goods or provision of services, between public sector entities, public and private sector entities, and between private sector entities, including advance payments. Private sector entities are legal entities (including entrepreneurs and VAT representatives for foreign companies) registered for VAT in Serbia, while public sector entities are state and local level authorities, as well as public enterprises (by means of relevant laws regulating budget system and public enterprises; further "government").

All compliance activities related to electronic invoicing are performed in the electronic invoicing system, eFaktura (SEF), which is an IT platform managed by the Ministry of Finance. Also in addition to the law, there are seven other bylaws and one internal-technical instruction that define the subject and obligations related to electronic invoicing, method of registration to the system, deadlines, the format in which the electronic invoice appears, technical possibilities, etc. In accordance with the bylaws and technical instruction, documents within the system are uploaded, stored and exchanged within SEF in XML form, while there is an option to download documents in PDF form, as well as option to attach supporting documentation (also in PDF). The right to deduct input tax is allowed on the basis that an electronic invoice has been accepted, or is considered accepted, in accordance with the law regulating electronic invoicing.

The right to deduct input tax on the basis of an accepted electronic invoice can be exercised at the earliest for the tax period in which the tax liability arose, regardless of whether the electronic invoice was issued on the day the tax liability arose or after that day.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Serbia. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Serbia. Specifically, self-billing is allowed under the following conditions:

- The customer receiving goods and services is registered for VAT in Serbia and therefore has the right to state VAT on the invoice
- There is an agreement between the taxable persons issuing and receiving accounting document that the sale of goods and services is to be accounted for by the recipient of goods and services
- The accounting document has been presented to the taxable person who has delivered the goods or services
- The taxable person who has supplied the goods and services is not in VAT debt with the tax authorities

Proof of exports. For proof of exports, an export declaration with confirmation that the goods have left Serbian territory is required.

Foreign currency invoices. A Serbian VAT invoice for domestic supplies must be issued in the domestic currency, which is the Serbian dinar (RSD). If an invoice is received in a foreign currency, the amounts must be converted into RSD. The exchange rate used for imports is determined by customs, while the exchange rate for domestic VAT supplies is the middle exchange rate published by the National Bank of Serbia or the agreed exchange rate applicable on the date when the tax obligation takes place.

As of 1 July 2021, if the fee for the supply of goods or services is charged in a foreign currency, the amount of the base and the amount of VAT (or the amount of fee for individual transaction of goods and services) may be denominated in the foreign currency, while the data on the total amount of the base and the total amount of VAT, i.e., on the total amount of the fee, must be denominated in RSD.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Serbia. As such, full VAT invoices are required.

Records. In Serbia, examples of what records must be held for VAT purposes include records of received invoices/transactions and records of issued invoices/transactions. Such evidence should contain certain data on invoice or customs declaration number (in case of import), the net fee paid, the applicable VAT rate, the amount of calculated VAT, the total amount of turnover during one VAT period and other data.

In Serbia, VAT books and records can be held outside of the country. Restrictions regarding the place of storage of documentation are not explicitly prescribed in the Serbian VAT law. However, there are special conditions that must be met in terms of providing access to data to the competent state authorities to possibly conduct control of the legality of business. Therefore, the system of document storage should, among other things, enable access and export of data in a readable form, which is suitable for further processing by the competent state authorities for control purposes.

Record retention period. VAT records and all supporting documents based on which the VAT records are maintained (e.g., invoices) should be kept until the expiry of statute of limitation

period for determination and collection of VAT (statute of limitation period is 5 years; absolute limitation is 10 years).

Electronic archiving. Electronic archiving is allowed in Serbia. The law on accounting prescribes that accounting documents may be stored on electronic media as original electronic documents or digital copies, provided that the competent authority has access to the information so stored and provided:

- That the information contained in the electronic document or record can be accessed and is suitable for further processing
- That the data is stored in the form in which it was created, sent and received
- That sender, recipient, time and place of sending and receiving can be determined from the saved electronic message
- Technologies and procedures are applied to sufficiently secure against alteration or erasure of data or other reliable means of guaranteeing the invariability of data or messages, as well as backup database at another location

Hence, both the e-invoice and the email message should be achieved on the computer. Also, note that if the original document is in paper form and then digitized and authenticated in accordance with the law regarding electronic documentation, such document gives the probative power of the original (paper) document, but the authentication of the digitized document does not mean that the original document can be destroyed. In this case, according to the regulations currently in force, the paper original must be kept.

I. Returns and payments

Periodic returns. The tax period is a calendar month or a quarter depending on the total turnover of the particular taxable person in the last 12 months (if turnover exceeds RSD50 million).

Both monthly and quarterly taxable persons must submit the tax return within 15 days after the expiration of the tax period.

The obligation to file the VAT calculation breakdown along with the VAT return has been initially postponed due to the fact that the first version of VAT calculation breakdown was too burdensome from the perspective of both taxable persons and tax authorities.

Taxable persons are also obliged to file a POPDV form along with the VAT return (see *Supplementary filings* below).

Periodic payments. The deadline for VAT payment is the same as the deadline for the filing of VAT returns, i.e., within 15 days after the expiration of the tax period. Upon submitting the VAT return electronically via the portal, e-porezi, the taxable person pays the VAT liability by transferring funds to the prescribed public revenue account. The VAT payable by a taxable person for a tax period equals the VAT on the total taxable value of supplies made during the tax period minus any input tax allowed as a deduction.

Electronic filing. Electronic filing is mandatory in Serbia for all taxable persons. The submission of a VAT return, as well as the submission of an amended VAT return, is completed electronically. The return is submitted on the prescribed PPPDV form. Taxable persons must use the "E-Taxes portal." It collects electronic services for the Serbian tax administration, enables all taxable persons to submit online tax forms with digital signatures, provides follow up on the status of submitted applications with insight into the taxable person's tax card and provides faster and simpler fulfillment of obligations toward tax administration. This system meets high security standards that enable safe and uncompromised electronic data transfer.

Payments on account. Payments on account are not required in Serbia.

Special schemes. *Cash accounting.* Small and medium-sized enterprises with an annual turnover of less than RSD50 million may opt to pay VAT after they have received payment.

Collection system. The taxable person whose total turnover in the previous 12 months is not more than RSD50 million may opt for reporting and paying the VAT once the receivables are collected (whereby input tax is also reported once the payables are settled). VAT is also due if the payment is not received within six months after the supply was performed. Certain types of supplies prescribed by the law are exempt of the application of this "collection system."

Investment gold. Generally, VAT is not calculated on the supply of investment gold. The taxable person who performs the mentioned supply has the right to deduct VAT for that supply. Exceptionally, the taxable person may, under certain conditions, opt for VAT calculation for investment gold supply.

Small taxable persons. Small taxable persons do not charge VAT for performed trade of goods and services, do not have the right to indicate the VAT in invoices and are not entitled to deduct input tax. Also, they are not required to keep records prescribed by VAT law.

Tour operator's scheme. Tourist services provided by a tourist agency are considered as a single service. The place of trade of a single tourist service is the place where the service provider has its head office or a permanent establishment if the trade of service is carried out from a permanent establishment that is not in the place where the provider has its head office. The tax base of the single tourist service provided by a tourist agency is the amount representing the difference between total price paid by a passenger and actual expenses paid by the tourist agency for preliminary tourist services, after deducting the VAT that is included in that difference.

Works of art, secondhand goods, antique goods. Taxable persons engaged in the trade of used goods, including secondhand motor vehicles, fine art works, collector's goods and antiques, determine tax base as a difference between the sale price and the purchase price of the goods by deducting the VAT that is included in that difference.

Annual returns. Annual returns are not required in Serbia.

Supplementary filings. *Pregled obracuna PDV (POPDV).* Taxable persons are also obliged to file a *Pregled obracuna PDV* (POPDV) form along with the VAT return. POPDV is the official name of the form and in English would be "*Form and Content of the Overview of VAT Calculation.*" The form provides an overview of the VAT calculations that support the VAT return figures. If the taxable person fails to file the VAT calculation breakdown on the POPDV form along with the VAT return, it will be deemed as if the VAT return was not filed at all.

Correcting errors in previous returns. If the taxable person finds that the tax return submitted to the tax administration contains an error that results in an incorrectly determined amount of tax liability, or an omission of another type, it is obliged to immediately and no later than the expiration of the statute of limitations, file a tax return in which the error or omission has been rectified. If the taxable person acts in the stated manner, it shall be considered that no criminal offense or misdemeanor has been committed in the original tax return.

The taxable person may change the submitted tax return no more than twice by submitting the amended tax return.

Digital tax administration. There are no transactional reporting requirements in Serbia.

J. Penalties

Penalties for late registration. If a taxable person who is a legal entity fails to register for VAT, a fine ranging from RSD100,000 to RSD2 million will apply. Also, a responsible person within the legal entity will be fined in the amount from RSD10,000 to RSD100,000 in case of relevant

offense. If a legal entity submits the registration form after the prescribed deadline, penalties of RSD100,000 may be imposed. Also, a responsible person within the legal entity will be fined in the amount of RSD10,000 in case of said offense.

Penalties for late payment and filings. For late payment and filing of a VAT return, a monetary penalty of RSD100,000 is prescribed for the legal entity and RSD50,000 for the responsible person.

Penalties for errors. If the taxable person establishes that the tax return, which he submitted to the tax administration contains an error that results in a wrongly determined amount of tax liability, or omission of another kind, he is obliged to immediately file, and no later than the expiration of the expiration date, a tax return in which the error is, or omission is, remedied. The taxable person may amend the tax return no more than twice by filing the amended tax return.

Incorrect VAT reporting may lead to a penalty of 30% of the difference between the correct VAT amount that should have been reported and the unreported/incorrectly reported VAT amount, but RSD200,000 at the minimum for legal entity, and a penalty in the range from RSD10,000 to RSD100,000 for the responsible person.

The late notification or failure to notify the Serbian Business Register Agency of changes to a taxable person's VAT registration details may result in a penalty of RSD6,000 (approx. EUR51). For further details. see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Serbian criminal law stipulates that whoever with intent to fully or partially avoid payment of taxes, contributions or other statutory liabilities, gives false information on legal income, objects and other facts relevant to determination of such obligations, or who with the same intent, in case of mandatory reporting (filing of returns) fails to report lawful income, objects and other facts relevant to determination of such obligations, or who with the same intent conceals information relevant for determination of aforementioned obligations, and the amount of obligation whose payment is avoided exceeds RSD1 million, shall be punished by imprisonment of up to five years and fined.

Note that if the mentioned tax liability exceeds RSD5 million, the offender shall be punished by imprisonment of 2 to 8 years and fined, and if tax liability exceeds RSD15 million, offenders shall be punished by imprisonment of 3 to 10 years and fined. As the law uses the term "whoever," this also includes the liability of directors and individuals responsible.

In addition, note that a legal person may be liable for criminal offenses from a separate part of the criminal law and other laws, provided that the conditions for liability of the legal person are fulfilled.

Personal liability for company officers. The general rule from both criminal and offense legislation is that the responsible person in the legal entity is the person who on the basis of the law, regulation or authorization conducts certain managerial, supervisory or other functions in the company, as well as the person who factually conducts certain work – substance over form. This is, presumably, a director, although it can be proved that some other person/company official has been liable for certain activities of the company.

In Serbian legislation, directors (and other responsible representatives) may be held liable for both offenses and fined or even have criminal liability. Fines for the misdemeanors can reach up to RSD150,000 for the responsible representatives of the legal entity.

When initiating procedures for the misdemeanors, the tax authorities will most often charge both the legal entity and the responsible representative for the same irregularity.

Statute of limitations. The statute of limitations in Serbia is five years. The statute of limitation period (for all taxes) in Serbia in which the tax authority may go back and assess additional tax liabilities is generally set at five years. The prescribed five years start counting from the year

following the year in which tax liability was due. Also, the absolute statute of limitation is set at 10 years.

Related to penalties, note that the tax authority is entitled to initiate and complete the tax offense procedure within five years from the date when the tax offense occurred.

For more details on voluntarily correction of errors in previous VAT returns, see the *Correcting errors in previous returns* subsection above.

Singapore

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A. At a glance

Name of the tax	Goods and services tax (GST)
Local name	Cukai barangan dan perkhidmatan
Date introduced	1 April 1994
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	Inland Revenue Authority of Singapore (IRAS) (http://www.iras.gov.sg)
GST rates	
Standard	9%
Other	Zero-rated (0%) and exempt
GST number format	
Local	M2-1234567-8, MR-1234567-8 and 19-9012345-X
Nonresident	F2-1234567-D
GST return periods	Quarterly/Monthly (subject to approval)
Thresholds	
Registration	SGD1 million
Recovery of GST by non-established businesses	No

B. Scope of the tax

GST applies to the following transactions:

- Taxable supplies of goods and services in Singapore, made in the course of a business by a taxable person
- Imports of goods into Singapore

- Imports of services into Singapore, if received by a taxable person who is not entitled to full input tax credit
- Imports of digital services and non-digital services (from 1 January 2023) into Singapore, by an overseas supplier to a Singapore non-registered person

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for GST in every jurisdiction where it has customers that are not taxable persons. In Singapore, no services are subject to the "use and enjoyment" provisions. However, there is a similar concept whereby the supply of digital and non-digital services to Singapore non-GST registered person is subject to GST via the overseas vendor registration (OVR) regime in Singapore (see *Digital economy* subsection below).

Transfer of a going concern. Normally, the sale of the assets of a GST-registered or GST-registrable business will be subject to GST at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of GST. In Singapore, a TOGC is treated as outside the scope of GST where the following conditions are met:

- The supply of assets is made in relation to a transfer of the business (or part of that business) to the transferee
- The assets to be transferred must be intended for use by the transferee in carrying on the same kind of business as the transferor
- In the case where only part of the business is transferred, that part must be capable of being of being operated independently
- The business (or part of that business) must be a going concern at the time of the transfer
- The transferee must already be a taxable person or immediately becomes a taxable person as a result of the transfer

Transactions between related parties. In Singapore, for a transaction between related parties, the value for GST purposes is calculated at the open market value. Where a taxable person makes a supply to a customer who is connected with the supplier and the customer is not entitled to full input tax recovery, the Comptroller of the Inland Revenue Authority of Singapore (IRAS) may direct that the value of the supply is taken to be its open market value.

C. Who is liable

A taxable person is a person who is registered or is required to be registered for GST.

The GST registration threshold is SGD1 million. For compulsory registration, the threshold applies in the following ways:

- Retrospectively: prior to 1 January 2019, registration was required if, at the end of any quarter, the value of taxable supplies in that quarter and the preceding three quarters exceeds SGD1 million. From 1 January 2019, registration is required if, at the end of any calendar year, the value of taxable supplies in that calendar year exceeds SGD1 million. However, registration is not required if the Comptroller of GST (the Comptroller) is satisfied that the value of taxable supplies in the next calendar year is not expected to exceed SGD1 million.
- Prospectively: registration is required if at any time reasonable grounds exist for believing that the value of taxable supplies in the next 12 months is expected to exceed SGD1 million.

Under the first test above, a business must notify the Comptroller within 30 days after the end of the relevant calendar year. Under the second test, a business must notify the Comptroller within 30 days after the beginning of the relevant period.

Exemption from registration. Where a taxable person makes substantially zero-rated supplies and the collectible output tax is less than the amount of input tax claimable on the purchases in any 12-month period, the taxable person may request exemption from registration. Approval is subject to the Comptroller's discretion.

However, if any material change occurs with respect to the nature of supplies or the proportion of zero-rated supplies, the taxable person is required to notify the Comptroller within 30 days after the date of the change or, if no particular date is identifiable as the date of the change, within 30 days after the end of the quarter in which the change occurred.

Voluntary registration and small businesses. If the value of taxable supplies made by a business is below the registration limit, the business may register for GST voluntarily. Approval is subject to the Comptroller's discretion. A business that registers for GST voluntarily must remain registered for at least two years, unless otherwise allowed by the Comptroller.

Under GST law, "taxable supply" is defined as a supply of goods or services made in Singapore other than an exempt supply. Based on this definition, businesses that make wholly exempt supplies would not be eligible for GST registration. However, the GST Act allows a person that is not liable to be registered to apply for voluntary registration if it makes exempt supplies of financial services (as specified in Part 1 of the Fourth Schedule to the GST Act) and the services would have qualified as international services if they were made by a taxable person.

In addition, a person who is not liable for GST registration may also apply for voluntary registration if the person makes or intends to make the following supplies:
- Supplies outside Singapore that would be taxable supplies if made in Singapore
- Supplies that are disregarded for GST purposes under the warehousing regime or Approved Contract Manufacturer and Trader Scheme and that would otherwise be taxable supplies.

However, a person in the above scenarios must have a business establishment in Singapore or have its usual place of residence in Singapore.

Group registration. Businesses that are under "common control" may apply to register as a GST group. Each member must be individually registered for GST. After group members are registered as a GST group, they are treated as a single taxable person and submit a single GST return. Supplies made between members within the same GST group are disregarded for GST purposes. All members of a GST group in Singapore are jointly and severally liable for all GST debts and penalties.

A person who is not resident in Singapore or does not have an established place of business in Singapore may be part of the GST group if certain criteria are satisfied. If the GST group includes a person not resident in Singapore or not having an established place of business in Singapore, the representative member must satisfy additional criteria.

There is no minimum time period required for the duration of a GST group.

Divisional registration. If a taxable person carries on more than one business or operates several divisions, the person may apply to the Comptroller to register any of the businesses or divisions separately. Divisional registrations ease the GST administration for such businesses. On approval, each division is given a separate GST registration number and submits its own GST return. Supplies made between divisions within the divisional registration are disregarded for GST purposes.

Fixed establishment. In Singapore there is no legal definition of a fixed establishment for GST purposes. However, while the GST Act does not define the term fixed establishment, the IRAS has clarified in its guidelines that a fixed establishment is an establishment, other than a business establishment, that has both human and technical resources necessary to provide or receive services on a permanent basis. This means the human and technical resources are available in

Singapore for an aggregate of more than 183 days in any 12-month period ("period threshold") or are present in Singapore on a recurring basis.

Human resources refer to the presence of staff to provide or receive the services and this refer to the employees of the company (i.e., it does not include employees of a third party such as the company's subcontractor or related company). Technical resources would refer to physical goods (e.g., equipment, computer, office premises) necessary to support the human resources in the provision or receipt of the services.

Non-established businesses. A "non-established business" is a business that has no business or fixed establishment in Singapore. A business that is not established in Singapore must register for GST if it makes taxable supplies exceeding the registration threshold.

Tax representatives. A non-established business must appoint a local tax representative, commonly known as a Section 33(1) Agent, who will act on its behalf for all its GST matters. This local tax representative assumes all the GST responsibilities of the registered non-established business, including the reporting and payment of GST due. A Letter of Authorization confirming the appointment of the local tax representative must be submitted, together with the application for GST registration.

Reverse charge. A reverse charge applies to services procured from overseas suppliers by a taxable person who is not entitled to full input tax credit or belongs to a GST group that is not entitled to full input tax credit. A reverse charge will also apply to a nontaxable person (i.e., a non-GST-registered local person) who procures services from overseas suppliers greater than SGD1 million in a 12-month period and who will not be entitled to a full input tax credit had it been GST registered. The non-GST-registered local person should assess its liability for GST registration under the reverse-charge mechanism.

Persons who are not entitled to full input tax credit include persons making significant exempt supplies (for example, financial institutions) or persons significantly engaged in nonbusiness activities (for example, charities). From 1 January 2023, the reverse charge will also apply to all goods imported via air or post that are valued up to (and including) the current GST import relief threshold of SGD400 ("low-value goods") purchased from local and overseas suppliers, electronic marketplace operators and re-deliverers, regardless of whether they are GST registered or not.

The value of services procured from overseas vendors and imports of low-value goods (from 1 January 2023) will be included when determining the liability for GST registration for the nontaxable person.

Domestic reverse charge. A domestic reverse charge will apply to the local sale of prescribed goods by a GST-registered supplier to a GST-registered customer for business purposes (i.e., a business-to-business supply [B2B]), if the GST-exclusive value of the sale exceeds SGD10,000 in a single invoice.

The prescribed goods are mobile phones, memory cards and off-the-shelf software. It is termed "customer accounting" because the supplier is responsible for raising the tax invoice (showing the GST chargeable) and the customer is responsible for accounting for the output tax to the IRAS (i.e., onward paying the IRAS the GST charged).

Digital economy. Supplies of goods transacted over the internet does not alter the taxability of the transaction and is subject to the normal GST rules. A sale of digitized goods such as music and software over the internet is regarded as a supply of service.

The supply of digital services by an overseas supplier to a Singapore non-GST registered person (i.e., a business-to-consumer [B2C] supply) is subject to GST via the overseas vendor registration (OVR) regime. This means the nonresident provider must register and account for GST in

Singapore. Under the OVR "pay only regime," the overseas supplier will collect and remit GST without the ability to claim any input tax credits and be subject to simplified GST reporting and documentation requirements. Under certain circumstances, the operator of an electronic marketplace would also be required to charge and account for GST on digital services made through the electronic marketplace to local consumers, on behalf of the overseas suppliers.

"Digital services" are defined to mean any service supplied over the internet or other electronic network and the nature of which renders its supply essentially automated with minimal or no human intervention, and impossible without the use of information technology, and is inclusive of a non-exhaustive list of prescribed services such as digital products, software and software updates.

Overseas suppliers and overseas electronic marketplace operators whose global turnover exceeds SGD1 million and the sale of digital services to consumers in Singapore exceeds SGD100,000 are liable for registration under the OVR regime. Local non-GST registered electronic marketplace operators are liable for GST registration if the combined values of digital services made on behalf of overseas suppliers through the electronic marketplace and the electronic marketplace's own taxable supplies have exceeded SGD1 million at the end of any calendar year or are expected to exceed SGD1 million in the next 12 months.

From 1 January 2023, GST is extended to B2C imported non-digital services through the OVR regime. All B2C supplies of imported remote services, whether digital or non-digital, will be taxed by way of the extended OVR regime.

"Remote services" are defined to mean any services where, at the time of the performance of the service, there is no necessary connection between the physical location of the recipient and the place of physical performance.

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for GST in Singapore. Instead, the customer is required to self-account for the GST by way of the reverse-charge mechanism (see the *Reverse-charge* subsection above). There are no other specific e-commerce rules for imported goods in Singapore.

Online marketplaces and platforms. In Singapore the term "electronic marketplace" is used to define a medium that allows the suppliers to make supplies available to customers and is operated by electronic means. This includes marketplaces operated via a website, internet portal, gateway distribution platform or any other types of electronic interface but excludes payment processors or internet service providers. There are no special GST rules for such marketplaces.

Registration procedures. To register for GST in Singapore, businesses need to complete and submit the form GST F1, "Application for GST Registration," together with the required supporting documents to the Comptroller.

The supporting documents to be submitted would include, where applicable, the completed GST Registration Calculator for the last two years; a copy of the latest profit and loss, including reports and notes to accounts; and a copy of the signed contract(s). For partnership businesses applying for GST registration in Singapore, an additional form, GST F3, "Notification of Liability to be Registered: Details of All Partnerships and Partners," together with form GST F1, must be completed and submitted to the Comptroller.

For an overseas business with no establishment in Singapore and who makes taxable supplies in Singapore, the overseas business must appoint a local tax representative to be responsible for all its GST matters in Singapore such as collecting GST on local taxable supplies made and timely filing of GST returns.

An application for GST registration is typically processed in about 10 working days. In addition, for businesses applying for voluntary GST registration, the sole proprietor, partner, director or

trustee of the business is required to complete two e-learning courses, "Registering for GST" and "Overview of GST" and pass the quiz before applying for the voluntary GST registration (subject to exceptions).

Businesses must apply for GST registration online via myTax Portal by the relevant personnel who have been authorized to use the IRAS website's e-services.

Deregistration. A business that ceases operations must cancel its GST registration. The business must notify the GST authorities within 30 days after ceasing to make taxable supplies.

A GST-registered person whose value of taxable supplies is not expected to exceed SGD1 million in the next 12 months may request deregistration from GST.

Changes to GST registration details. Change in business name or registered office address – the change is to be filed with the Accounting and Corporate Regulatory Authority (ACRA) online. IRAS will update its records based on the information filed with ACRA. Separate notification to IRAS is not required.

Change in mailing address – a business may have separately requested GST-related correspondences (including any refund checks) to be sent to another address (i.e., GST mailing address). Updates can be made to the mailing address by logging into myTax Portal and accessing "Update GST Contact Details." Updates should be made in a timely manner to ensure that the business continues to receive the correspondences in a timely manner.

Change in GST return filing frequency or cycle of accounting periods – a business can write in to request a change in filing frequency (e.g., change to monthly GST accounting period) or apply for special accounting periods for its GST returns via myTax Mail (log into myTax Portal). All requests will be subject to IRAS's approval. In applying for special accounting periods for its GST returns, a business is required to inform the IRAS at least 30 days before the start of the first accounting period. Otherwise, the business will be placed on the standard GST accounting periods by default.

Change in financial year end – the change is to be updated online (www.bizfile.gov.sg) for local companies and branches of foreign companies registered with Accounting and Corporate Regulatory Authority (ACRA). IRAS will update its records based on the information filed with ACRA. Separate notification to IRAS is not required. For all other entities, the business is required to inform IRAS via myTax Mail (log into myTax Portal).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of GST, including the zero-rate.

The GST rates are:
- Standard rate: 9% *(with effect from 1 January 2024)*
- Zero-rate: 0%

The standard rate of GST applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

The Singapore government increased the standard rate of GST from 8% to 9% from 1 January 2024.

Examples of goods and services taxed at 0%

- Exports of goods and international services

The term "exempt" refers to supplies of goods and services that are not liable to GST and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Sale or lease of residential property
- Certain financial transactions
- Importation or supply of investment precious metals
- Supply of digital payment tokens (from 1 January 2020)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Singapore.

E. Time of supply

The time when GST becomes due is called the "time of supply" or "tax point." The time of supply for both goods and services is generally the earlier of the following events:

- The date of issuance of an invoice

  Or

- The date of receipt of payment

However, exceptions to the above time-of-supply rules exist.

Deposits and prepayments. Where the deposits form partial payment (i.e., prepayment) for the goods or services supplied, the abovementioned time-of-supply rules applies. GST has to be charged on the amount of deposit and the transaction has to be accounted for in the accounting period in which the deposit is received. This treatment applies even if the business is prepared to refund the deposit to the customer in the event that the supply is subsequently canceled (e.g., the order is canceled). If the deposit is subsequently refunded to the customer, adjustments to the GST previously accounted for in the GST return can be made if the necessary documents (e.g., credit note issued to customer) are maintained.

Where the deposit is refundable and used as a security, the time of supply will not be triggered, and GST is not chargeable at this stage.

Where the supply does not take place (e.g., the customer cancels the order), the GST-registered supplier would issue a credit note to the customer and refund the payment received. However, commercially, the GST-registered supplier may seek compensation or recover miscellaneous costs incurred as a result of the order cancellation.

Continuous supplies of services. No separate time of supply treatment for continuous supplies, except where the GST-registered business issues a tax invoice for an advance period not exceeding 12 months. If the invoice also contains, in addition to the particulars required of a tax invoice, the following particulars:

- The due dates of each payment
- The amount payable (excluding tax) on each due date

  And

- The rate of tax and the corresponding GST chargeable

Then GST shall be accounted for at the earlier of:

- The due date of each periodic payment

  Or

- The date of receipt of each periodic payment

Goods sent on approval for sale or return. Where goods are supplied on approval or sale or return or similar terms to the customers, no sale takes place until the customer approves the goods and confirms the sale, although goods have been sent to the customer. In such cases, the time of supply will be treated as taking place at the earliest of the following events:

- The date of issuance of an invoice
- The date of receipt of payment

  Or

- 12 months after the removal of the goods

Reverse-charge services. There are no special time of supply rules in Singapore for supplies of reverse-charge services. The general time of supply rules will apply (as outlined above). However, there are special time of supply rules for certain transitional rules for reverse-charge services that span 1 January 2020 (i.e., the effective date of reverse-charge implementation).

A supply of imported services would be considered as "straddling 1 January 2020" and hence subject to certain transitional rules when at least one of these events take place wholly or partially on/after 1 January 2020: (a) issuance of invoice, (b) performance of services or (c) settlement of payment. For example, the supplier's invoice is issued, and the services are performed before 1 January 2020, but the payment for that service is made on/after 1 January 2020.

With the extension of the OVR regime on 1 January 2023, special transitional rules will apply for supplies of low-value goods and non-digital services made by overseas vendors that straddle 1 January 2023.

- A supply of low-value goods and discrete supply of non-digital services will be treated as straddling the implementation date and subject to the transitional rules when: (a) the supplier's invoice is issued on or after 16 February 2021 but before 1 January 2023, and (b) the goods are removed or made available to the customer/performance of services occurs and payment is received on or after 1 January 2023. Such a supply is subject to GST to the extent of the lower of the value of payment received or the value of the goods removed or made available to the customer/the value of the services performed on or after 1 January 2023.
- A continuous supply of non-digital services will be treated as straddling the implementation date and subject to the transitional rules when: (a) the supplier's invoice is issued or payment is received before 1 January 2023, (b) the services (or part of the services) are performed on or after 1 January 2023 and (c) the services are performed pursuant to an agreement made on or after 16 February 2021 but before 1 January 2023. The portion of the service performed from 1 January 2023 will be subject to GST.

Leased assets. Where the leased assets are transacted under a "hire purchase agreement," subject to prescribed conditions, the time of supply for the full value of the goods will be triggered at the time the invoice is issued for the first installment under the "hire purchase agreement." For other supplies of leased assets, no special time of supply rule applies. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime or free-trade zone.

F. Recovery of GST by taxable persons

A taxable person may recover the GST incurred on its expenses as input tax if the input tax is incurred in the making of taxable supplies or certain prescribed supplies. Input tax refers to GST incurred on goods and services supplied to the taxable person or goods imported into Singapore by the taxable person that are used or to be used for the purpose of any business carried on or to be carried on by the taxable person. A taxable person generally recovers input tax through its GST returns, by deducting it from output tax, which is GST charged on supplies made.

A valid tax invoice or import permit must be held to support a claim for input tax.

A taxable person is required to repay to the IRAS any input tax claimed for which payment has not been made to the supplier for more than 12 months from the due date of the payment.

The time limit for a taxable person to reclaim input tax in Singapore is the accounting period of the date on the invoice. A taxable person can only claim input tax in the accounting period corresponding to the date shown in the tax invoice or import permit. Alternatively, input tax may be claimed based on the date that the tax invoice or import permit is posted/processed in the accounting system (subject to conditions).

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by a taxable person and fringe benefits provided that these are not for the purpose of business). In addition, input tax may not be recovered for some items of business expenditure. The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use.

Examples of items for which input tax is nondeductible

- Purchases used for nonbusiness purposes
- Purchase, lease, hire, maintenance and running costs of private motor cars
- Medical and insurance expenses for employees
- Recreational club subscriptions

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Purchase of inventory
- Purchase, lease, hire and maintenance of trucks and vans
- Business entertainment
- Attendance at conferences

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, the person may not recover input tax in full. This situation is referred to as "partial exemption." Zero-rated supplies are treated as taxable supplies for these purposes.

Unless otherwise approved by the Comptroller, partial exemption recovery is calculated in the following two stages:

- The first stage identifies the input tax that may be directly attributable to taxable and to exempt supplies. Input tax directly attributable to taxable supplies is deductible (unless specifically not deductible under the GST Act), while input tax directly related to making exempt supplies is generally not deductible (subject to exceptions).
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation may be performed using the ratio of the value of taxable supplies over the value of total supplies (that is, taxable and exempt supplies), or it may be based on a special calculation agreed with the Comptroller.

Notwithstanding the above provisions, if the value of a taxable person's exempt supplies for an accounting period does not exceed both the average of SGD40,000 per month and does not exceed 5% of the total value of taxable and exempt supplies made in that accounting period, the input tax relating to the exempt supplies is treated as entirely attributable to taxable supplies. The GST Act provides relief for certain businesses to be treated as fully taxable if they make only certain types of exempt supplies.

Approval from the tax authorities is not required to use the partial exemption standard method in Singapore. Special methods are allowed in Singapore, but approval for them is required (see above).

Capital goods. Capital goods in Singapore are defined as items of capital expenditure that are used in a business over several years. There are no special input tax recovery rules for capital goods. The normal input tax rules for GST apply (as outlined above).

Refunds. If the amount of input tax recoverable in a GST period exceeds the output tax in the same period, the excess is refundable. Refunds are generally made within three months from the

date on which the GST authorities receives the GST return. If a taxable person submits monthly returns, the refund is generally made within one month from the date of receipt of the GST returns. The GST is refunded through electronic means.

Interest at the prime lending rate is payable on the amount of any GST refund that is outstanding. Interest is calculated from the date on which the refund is due from the GST authorities.

Pre-registration costs. Subject to certain conditions prescribed under the GST (General) Regulations, businesses may claim the GST incurred on business expenses incurred prior to their effective date of GST registration in their first GST return. Businesses are required to self-review their eligibility for the claims.

Bad debts. A taxable person can apply for bad debt relief from the Comptroller for the return of the output tax previously accounted for and paid if the taxable person satisfies the following conditions:

- Whole or any part of the consideration for the supply as a bad debt in its accounts have been written off
- A period of 12 months beginning with the date of supply has elapse or the debtor has become insolvent before the period of 12 months has elapsed
- Reasonable steps have been taken to recover the debts
- Value of the supply is equal to or less than its open market value
- In the case of goods, the ownership must have been transferred to the debtor

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Singapore.

G. Recovery of GST by non-established businesses

Input tax incurred by non-established businesses that are not registered for GST in Singapore is not recoverable.

H. Invoicing

GST invoices. A taxable person must issue a GST invoice for standard-rated supplies made to another taxable person within 30 days from the time of supply. A GST invoice is necessary to support a claim for input tax credit.

Credit notes. A credit note may be used to reduce the GST charged and reclaimed on a supply of goods or services if a valid adjustment has been made. The document must contain generally the same information as a tax invoice, as well as the amount of tax credited, and it must refer to the date and number of the original tax invoice for the supply. If the date and number of the original tax invoice for the supply cannot be traced or identified, the taxable person must be able to satisfy the Comptroller by other means that the person has accounted for tax on the original supply.

Electronic invoicing. Electronic invoicing is allowed in Singapore, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Singapore. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Singapore.

At the time of preparing this chapter, it is expected that the government will make electronic invoicing mandatory for B2G supplies in 2024. No further details have been announced. It is also likely that "InvoiceNow" will be the default electronic invoicing submission channel for all government vendors within the next few years. Currently, it is Singapore's nationwide e-invoicing network.

The requirements related to electronic invoicing are the same as those for paper invoicing.

Taxable persons that wish to issue invoices electronically need not apply to the Comptroller for approval to do so. If a taxable person decides to issue electronic invoices, the person is required to comply with the following:

- Establish internal controls to ensure that electronic tax invoices issued and transmitted to customers are complete and accurate
- Ensure that the electronic tax invoices issued and transmitted to customers contain all the details required under the GST legislation, where applicable
- Establish internal controls to ensure that electronic tax invoices cannot be manipulated before and during transmission
- Establish internal controls to ensure that all output tax relating to these electronic transmissions will be fully accounted to the Comptroller in the GST returns
- Do not issue tax invoices in paper form to customers that the taxable person has already issued electronic tax invoices; in the event that the taxable person needs to issue tax invoices in paper form, it must take the necessary measures to prevent double claiming of input tax by its customers (e.g., invalidate either the paper form or electronic form of the tax invoices issued)
- Ensure that the electronic tax invoices are stored and made available in human readable format for verification and recordkeeping purposes.

An exception is granted to e-invoices sent through InvoiceNow. IRAS is prepared to accept the invoices as valid tax invoices that taxable persons may use to support their GST input tax claims, even though it does not contain the words "tax invoice." This is on the condition that all the other contents required on a tax invoice, as specified under Regulation 11 of the GST (General) Regulations, are present.

Simplified GST invoices. A simplified GST invoice may be issued if the amount payable (including GST) does not exceed SGD1,000.

Self-billing. Self-billing is allowed in Singapore. In Singapore self-billing is a billing arrangement between a GST-registered supplier and a GST-registered customer (B2B), where the customer, instead of the supplier, prepares the supplier's tax invoice/customer accounting tax invoice and sends a copy to the supplier. The customer can adopt self-billing if it satisfies all the conditions as follows:

- It is more convenient for the customer to self-bill because the customer will determine and verify the final value of the goods and services purchased from the suppliers; or self-billing facilitates the customer's internal controls and accounting system given that the supplier will be working with uniform purchase documentation.
- There is a written agreement with each supplier that the supplier will not issue tax invoices and/or customer accounting tax invoices for goods and services purchased by the customer.
- Instead, the supplier will authorize the customer to issue the tax invoices and/or customer accounting tax invoices on its behalf.
- Each supplier agrees in writing that he will notify the customer immediately if the supplier's GST registration is canceled or issued with a new GST registration number.
- The customer will provide the suppliers with the tax invoices and/or customer accounting tax invoices issued under self-billing and the customer will retain copies of them. The customer will keep the tax invoices/customer accounting tax invoices issued under self-billing for a period of not less than five years.
- The customer must keep and maintain an up-to-date list showing the names, addresses and registration numbers of all the suppliers covered by the self-billing arrangement.
- Each tax invoice or customer accounting tax invoice issued under self-billing must contain all the details required on a normal tax invoice and customer accounting tax invoice respectively as well as the following details:
  - "Buyer created tax invoice – Approved by the Comptroller of GST" in place of the words of "Tax invoice"
  - The statement "The tax shown is your output tax due to the Comptroller of GST"

Proof of exports. Exports of goods are zero-rated for GST purposes if they are supported by evidence confirming the departure of the goods from Singapore within 60 days from the time of supply (subject to exceptions). The evidence required includes the following documents:
- Export permit
- Bill of lading or airway bill
- Original invoice

Export documents prescribed by the Comptroller for supporting the zero-rating GST treatment vary according to the export scenario.

Foreign currency invoices. If a tax invoice is issued in a foreign currency, the total amount payable before GST, the GST chargeable and the total amount payable including GST must be converted to the domestic currency, which is the Singapore dollar (SGD). The foreign currency must be converted to the SGD equivalent based on the selling rate of exchange prevailing at the time of supply. The Comptroller allows taxable persons to adopt their own in-house exchange rates if the rates satisfy the following conditions:
- They are reflective of the Singapore money market at the relevant date. For example, exchange rates obtained from local banks, Singapore Customs, locally circulated newspapers, reputable news agencies and foreign central banks without exchange controls are acceptable to the IRAS.
- They are the daily buying rates, average of the buying and selling rates, or a good approximation of the daily exchange rates, corresponding to the time of supply.
- They are updated at least once every three months.
- They are consistently used for internal business reporting, accounting and GST purposes.
- They are used consistently for at least one year from the end of the accounting period in which the method was first used.

If the exchange rates used by taxable persons do not comply with these conditions, it is necessary for the taxable persons involved to seek the Comptroller's approval of the use of an acceptable exchange rate.

Supplies to nontaxable persons. GST invoices are not required to be issued to nontaxable customers (i.e., private individuals). However, a simplified GST invoice or a receipt must be issued if requested by the customer.

Records. In Singapore, examples of what records must be held for GST purposes include records relating to a taxable person's income and business expenses, such as tax invoices, agreements, credit notes and import/export documents.

In Singapore, GST books and records can be held outside of the country. This is allowed so long as the records can be made available to the IRAS upon request.

Record retention period. Taxable persons are required to maintain records for five years.

Electronic archiving. Electronic archiving is allowed in Singapore. Records can be kept electronically using a computer and/or accounting software. Physical copies of source documents need not be kept substantiating the business transactions for tax purposes if the source documents are kept electronically. Taxable persons should ensure that proper internal controls are put in place to ensure the integrity, completeness, accuracy, availability and reliability of electronic records, including all transactions executed electronically, where applicable.

I. Returns and payment

Periodic returns. Taxable persons generally file GST returns quarterly. However, taxable persons that receive regular refunds of GST may seek approval to file their returns monthly, to ease cash flow. The GST return is generally due one month following the end of the return period.

Periodic payments. The GST payment in full is generally due the same date as the GST return filing deadline, i.e., one month following the end of the return period.

The majority of taxable persons use the General Interbank Recurring Order (GIRO) for tax payment. Other electronic payment modes, such as internet banking, phone banking, PayNow QR, DBS PayLah! are also available.

Electronic filing. Electronic filing is mandatory in Singapore for all taxable persons. Submissions must be made via myTax.iras.gov.sg. Taxable persons are not required to submit any other documents when the GST return is filed. Under exceptional circumstances (e.g., business is under liquidation), a taxable person may file paper GST return.

Payments on account. Payments on account are not required in Singapore.

Special schemes. *Major exporter scheme (MES).* The MES is designed to ease the cash flow of businesses that import and export goods substantially. Businesses granted the MES can import non-dutiable goods with GST suspended and enjoy GST suspension on goods removed from a Zero GST warehouse.

Approved contract manufacturer and trader (ACMT) scheme. Contract manufacturers and traders under this scheme are relieved of the need to account for GST on value-added activities supplied to non-GST-registered overseas customers or overseas persons who are registered under the Overseas Vendor Registration (OVR) regime as a pay-only person. The scheme is currently available to contract manufacturers within the semiconductor industry, printing industry and biomedical industry (active pharmaceutical ingredients manufacturing).

Approved marine fuel trader (AMFT) scheme. This scheme is designed to benefit qualifying businesses in the bunkering industry that make local purchases of approved marine fuel oil. Under AMFT, qualifying GST-registered businesses need not pay GST on local purchases of approved marine fuel oil from any GST-registered suppliers. This eases the cash flow difficulties of the approved businesses by eliminating the need to pay GST up front and to subsequently claim it back by obtaining a refund from IRAS.

Approved marine customer scheme (AMCS). The scheme is designed to ease compliance for ship owners and ship managers procuring goods for use or installation on internationally bound commercial ships. Under AMCS, qualifying GST-registered businesses enjoy zero-rating on purchases or rental of goods and repair or maintenance services on ship parts or components under qualifying conditions.

Approved third-party logistics (3PL) company scheme. This scheme is designed to increase the competitiveness of logistics companies that provide logistics management services to overseas clients who use Singapore as a logistics hub. Under this scheme, approved logistics companies that provide logistics management services to overseas clients do not need to pay import GST or charge GST on the supplies of their overseas clients' goods under certain circumstances.

Specialized warehouse scheme (SWS). Under this scheme, qualifying services performed on qualifying goods in approved specialized warehouses and the lease/tenancy/license of storage space in these warehouses can be zero-rated to overseas persons. Operators of zero-GST or licensed warehouses predominantly used for storing qualifying goods may apply for the scheme.

Import GST deferment scheme (IGDS). IGDS allows an approved business to defer the payment of import GST until the submission of the monthly GST return for the prescribed accounting period, instead of at the point of importation. This scheme is not applicable to customs or excise duties, which remain payable up front at the point of importation. Among other requirements, taxable persons must be on a monthly filing frequency and have good compliance records with IRAS and the Singapore Customs to qualify for IGDS.

Cash accounting scheme. Small businesses with an annual taxable turnover (excluding GST) of less than SGD1 million may apply for the cash accounting scheme that allows GST to be accounted for upon receipt of payment from the customers. Similarly, the business will claim the GST on its purchases only upon payment to the suppliers. Once approved, the business is on the scheme for three years. The business also remains on the scheme for the three years even if its taxable supplies exceed SGD1 million per annum during the three years.

Annual returns. Annual returns are not required in Singapore.

Supplementary filings. No supplementary filings are required in Singapore.

Correcting errors in previous returns. Errors made in submitted returns can be corrected by filing GST F7 (return for disclosing errors on GST returns filed previously) electronically via myTax Portal. This GST F7 supersedes the return submitted previously for the same accounting period.

Digital tax administration. There are no transactional reporting requirements in Singapore.

J. Penalties

Penalties for late registration. For late registration or failure to register, taxable persons may be subject to a fine of up to SGD10,000 and a penalty of 10% of the tax due. Penalties may be waived for taxable persons that come forward to register for GST in a timely manner.

Penalties for late payment and filings. A penalty of 5% of the tax due is assessed for late payment of GST. If the amount remains outstanding after 60 days, an additional penalty is assessed, equal to 2% of the tax due for each month, up to a maximum of 50% of the unpaid tax.

A penalty of SGD200 after the submission due date and an additional SGD200 for each completed month are assessed for the late submission of a GST return, up to a maximum penalty of SGD10,000.

Penalties for errors. A penalty equal to double the amount of tax that has been undercharged in consequence of such incorrect return or information, or that would have been so undercharged if the return and information had been accepted as correct; and be liable to a fine not exceeding SGD5,000 or to imprisonment for a term not exceeding three years or to both.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's GST registration details. However, this is dependant on a case-by-case basis. For example, for a change in mailing address, the failure to notify the IRAS in a timely manner may in turn cause the taxable person to miss out on correspondences issued by the IRAS. For example, for a change in a financial year-end, the late notification would lead to a mismatch between the taxable person's FYE and GST filing cycle and, as such, a penalty for late notification (as outlined above) may apply. For further details, see the subsection *Changes to GST registration details* above.

Penalties for fraud. A penalty of three times the amount of tax that has or would have been undercharged in consequence of the offense or that would have been undercharged if the offense had not been detected, and be liable to a fine not exceeding SGD10,000 or to imprisonment for a term not exceeding seven years or both.

Surcharge for tax avoidance arrangements. A surcharge equal to 50% of the amount of additional GST will be imposed by the Comptroller as a result of the adjustments made to counteract a tax avoidance arrangement. It will apply to adjustments made for GST accounting periods starting on or after 1 January 2021.

Personal liability for company officers. A company officer can be held personally liable for errors and omissions in GST declarations and reporting, if the negligence would, under the Companies

Act, result in liabilities for the company's obligations to be imposed on the directors. For example, there may be circumstances when the company officers are held liable for debts incurred by the company, such as where debts are incurred without any reasonable or probable expectation that the company would be able to pay or where debts are incurred when businesses are carried on with the intent to defraud creditors.

Statute of limitations. The statute of limitations in Singapore is five years. Under the Singapore GST legislation, the IRAS is empowered to raise assessments within five years from the end of the prescribed accounting period. Where there is a fraud or willful default, there is no time limit for the IRAS to raise additional assessments.

Sint Maarten

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Sint Maarten **GMT -4**

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Effective 10 October 2010, the Netherlands Antilles was dissolved. Sint Maarten became an autonomous country within the Kingdom of the Netherlands and now has its own laws and regulations.

A. At a glance

Name of the tax	Revenue tax (RT)
Local name	Belasting op bedrijfsomzetten (BBO)
Date introduced	1 January 1997
Trading bloc membership	Bloc membership with the Netherlands (LGO agreement)
Administered by	Inspectie der Belastingen (Inspection of taxes)
RT rates	
Standard	5%
Other	Exempt
RT number format	4XX.XXX.XXX (9 digits)
RT return periods	Monthly/Annually (on request)
Thresholds	
Registration	None
Recovery of RT by non-established business	No

B. Scope of the tax

The revenue tax (RT) applies to the following transactions:

- Delivery of goods or services by a local taxable person in the course of its business in Sint Maarten
- Delivery of goods or services in Sint Maarten by a non-established taxable person in the course of its business

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for RT in every jurisdiction where it has customers that are not taxable persons. In Sint Maarten, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a RT-registered or RT-registrable business will be subject to RT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation, including assets. Where the sale meets the conditions, the supply is treated as outside the scope of RT. In Sint Maarten, a TOGC is treated as outside the scope of RT where the following conditions are met:

- The transfer must include elements that encompass whole or part of a taxable business.
- The buyer or recipient intends to continue the same taxable activities, although it does not have to perform the same activities with these assets as the transferor.

Transactions between related parties. In Sint Maarten, there are no specific rules that indicate the value for RT purposes for transactions between related parties. However, in general an arm's-length compensation should be considered.

C. Who is liable

A business entity or an individual who delivers goods or performs services (engages in taxable activities) in Sint Maarten is liable to RT. In principle, the taxable person performing the services or delivering the goods is liable for RT. The definition of a taxable person also includes a person who manages an asset to obtain revenue from the asset on a permanent basis. For example, leasing of real estate located in Sint Maarten became subject to RT, unless an exemption applies. The taxable person realizing the revenue is liable to RT.

Exemption from registration. The RT law in Sint Maarten does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The RT law in Sint Maarten does not contain any provision for voluntary registration, nor special RT registration rules for small businesses. This is because there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for RT).

Group registration. Group RT registration is not allowed in Sint Maarten.

Fixed establishment. In Sint Maarten, there is no legal definition of a fixed establishment for RT purposes. However, generally a fixed establishment is understood to be a business establishment in Sint Maarten of an entity established outside of Sint Maarten, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies and/or to receive and use the services supplied to it for its own needs. A fixed establishment should be capable of acting as a taxable person independently of the head office.

Non-established businesses. A "non-established business" is a taxable person that does not have a fixed establishment in Sint Maarten. A non-established business may become liable for RT and accordingly become subject to registration if a fixed establishment is deemed present in Sint Maarten. Sint Maarten law does not provide a definition of a fixed establishment.

Special rules apply to E-zone companies, offshore companies and offshore banks. An E-zone is comparable to a free trade zone/a designated customs zone. E-zone companies are not liable for RT on their supplies of services or goods to nonresidents.

Companies and banks that hold a foreign-exchange license are generally not liable for RT, because they are excluded from the definition of a taxable person to the extent that these companies conduct offshore activities.

Tax representatives. Tax representatives are not required in Sint Maarten. However, a taxable person may be represented by a third party based on a power of attorney.

Reverse charge. Non-established businesses who provide services must in principle pay the RT on these services. For this purpose, a non-established business is deemed to have chosen domicile at the office of the Inspectorate of Taxes.

However, a business resident in Sint Maarten for whom the services are performed must pay the RT if the non-established business does not report and remit RT on such services. The business resident in Sint Maarten could be held liable for RT not remitted by the nonresident entrepreneur. To avoid noncompliance, the non-established business and the business resident in Sint Maarten can file a joint request to apply the reverse-charge mechanism, and the business resident in Sint Maarten declares and pays RT.

Domestic reverse charge. There are no domestic reverse charges in Sint Maarten.

Digital economy. RT legislation does not specifically mention any regulations in connection with the digital economy. Normal RT rules apply to supplies of digital goods and services.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies are required to register and account for RT in Sint Maarten.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register for RT in Sint Maarten. The RT is self-accounted for by the customer by way of the reverse-charge mechanism. See the *Reverse charge* subsection above.

There are no other specific e-commerce rules for imported goods in Sint Maarten.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Sint Maarten.

Registration procedures. In general, a taxable entity that begins taxable activities must register with the Inspectorate of Taxes by completing an online registration. RT registration does not require a specific form, but application should be made in writing. The registration requires an indication of all taxes in scope and relevant estimations and, if applicable, power of attorney.

When registering a taxable person, copies of the following documents must be submitted.

In case of a sole proprietorship/contractor:
- ID card/passport
- Chamber of commerce registration
- Business license

In case of a NV/BV/other legal entities, the following documents should also be submitted:
- Deed of incorporation
- Director's license

Deregistration. To deregister with the Inspectorate of Taxes, a taxable person should provide proof of deregistration as issued by the Sint Maarten Chamber of Commerce and some additional documentation. The deregistration with the Inspectorate of Taxes should be completed once all tax filing and payment obligations have been met by the taxable person.

Changes to RT registration details. There are no specific requirements in Sint Maarten to notify the tax authorities of changes to RT registration details. It is recommended to notify the tax authorities of any change, but there is no law prescribing this.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of RT. In Sint Maarten, the term "revenue" refers to all payments that the taxable person receives for the delivery of goods or services in the course of its business, excluding interest.

The RT standard rate is 5%.

The standard rate of RT applies to revenue realized from the delivery of taxable supplies unless a specific measure provides for an exemption.

The term "exempt supplies" refers to a supply of goods and services that are not liable to RT.

Examples of exempt supplies of goods and services

- Medical services
- Basic necessities, such as bread, milk and sugar
- Water and electricity services
- Transportation services
- Betting and gaming (casino)
- Postal services
- Lease of real estate that is equipped and designated for permanent residence to individuals who are residents of Sint Maarten
- Revenue realized from supplies of exported goods by an "export business"

To qualify, exports must be supported by evidence that confirms that the goods have been transported outside Sint Maarten. An "export business" is a business that realizes 50% or more of its total revenue by exporting goods outside Sint Maarten.

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Sint Maarten.

E. Time of supply

The time when RT becomes due is called the "time of supply." The basic time of supply is when the payment for a taxable supply is received.

Alternatively, on request, the time of supply occurs on the date on which the invoice is issued. In Sint Maarten, an invoice must be issued within 15 days following the end of the month in which the supply or service is performed.

Deposits and prepayments. There are no special time of supply rules in Sint Maarten regarding deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Sint Maarten for supplies of continuous supplies of services. As such, the general time of supply rule applies (as outlined above), i.e., the time of invoice. There must be at least one tax point per year.

Goods sent on approval for sale or return. There are no special time of supply rules in Sint Maarten for supplies of goods sent on approval for sale or return. As such, the general time of supply rules applies (as outlined above).

Reverse-charge services. There are no special time of supply rules in Sint Maarten for supplies of reverse-charge services. As such, the general time of supply rules applies (as outlined above), that the tax point arises upon receipt of payment.

Leased assets. There are no special time of supply rules in Sint Maarten for supplies of leased assets. As such, the general time of supply rules apply (as outlined above), the tax point arises upon receipt of payment.

Imported goods. There are no special time of supply rules in Sint Maarten for supplies of imported goods. As such, the general time of supply rules applies (as outlined above), that the tax point arises upon receipt of payment.

F. Recovery of RT by taxable persons

RT cannot be recovered in Sint Maarten.

G. Recovery of RT by non-established businesses

RT cannot be recovered in Sint Maarten. As such, input tax incurred by non-established businesses that are not registered for RT in Sint Maarten is not recoverable. Note that due to the fact that there is no registration threshold, all entities that make taxable supplies are obliged to register for RT. Thus, the registration procedures and rules are the same for established and non-established businesses alike.

H. Invoicing

RT invoices. A taxable person must provide an invoice for all taxable supplies made, including exports. The invoice must be issued within 15 days after the end of the month in which the goods were delivered, or the services were rendered. The invoice must include certain information of the supplier, such as address and tax identification number and the transaction.

Credit notes. If a taxable person issues a credit note, the amount mentioned on such credit note can be deducted from the revenue of the period during which the credit note is issued, provided that the amount indicated on the credit note has not yet been received or, if the amount has been received, such amount will be repaid within a month after issuance of the credit note.

Electronic invoicing. Electronic invoicing is allowed in Sint Maarten, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Sint Maarten.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Sint Maarten.

The requirements related to electronic invoicing are the same as those for paper invoicing. No approval is needed from the tax authorities to issue invoice electronically.

Simplified RT invoices. Simplified RT invoices are allowed for certain industries. This includes entrepreneurs active in the catering industry (hotel, restaurant, café, i.e., "HORECA"), retailers, as well as lottery vendors, as they are required to use a cash register system. Such suppliers are required to issue receipts to their customers instead of a full RT invoice.

Self-billing. Self-billing is not allowed in Sint Maarten.

Proof of exports. To qualify for the RT exemption applicable to the export of goods, the taxable person must avail itself of documents that prove the goods have left Sint Maarten. This documentary proof consists of all the following:
- A copy of the issued invoice with certain specifications
- A proof of payment
- Transport documentation evidencing that the goods have left the levy territory
- A copy of documentation from authorities in the country of destination evidencing that the goods have reached their destination

Foreign currency invoices. RT legislation does not specifically mention any regulations in connection with invoices to be issued in foreign currency. The official domestic currency is the Antillean guilder (ANG). However, in practice, invoices are often issued in foreign currency, mostly in the United States dollar (USD).

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Sint Maarten. As such, full RT invoices are required. However, see above for more information about special invoicing rules.

Records. In Sint Maarten, examples of what records must be held for RT purposes include records of their assets and everything relating to its business in such a manner that at any time

their rights, obligations and all other information relevant for tax purposes are clear and readily available within a reasonable time frame upon request from the tax authorities.

In Sint Maarten, RT books and records can be held outside of the country. Records may be kept outside Sint Maarten, provided these can be presented upon request by the tax authorities and the integrity and authenticity of the documents is safeguarded.

Record retention period. Taxable persons must retain copies of invoices for 10 years.

Electronic archiving. Electronic archiving is allowed in Sint Maarten. Paper archiving is mandatory, but electronic is allowed as long as the authenticity and integrity of the documents is maintained.

I. Returns and payment

Periodic returns. RT returns are generally submitted for monthly periods. However, if certain circumstances exist, the tax authorities may allow annual periods upon request of a taxable person, such as a person who manages an asset to obtain revenue from the asset on a permanent basis. Returns must be filed by the 15th day of the month following the end of the reporting period.

Periodic payments. RT due must be paid by the same date as the return submission deadline, i.e., 15th day of the month following the end of the reporting period. The RT due over the period must be remitted with the return. Payments can be wire transferred, as long as the payment is received by the due date.

Electronic filing. Electronic filing is not allowed in Sint Maarten. RT returns must be filed by paper.

Payments on account. Payments on account are not required in Sint Maarten.

Special schemes. *Gambling companies.* Revenue derived from providing access to casino games is exempt from RT.

E-zones. In principle, e-zone companies are exempt from RT to the extent their revenue is generated through the delivery of goods and services outside of Sint Maarten or the rendering of services.

Offshore companies and banks. Companies that have a foreign exchange license (*deviezenontheffing)* are not considered as an entrepreneur for Sint Maarten RT purposes. As a result, these companies are not subject to RT. In short, a company is eligible for a foreign exchange license if it has foreign shareholders and does not perform any activities in Sint Maarten.

Annual returns. Annual returns are not required in Sint Maarten.

Supplementary filings. No supplementary filings are required in Sint Maarten.

Correcting errors in previous returns. If a taxable person needs to correct any errors, it will need to file a new return over the respective period or a reconciliation return. It can also file an objection against an incorrectly filed return and thus reclaim an overpayment.

Digital tax administration. There are no transactional reporting requirements in Sint Maarten.

J. Penalties

Penalties for late registration. There is no specific penalty in Sint Maarten for the late registration of RT. However, if the late registration results in the late payment of RT or the late submission of RT returns, administrative penalties may be imposed.

Penalties for late payment and filings. RT penalties are assessed for the late submission of an RT return or for the late payment of RT, in the following amounts:

- For the late submission of an RT return, the maximum fine is ANG2,500
- For the late payment of RT, fines ranging from 5% to 15% of the amount of the additional assessment may be imposed, with a maximum fine of ANG10,000

Penalties for errors. A negligence tax penalty of up to 100% of the additional tax due can be imposed if the deficit is attributable to the intent or gross negligence of the taxable person.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's RT registration details. For further details, see the subsection *Changes to RT registration* details above.

Penalties for fraud. For a late payment caused by negligence or dishonest conduct, fines ranging from 25% to 100% of the RT payable may be imposed.

The amount of the penalty depends on the facts and circumstances and is determined at the Tax Inspector's discretion, which is subject to objection.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in RT declarations and reporting in Sint Maarten.

Statute of limitations. The statute of limitations in Sint Maarten is five years. However, in the case of bad faith, this increases to 10 years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Daň z pridanej hodnoty (DPH)
Date introduced	1 January 1993
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (www.finance.gov.sk) Financial Directorate (www.financnasprava.sk)
VAT rates	
Standard	20%
Reduced	5%, 10%
Other	Zero-rated and exempt
VAT number format	SK0123456789 (digits can be from 0-9)
VAT return periods	Monthly/Quarterly (requested by certain taxpayers with turnover below EUR100,000, except for the initial 12 months of registration)
Thresholds	
Registration	
Established	EUR49,790
Non-established	None
Distance sales	EUR10,000
Intra-Community acquisitions	EUR14,000
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods for consideration in the Slovak Republic by a taxable person (i.e., a taxpayer) acting as such
- The supply of services for consideration in the Slovak Republic by a taxable person acting as such
- The acquisition of goods from another European Union (EU) Member State by a taxable person for consideration (*see the chapter on the EU*)
- The importation of goods, regardless of the status of the importer

VAT also applies to the following transactions:
- The supply of goods or services by the taxpayer for its private use or for the private use of its staff, and of goods supplied free of charge or supplied for any purpose other than that of the taxpayer's business, if the input tax is wholly or partly deducted
- The transfer of goods owned by a taxable person from the Slovak Republic to another EU Member State (or vice versa) effected by the taxable person or on the taxable person's account, for the purposes of the taxable person's business (exceptions apply, *see the chapter on the EU*)
- The use of tangible assets in the possession of the taxpayer for its private use, for the private use of the taxpayer's staff or for any purpose other than that of its business, if the VAT on such assets is wholly or partly deductible

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, Proof of exports and intra-Community supplies.*

VAT Quick Fixes rules were introduced in the Slovak VAT Act as of 1 January 2020 and cover the following areas:
- Implementation of call-off stock rules: i.e., call-off stock simplification providing a single uniform VAT regime applicable for the delivery of goods to an already known customer in another Member State who will be acquiring the goods at a later stage.
  - The call-off stock simplification can be used for the maximum period of 12 consecutive months. In case the customer does not pick up the goods from the stock within this period, the supplier needs to register for VAT in the country of arrival and report intra-Community acquisition of goods here; there are some exceptions applicable allowing for the simplification beyond the 12-month period.
  - Supplier should include VAT ID of the customer, together with the value of the goods in its EC Sales List filed in the country of dispatch.
  - Supplier and customer should report the respective transaction in their VAT records.
  - The call-off stock simplification can be operated also in case of VAT registration of the supplier in the Member State of arrival, providing the supplier does not have its seat or fixed establishment in that country.
- VAT number as a substantive condition for applying the exemption for intra-Community supplies of goods: customer's VAT ID assigned by the Member State different from the Member State of dispatch becomes a substantive requirement for exemption of intra-EU supplies of goods.
- Documentary evidence of intra-EU supplies of goods: there is a rebuttable presumption for the evidence of the transport to another EU Member State if the supplier can provide two noncontradictory pieces of evidence that are independently prepared and issued by different parties.

- Chain transactions simplification: for chain transactions, the intra-Community supply will be ascribed to the supply made to the intermediary operator who arranges or has the intra-Community transport arranged. If the intermediary operator has communicated to its supplier the VAT number issued to it by the Member State from which the goods are dispatched or transported, the intra-Community supply will be ascribed to the supply made by the intermediary operator.

The rules concerning the documentary evidence of intra-EU supplies of goods valid prior to 2020 were retained in the Slovak VAT Act and can be relied upon by taxpayers in case this is more beneficial for them as opposed to Quick Fixes regulation. The rules are detailed below in section *H. Invoicing subsection Proof of exports and intra-Community supplies*. There were no other derogations implemented in the Slovak Republic in comparison to the wording in the EU Directive/EU regulation.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In the Slovak Republic, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. A transfer of a going concern (TOGC) is considered outside the scope of VAT. The VAT rules in the Slovak Republic require the transferor and the transferee to be VAT registered to fall outside the scope. In the Slovak Republic, the legislation requires the transferee to register for VAT. But a TOGC is not relieved from taxation if the transferee is involved in (mostly) exempt business – the general taxation rules would then apply.

The Slovak VAT legislation is currently in line with the EU VAT Directive TOGC provisions and with the European case law. The process of TOGC registration is administratively complicated and may cause an unexpected adverse cash flow impact, thus the whole TOGC registration process should be managed enough in advance. TOGC regime may be applied on different types of agreements.

Transactions between related parties. If the supplier of the goods or services is supplying goods and services to a customer with a special relationship for a consideration lower than the free-market value, and the customer (recipient) is not a taxpayer or is a taxpayer who is not entitled to a full input tax deduction from these goods and services, the tax base is free-market value.

The free-market value is the amount that the recipient would have to pay to acquire the goods or services in question at the same commercial stage as the supply of goods or services from an independent supplier of goods or services at the time of delivery under the conditions of fair competition.

If a comparable supply of goods or services cannot be identified, the free-market value is:
- On delivery of the goods, an amount that is not lower than the purchase price of the goods in question or similar goods and, if the purchase price does not exist, the costs of creating the goods at the time of delivery
- On delivery of the service, an amount not less than the cost of that service

The persons with a special relationship to the supplier are as follows: statutory body of the company, members of supervisory board, direct or indirect owners of the customer and its statutory bodies, employees, relatives, etc.

C. Who is liable

A taxable person is any business entity or individual that independently performs any economic activity regardless of the purpose and results of such activity.

The VAT registration threshold for taxable persons that have their seat, place of business or a fixed establishment in the Slovak Republic (Slovak taxable persons) is a turnover of EUR49,790 measured in a maximum period of 12 consecutive calendar months. A Slovak taxable person of which the turnover equals or exceeds the registration threshold must file a VAT registration application by the 20th day of the month following the month in which the threshold is reached.

For the above purposes, turnover includes the value of supplies of goods and services, made in the Slovak Republic (excluding tax). The value of supplies that are exempt from VAT without input deduction (see *Section D*) is generally excluded from turnover for the above purposes. However, the value of insurance and financial services is included if these services are not provided as ancillary to the main taxable supply. The value of the occasional sale of tangible property (except inventory) and intangible property is excluded from the definition of taxable turnover.

Exemption from registration. As mentioned above, foreign businesses are not obliged to be registered for VAT purposes in the Slovak Republic if they are represented by an import VAT representative or intra-Community acquisition VAT representative and if they do not perform any other transactions subject to VAT reporting in the Slovak Republic than the listed ones.

Slovak established persons (i.e., persons having their seat, place of business or a fixed establishment in the Slovak Republic) of which turnover in the preceding 12 consecutive calendar months did not exceed EUR49,790, are not obliged to register for VAT in the Slovak Republic. From 1 January 2023, such registration obligations do not arise if a Slovak taxpayer achieves the stipulated turnover solely from the VAT exempt supply or leasing of immovable property and the provision of insurance or financial services.

A taxable person that plans to supply an immovable property is obliged to register for VAT before making a supply of the immovable property (or before receipt of payment pertaining to such a supply) by which it would exceed the mandatory registration threshold, unless the supply is exempt from VAT.

A taxable person not registered for VAT or nontaxable legal person acquiring goods from another EU Member State is not obliged to register for VAT purposes in the Slovak Republic if the value of intra-Community acquisitions (excluding VAT) does not exceed EUR14,000 in a calendar year. On the other hand, if a taxable person not registered for VAT in the Slovak Republic purchases services from other EU Member State subject to the reverse-charge mechanism, with a place of supply in the Slovak Republic, while being considered as a person liable to VAT, it is obliged to register for VAT purposes in the Slovak Republic before the actual purchase of the services. Similarly, the Slovak established person not registered for VAT purposes in the Slovak Republic is obliged to register for VAT before it supplies services to another EU Member State if these have the place of supply in another EU Member State and the purchaser is considered a person liable to pay VAT.

As of 1 July 2021, the provision on the distance selling model were replaced by the One-Stop Shop (OSS), applicable also for intra-EU distance sales of goods, where the registration threshold of EUR10,000 applies.

Voluntary registration and small businesses. Taxable persons with any value of turnover or acquisitions may register voluntarily. Voluntary VAT registration is administratively complex and subject to detailed scrutiny from the Slovak tax authorities due to antifraud measures.

Group registration. VAT grouping allows financially, economically and organizationally linked domestic taxable persons (including fixed establishments of foreign entities) to form a single taxable person. The VAT group is assigned a single VAT identification number. Supplies between the members of the VAT group are outside the scope of VAT. However, records of such supplies must be maintained for VAT purposes.

All members of a VAT group in the Slovak Republic are jointly and severally liable for VAT debts and VAT penalties.

The Slovak VAT group registration becomes effective on 1 January if the group VAT registration application is filed by 31 October of the preceding calendar year.

There is no minimum time period for the duration of a VAT group. An exit from the VAT group is possible at any time – the exit of a VAT group member from the VAT group is effective within 30 days after filing the request for exit from the VAT group.

One taxable person may be a member of one VAT group only. A Slovak VAT group can include only taxable persons with their seat, place of business or a fixed establishment in the Slovak Republic.

Holding companies. In the Slovak Republic, a holding company can be a member of a VAT group if it fulfills the general criteria of being a taxable person performing economic activities, as only a taxable person may become a member of a VAT group. The assessment if a holding company fulfills the required criteria qualifying for taxable person requires a detailed validation of activities performed by the holding company. The Slovak tax authorities did not issue any methodological guidance on this matter.

Note that a pure/passive holding company does not typically perform economic activities and therefore should not be considered as taxable person. Therefore, a pure/holding company cannot be member of a VAT group.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has not been implemented in the Slovak Republic.

Fixed establishment. A fixed establishment (FE) for the purpose of the Slovak VAT law is defined as a permanent place of business that has the human and material equipment necessary for the performance of business activities in the Slovak Republic. The Slovak tax authorities follow the interpretation of an FE as stipulated by Council Implementing Regulation (EU) No 282/2011. The registration of a branch in the Slovak Commercial Register does not automatically make the branch meet the fixed establishment criteria.

Non-established businesses. A "non-established business" is a foreign business that has no seat, place of business, fixed establishment, residence or habitual abode in the Slovak Republic.

A non-established business must register for VAT in the Slovak Republic before it begins to perform activities that are within the scope of Slovak VAT, except for the importation of goods. Performance of only the following supplies of goods or services in the country does not trigger the registration obligation:

- Certain zero-rated transport services and zero-rated services ancillary to transport services
- Goods and services subject to the reverse charge by the recipient
- Goods transported to other EU Member States if the goods have previously been imported from a non-EU country and the foreign person has appointed an import VAT representative in the Slovak Republic
- Goods transported to other EU Member States or to non-EU countries if the goods have previously been supplied to the Slovak Republic from another EU Member State and the foreign person has appointed an intra-Community acquisition VAT representative in the Slovak Republic

- Goods supplied within a triangular transaction if the non-established business acts as middle party to the transaction (*see the chapter on the EU*)
- Gas and electricity supplies if the recipient of the goods is required to pay VAT
- Goods and services subject to a VAT exemption without the right for input tax deduction
- Certain types of goods supplied in certain types of custom warehouses defined by the VAT Act
- Supply of goods and provision of services with the place of supply (consumption) in the Slovak Republic applying the OSS simplification scheme

The Slovak tax authorities are obligated to register the non-established person as a taxpayer and to allocate the tax identification number immediately, no later than within seven days of the date of delivery of the application for tax registration. The non-established person shall become a taxpayer from the date shown in the letter providing the tax registration number. From 1 January 2022, the Slovak tax authorities do not issue a certificate confirming tax registration. Instead, the allocated tax identification number is announced by the Slovak tax authorities to the taxpayer. There are no procedural fees related to submission of VAT registration application in the Slovak Republic.

VAT registration is carried out at the following designated office:

Tax Authority Bratislava (Daňový úrad Bratislava)
Ševčenkova 32
P.O. Box 154
850 00 Bratislava
Slovak Republic

In theory, it is possible to file the VAT registration electronically for non-established businesses (using the advanced electronic signature). However, in practice this can be complex and not often undertaken. However, if the non-established taxable person has a representative for tax proceedings (tax advisor or legal attorney, etc.), the electronic communication, including the electronic VAT registration application, becomes an obligation. But in this case, it is the representative acting based on the power of attorney who will be filing the registration electronically on behalf of the non-established business.

The VAT registration threshold for Slovak taxable persons and for Slovak nontaxable legal persons that acquire goods in the Slovak Republic from other EU Member States is EUR14,000 of goods acquired in a calendar year. This type of VAT registration does not confer on the person the status of a taxpayer (that is, no input tax deduction is possible). It only serves the purpose of allowing the person to pay the VAT due on the goods acquired. Registration is required before achieving the threshold.

Tax representatives. The concept of a fiscal representative has not been introduced into the Slovak VAT Act. Nevertheless, foreign or Slovak entities can appoint a representative to act on their behalf in front of the Slovak tax authorities in all tax matters, including VAT registration or compliance process, based on a power of attorney.

A non-established business may appoint a VAT representative for the purposes of making importations of goods that are to be treated as exempt from VAT on the basis of their subsequent intra-Community supply (a zero-rated resale to another EU Member State) by the non-established business. The non-established business must appoint the representative using a power of attorney. The VAT representative must submit tax returns on a monthly basis as well as monthly EU Sales Lists on behalf of the importers. The importer of goods is not required to register for VAT purposes in the Slovak Republic.

A non-established business may appoint a VAT representative for the purposes of making intra-Community acquisitions of goods in the Slovak Republic (i.e., acquisition of goods from another EU Member State) provided that these goods are intended to be subsequently supplied to another EU Member State or non-EU country or sold distance selling (with the place of supply in another EU Member State). The VAT representative should be appointed using a power of attorney. The VAT representative is obliged to submit VAT returns, VAT ledgers and EU sales lists on behalf of the represented person on a monthly basis. The person represented by the VAT representative is not required to register for VAT purposes in the Slovak Republic provided it does not perform any transactions subject to VAT reporting in the Slovak Republic (other than those described above). A VAT representative can represent more than one non-established business.

Reverse charge. A Slovak taxable person must apply VAT with respect to services provided from another EU Member State or a non-EU country if the following conditions are satisfied:
- The services are taxable and the place of supply of the services is in the Slovak Republic
- The supplier is not the person liable to pay the VAT

VAT is accounted for by the reverse-charge mechanism; the recipient of the service must account for VAT on the service, but it is also entitled to recover the self-assessed VAT if certain conditions are met.

A Slovak taxable person is generally not required to apply the reverse charge if the service provider is established for VAT purposes in the Slovak Republic (in that case, the service provider must account for the Slovak VAT due). However, the reverse charge applies if a taxable person or an entity that is not a taxable person and that is identified for VAT, as a result of intra-Community acquisitions, receives services from a non-established person from another EU Member State or a non-EU country and if the place of supply is in the Slovak Republic as a result of the recipient's seat, place of business or fixed establishment (if the service is attributable to the fixed establishment). In such circumstances, the reverse charge applies regardless of whether the non-established service provider is registered for VAT in the Slovak Republic. If these services are provided to persons in their nonbusiness capacity or to private individuals, the country where the supplier is established is considered to be the place of supply for the services.

The person liable to VAT with respect to goods (except in the case of distance selling) and services supplied by non-established businesses (from EU and non-EU countries) to taxable persons established in the Slovak Republic is the recipient of the goods and services, regardless of whether the supplier (foreign person) is registered for VAT in the Slovak Republic.

Domestic reverse charge. A Slovak VAT payer that purchases the following goods from another Slovak taxable person must apply the domestic reverse charge to the following supplies:
- Gold in the form of raw material, semi-finished product or investment gold
- Metal waste and scrap metal
- Greenhouse gas emission allowances
- Immovable property where the option to tax was elected by the supplier
- Supply of goods following the cession of a reservation of ownership to an assignee and the exercising of this right by the assignee
- Supply of immovable property within enforcement or bankruptcy proceedings
- Supply of construction services, supply of construction under a contract of work (or similar type of contract) if it falls under Section F (Constructions or construction works) of the Statistical Classification of Products, and the supply of goods with installation or assembly, if the assembly or installation falls under Section F of the Statistical Classification of Products; in cases when it is not clear whether the construction service falls under Section F, but the supplier reasonably concludes that this service should be subject to the local reverse charge and includes the sentence on the invoice that the "application of reverse charge" applies, the customer is liable to pay the VAT due

- Supply of goods falling within Chapters 10 (cereals) and 12 (oil seeds and oleaginous fruits, miscellaneous grains, seeds and fruit, industrial or medicinal plants, straw and fodder) of the Common Customs Tariff, which are not commonly intended for final consumption in an unchanged state; it does not apply to the sales of goods where a simplified tax invoice (cash register bill) is issued
- Supply of goods falling within Chapter 72 (iron and steel) and Items 7301 (sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements, welded angles, shapes and sections of iron or steel), 7308 (structures and parts of structures of iron or steel, plates, rods, angles, shapes, sections tubes and the like, prepared for use in structures of iron or steel) and 7314 (cloth, grill, netting and fencing, of iron or steel wire, expanded metal of iron or steel) of the Common Customs Tariff; it does not apply to the sales of goods where a simplified tax invoice (cash register bill) is issued
- Supply of mobile phones that are made or adapted for use in conjunction with a licensed network and work on specified frequencies, if the tax base in the invoice is EUR5,000 or more
- Supply of integrated circuits such as microprocessors and central processing units in a state prior to integration into end-user products, if the tax base in the invoice is EUR5,000 or more

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see *Section B, Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In the Slovak Republic, taxpayers that want to register for application of the OSS should submit to the Slovak tax authorities the registration form for OSS. There are separate application forms designated for OSS, different from the "standard" VAT registrations. If the tax authorities allow the use of a special OSS scheme, the taxpayers who are not already registered for VAT purposes will obtain the confirmation together with the notification of identification number for OSS purposes.

The tax authorities can cancel the registration for OSS for the following:
- Based on the request for cancelation of registration from a taxpayer that has decided not to apply the OSS or when the taxpayer has stopped carrying out the activity covered by the OSS
- The taxpayer does not fulfill the conditions for the application of the OSS in the Member State of identification, e.g., change of registered office
  Or
- The taxable person repeatedly breaks the conditions for the application of OSS, e.g., does not submit tax returns with OSS

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier registers for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In the Slovak Republic, the OSS registration process is the same as described above in the *Local VAT registration* subsection.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT. *For more details about the IOSS, see the chapter on the EU.*

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

In the Slovak Republic, the IOSS registration process is the same as described above in the *Local VAT registration* subsection.

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In the Slovak Republic there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the EU chapter.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:
- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In the Slovak Republic there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. The Slovak Republic has adopted the Council Directive (EU) 2016/1065, for the application of VAT on vouchers. A voucher is defined as an instrument in physical or electronic form and is associated with the entitlement of the holder to receive specific goods or services and the commitment of the supplier to accept such voucher as consideration for the delivered goods or services.

For the VAT purposes, it is necessary to distinguish between so-called "single-purpose" VAT (SPV) and "multi-purpose" VAT (MPV) vouchers. For SPV, the place of supply of goods or services and the VAT rate are known already at the time of issuance. For MPV, at least one of these facts is unknown.

The sale of a SPV by a taxpayer acting in their own name is regarded as a supply of goods or services against consideration. The supplier charges VAT upon sale of the SPV, while the VAT will not be charged upon the actual supply of goods/services when SPV is redeemed. The sale of MPV will not be subject to VAT. Only the provision of goods or service itself in return for a MPV will be subject to taxation.

Registration procedures. The following documents should be submitted to Slovak tax authorities by the non-established person for the purposes of VAT registration:
- A completed application form for VAT registration
- An original extract from the Commercial Register or a notarized copy thereof
- An official translation of the extract from the Commercial Register into the Slovak language (not required for the Czech language)
- If the person has appointed a representative, a power of attorney does not need to be notarized, but if the power of attorney is executed in any language other than the Slovak or Czech languages, it must be accompanied by official translation thereof

The VAT application form, together with the required documents, must be filed electronically to the tax authorities.

Deregistration. Taxable persons that cease to conduct economic activities (i.e., activities subject to VAT in the Slovak Republic, as well as in another EU Member State) are obliged to file an application to deregister. The Slovak tax authorities may deregister a VAT-registered person in

response to an application or at their own discretion if the VAT-registered person repeatedly fails to comply with administrative duties (e.g., filing of VAT returns, VAT ledgers, payment of VAT or tax audit-related duties).

Changes to VAT registration details. The taxable person is obliged to notify the tax administration electronically of any changes regarding its tax registration details (e.g., a change of business name, address, organization's number, name of the managing director). The deadline for filing the announcement of changes is 30 days from the day the changes occurred.

Split payment. In the Slovak Republic, a split-payment mechanism has been introduced with the aim to mitigate the risk of several and joint liability for unpaid VAT by the supplier. The customer can remit the amount of VAT from the invoice directly to the individual bank account of the supplier held by the tax authorities. By paying the VAT directly to the individual bank account of the supplier, the risk of being held liable for VAT unpaid by the supplier to the tax authorities should be mitigated. The payment order should be made in the same way as if placed by the suppliers themselves.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rate: 5%, 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- Intra-Community supplies of goods
- Services related to the export of goods
- International transport of persons
- Financial and insurance services provided to a customer that is not established in the EU

Examples of goods and services taxable at 5%

- Supply of building or its parts (including building plots) in relation to state-supported rental housing – not applicable for nonresidential premises
- Reconstruction and restoration of building or its part (including construction and assembly works on the building) in relation to state-supported rental housing – not applicable for nonresidential premises

Examples of goods and services taxable at 10%

- Selected pharmaceutical products and medical aids
- Specific newspapers, periodicals, books, brochures and leaflets, and books for children
- Certain food products such as meat, fish, milk and bread, certain types of vegetables
- Accommodation services
- Certain goods and services related to social welfare
- Hotel, restaurant and catering (HoReCa) services

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Postal services
- Health care (except for supplies of pharmaceuticals and health aids)
- Public radio and television broadcasting (except for broadcasting of commercials and sponsored programs)
- Education
- Financial services
- Services related to sports and physical education
- Cultural services
- Social welfare
- Lotteries and similar games
- Transfer and lease of real estate (options to tax available for both except of residential real estate)
- Insurance and reinsurance services (including public social and health insurance)
- Services provided by a legal person to its members (if certain conditions are met)

Option to tax for exempt supplies. The transfer of immovable property, wholly or partly, carried out five years after the date of the first official approval of use or five years after the first day of the actual usage, or five years after major reconstruction with or without the change in the purpose of using that property is VAT exempt. The taxpayer may opt to tax the transfer of the immovable property, except for the transfer of residential real estate.

Similarly, the lease of immovable property is VAT exempt. Again, the taxpayer that leases nonresidential real estate to a taxable person may opt to tax the lease.

E. Time of supply

The time when VAT becomes due is called the "chargeability of tax" or "tax point." In the Slovak Republic, VAT generally becomes chargeable on the date on which goods are supplied or services are performed.

Under the general rule, the tax point for goods or services is the date of the supply of the goods or services or the date of the receipt of the payment, whichever is earlier. The date of supply of goods is the date of acquisition of the right to dispose of the goods as owner.

Deposits and prepayments. There are no special time of supply rules in the Slovak Republic for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. If goods or services are supplied in parts or repeatedly, the goods or services are considered to be supplied at the latest on the last day of the period to which the payment for the goods or services relates.

If a payment for partial or repeated supplies of goods or services is agreed to for a period exceeding 12 calendar months, the tax point arises on the last day of the 12th month, until the supply of goods or services is finished.

A special rule applies if the following circumstances exist:

- A service is supplied partially or repeatedly during a period exceeding 12 calendar months and the agreed payment is for a period exceeding 12 calendar months
- The service is supplied to a taxable person acting as such
- The place of supply is in the Slovak Republic
- The person required to pay VAT is the recipient of the service

In the circumstances mentioned above, the tax point arises on 31 December of each calendar year, until the supply of such service is finished.

Specific rules also apply to partial or repeated intra-Community supplies of goods, partial or repeated supplies of gas, water, heat and electricity that are supplied along with leases of immovable property, and of electronic communication networks and electronic communication services.

Goods sent on approval for sale or return. There are no special time of supply rules in the Slovak Republic for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. For reverse-charge services received by a Slovak taxable person, VAT becomes due on the date of supply of the service.

Leased assets. The delivery of goods based on a lease agreement under which ownership to the subject matter of the lease agreement is acquired, at the latest, upon the payment of the last installment is considered a supply of goods.

A lease transaction with purchase options agreed generally remains to be regarded as a supply of services. From 2025, it is the intention to treat a lease with purchase option as a supply of goods in line with the CJEU case law and thus the VAT will be due upon hand over of goods subject to leasing agreements.

The lease of real estate or its part is VAT exempt, except for:
- The provision of accommodation services
- Lease of land for the purpose of parking of vehicles
- Lease of permanently installed equipment and machinery
- Lease of safes

A taxpayer that leases a nonresidential real estate to a taxable person may opt to tax the lease.

Imported goods. The tax point for imported goods is when the customs authority accepts the customs declaration for the release of the goods into a customs regime triggering the payment of VAT. If this is not applicable, the tax point is when the liability to customs duties (including import VAT) arises in a different manner.

Note that postponed import VAT accounting (i.e., VAT deferral upon importation) has not been implemented into the Slovak VAT law.

Intra-Community acquisitions. For intra-Community acquisitions, the tax point is either the date of the issuance of the invoice or the 15th day of the calendar month following the month in which the goods are acquired, whichever is earlier.

Intra-Community supplies of goods. The tax point for goods that are supplied to another EU Member State and that meet the conditions for exemption from VAT in the Slovak Republic is either the date of the issuance of the invoice or the 15th day of the calendar month following the month in which the goods are supplied, whichever is earlier.

Distance sales. There are no special time of supply rules in the Slovak Republic for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

The date is the supply of the goods or the date of the receipt of the payment, whichever is earlier. The date of supply of goods is the date of acquisition of the right to dispose of the goods as the owner.

As of 1 July 2021, only for the taxable persons who facilitate the supply of goods within the territory of the EU, the tax point will arise on the day when the payment is received.

Immovable property. The tax point for a transfer of real estate is the date on which the transfer of the property is registered in the Real Estate Cadaster or the date on which the property is made available for use to the purchaser, whichever is earlier. The tax point for the supply of a newly constructed building is the date of the handing over of the building.

F. Recovery of VAT by taxable persons

A taxpayer may recover input tax, which is the VAT charged on goods and services received if it is directly attributable to the taxable person's own supplies for which a deduction entitlement exists (mostly taxable and zero-rated supplies).

Input tax may generally be recovered by deducting it from output tax, which is VAT due on the supplies made. A taxpayer is entitled to deduct input tax if the tax point for the supply in question has arisen with respect to the output and the taxpayer holds a valid VAT invoice or import document.

The time limit for a taxable person to reclaim input tax in the Slovak Republic is five years. However, the taxpayer may deduct input tax in any VAT period after the VAT period in which the right to deduct arose up to the end of the calendar year (or the financial year, if applicable). The taxpayer must possess the required documents (e.g., invoice, import declaration and other documents) by the time of the deadline for submission of the VAT return for that period. If the documents are not available until the end of the calendar (or financial) year, the deduction must be made for the period in which the documents are received. If the taxpayer finds out later that there is an invoice with VAT that was not claimed by the last VAT return in the respective calendar (or financial) year, it is still possible to claim this input tax via filing the supplementary VAT return. Taxpayers can go back and submit supplementary VAT returns up to five years (see *Correcting errors in previous returns* subsection below).

Taxpayers submitting a supplementary VAT return due to belated receipts of invoices for intra-Community acquisitions of goods are entitled to deduct the respective VAT in this supplementary return if they have the related invoice at their disposal as of the filing date.

Taxpayers are required to correct the amount of deducted VAT within 30 days from the date the tax base was to be corrected by the supplier, even if the corrective invoice is absent.

From 1 January 2023, taxpayers acting as customers are obliged to correct the amount of deducted VAT in case they have not paid for the supply of goods or services, where the supplier was a person liable for VAT and more than 100 days have passed since the liability due date. The correction shall be made to the extent of the amount that taxpayers have not paid for the supply in the tax period in which the 100-day period elapsed.

A taxpayer is entitled to interest on excess VAT if the payment of excess VAT was later than six months after the deadline for its usual refund. The interest is calculated as a percentage of the final amount of excess VAT (as confirmed by the tax inspectors), for the period starting six months after the deadline for its usual refund, until its actual refund. The interest rate applicable should equal twice the European Central Bank rate, valid on the first day of the calendar year for which the interest is calculated, with a minimum applicable annual rate of 1.5%.

Nondeductible input tax. A taxpayer may not recover the following input tax:
- VAT that relates to activities that are not business activities
- VAT that relates to transactions regarded as exempt supplies
- VAT incurred on items of expenditure for which recovery is specifically excluded (for example, input tax related to meals and entertainment)

Input tax on goods that are used for both business and for nonbusiness purposes is generally deductible. However, output tax must be paid on the nonbusiness use.

For fixed tangible assets intended to be used for both business and nonbusiness purposes, the taxpayer may opt not to deduct a portion of the input tax that reflects the nonbusiness use of these assets. As a result, the use of these assets for nonbusiness purposes is not subject to VAT.

The above option applies only to movable tangible assets with an acquisition price exceeding EUR3,319.39 (without VAT) and a useful life over one year. For immovable assets, the taxpayer needs to determine the proportion of use of the immovable asset for its business and nonbusiness purposes and deduct the input tax only to the extent of the business use (for further details, see the subsection on *Capital goods* below).

For services received by a taxable person that are intended to be used for both business and nonbusiness purposes, the taxpayer may not deduct VAT relating to nonbusiness use. However, if the taxpayer does not expect to use the services for nonbusiness purposes, it may deduct input tax relating to the entire consideration for the services. If the services are subsequently used for nonbusiness purposes, the taxpayer must account for output tax (VAT on sales) on the portion of the consideration that is attributable to the nonbusiness use of the services.

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

Examples of items for which input tax is nondeductible

- Business entertainment
- The part of input tax on the acquisition of goods and services that represents its nonbusiness use, if the taxpayer elects not to apply output tax on this nonbusiness use

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease or hire of vans and trucks
- Taxis
- Hotel accommodation
- Fuel used for business purposes
- Business use of mobile telephones
- Business gifts that are worth less than EUR17 each (not taxed on output)
- Commercial samples of goods for advertising purposes (not taxed on output)
- Parking

Partial exemption. For goods and services that are partially used for the provision of exempt supplies, only the portion of VAT related to taxable supplies may be deducted. For these purposes, taxable supplies include zero-rated supplies, and supplies that are specifically excluded from the application of VAT and that are entitled to input tax deduction.

The deductible proportion is calculated based on the total revenue (or income) generated from taxable supplies made (those for which the input tax is deductible), divided by the total revenue (or income) from all supplies made. All values are exclusive of VAT. Because the terms "revenue" and "income" are not defined for VAT purposes, they should probably be understood in terms of their definitions for accounting purposes. "Revenue" is the term used for double-entry bookkeeping, while "income" is the term used for single-entry bookkeeping.

The following taxable supplies are excluded from the calculation of the deductible proportion:

- Incidental financial services exempt from VAT
- The sale of an enterprise or part of an enterprise (transfer of going concern)
- The sale of business assets (capital goods) excluding inventory
- Incidental real estate transactions (transfer or leasing of immovable property)

The deductible proportion is calculated for the entire calendar (or financial) year and is rounded up to the nearest whole percentage. During the current calendar (or financial) year, the deductible proportion calculated for the preceding year is used. If no percentage exists for the preceding year, the taxpayer may use a percentage agreed to with the tax authorities.

Approval from the tax authorities is not required to use the partial exemption standard method in the Slovak Republic. Special methods are not allowed in the Slovak Republic.

Capital goods. With respect to the purchase of immovable property to be used for both business and nonbusiness purposes, the input tax is deductible only to the extent that the property is used for business purposes. If the nonbusiness use of the immovable property changes over a period of 20 years, a special Capital Goods Adjustment Scheme applies. This rule applies to immovable property acquired on or after 1 January 2011.

The previously valid 10-year period for the adjustment of deducted input tax relating to immovable property is extended to 20 years. Under transitional provisions, the 10-year period applies to immovable property that was subject to the adjustment of input tax deduction in the period from 2004 to 2010, regardless of when the property was acquired. Consequently, the extended 20-year period also applies to immovable property acquired before 1 January 2011 that was not subject to adjustment of the VAT deduction in the period from 2004 to 2010. Taxpayers must retain documentation relating to affected immovable property for a period of 20 years.

Adjustments of deducted input tax relating to capital goods must also be preserved by the legal successor of the entity dissolved without liquidation, such as in cases of reorganizations such as mergers or de-mergers.

Deducted input tax relating to movable capital goods must be adjusted if the proportion between business and nonbusiness use changes over a period of five years after the capital goods were acquired.

In the Slovak Republic, the capital goods adjustment applies to the following services and circumstances:
- In case of services performed on movable assets with a purchase price of EUR3,319.39 or more, and a useful life of more than one year, the obligation for input tax adjustment needs to be analyzed for five years.
- In case of services performed on buildings, building plots, flats and nonresidential premises, the obligation for input tax adjustment needs to be analyzed for 20 years.

Refunds. If the amount of deductible VAT in a VAT period exceeds the amount of output tax in that tax period, the taxpayer may offset the difference against a VAT liability in the following tax period. The remaining difference between the amount of deductible VAT and output tax that cannot be offset is refunded to a taxpayer by the tax authorities within 30 days after the date of the submission of a VAT return for the following tax period.

Taxpayer may request the refund of excess VAT in a shorter period, which is 30 days after the deadline for submission of the VAT return for the VAT period in which excess VAT was reported, if the following conditions are met:
- The taxpayer is a monthly taxpayer
- The taxpayer was registered for VAT purposes for at least 12 months before the month in which the excess VAT was reported
- The taxpayer is not liable for underpayments exceeding EUR1,000 of other taxes, customs duties and mandatory social and health insurance over the six-month period preceding the month in which the excess VAT was reported

If in the period for refund of excess VAT, the tax authorities deliver an appeal (letter) prompting the removal of defects in the submitted VAT return, the period for refund of excess VAT is interrupted from the day of delivery until the day on which the defects are removed. If the taxpayer

generates or increases an amount of excess VAT through the filing of a supplementary VAT return, the tax authorities must refund the respective amount within 30 days after the submission of the supplementary VAT return.

If the tax authorities carry out a tax audit to verify the taxpayer's entitlement to a refund, the refund must be repaid within 10 days after the tax authorities complete the tax audit.

If the excess VAT is refunded in a shorter period (mentioned above) based on a VAT return containing incorrect data, the tax authorities impose a penalty amounting up to 1.3% per month of the excess VAT refunded.

Pre-registration costs. The taxpayer may deduct tax related to goods and services purchased before the day the person became the taxpayer if such purchases were not included in tax expenses in calendar years preceding the calendar year in which the person became a taxpayer, except for stock. As to regards of property acquired before the VAT registration, the taxpayer will decrease VAT for property that is depreciated by a proportional part of the VAT corresponding to the depreciation. The taxpayer shall not be entitled to deduct the VAT if the goods and services are not used for the supplies of goods and services as the taxpayer.

Taxpayers are also obliged to take into account the correction of the deducted VAT amount in case they have not paid for the supply of goods or services, whereas the supplier was a person liable for VAT and more than 100 days have passed since the liability due date if this occurred in the period when the taxable person should have already been VAT registered.

Bad debts. The write off of bad debts (i.e., bad debt relief) of unrecoverable VAT is possible in certain situations in the Slovak Republic.

The options when a bad debt relief (refund of the VAT) may be claimed are exhaustively defined in the law:

- More than 150 days have passed since the due date of an unpaid receivable amounting to less than EUR1,000 (including VAT) and the taxpayer is able to prove it has performed any action to obtain receivable reimbursement
- More than 150 days have passed since the due date of an unpaid receivable amounting to more than EUR1,000 (including VAT) and the taxpayer is able to prove that the receivable has been claimed through enforcement or court proceedings
- Customer is in the bankruptcy procedure (certain conditions apply)
- Customer is in the debt relief procedure (certain conditions apply)
- The customer ceased to exist without a successor
- The customer died (certain conditions apply)
- The resolution on the end of the restructuring was published and the receivable was not registered in such proceeding

The bad debt relief should not be applied in cases where the taxpayer performs supply of goods or services to the customer with a specific relationship (i.e., statutory or subsidiary persons), or in cases where the supply took place after the customer applied for bankruptcy procedure or the supplier knew or could/should have known that the customer will not pay for the supply.

The right to claim the bad debt relief by the VAT payer lapses after three years from filing the VAT return for the period in which the supply of goods or services took place, unless a court proceeding, bankruptcy proceeding, etc., are being held.

In cases of the bad debt relief of VAT, a corrective document must be issued by the supplier and provided to the customer. The customer is obliged to make a correction of the deducted VAT in its VAT return. If a supplier corrected the tax base and subsequently any payment from the customer is received, the supplier is obliged to adjust the tax base and VAT liability accordingly.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the Slovak Republic.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the Slovak Republic is recoverable. The Slovak Republic refunds VAT incurred by businesses that are not established nor registered for VAT in the Slovak Republic.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in the Slovak Republic during the refund period (excluding supplies covered by the reverse charge where the customer is liable to pay VAT; some other minor exceptions apply). *For full details, see the chapter on the EU.*

Find below specific rules for the Slovak Republic:
- The EU business shall claim a refund by submitting the refund application in electronic form via the electronic portal in the Member State in which it has its registered office, place of business, establishment, residence or habitual abode.
- The application for a refund shall be submitted no later than 30 September of the calendar year following the period for which the refund is claimed when the value of VAT exceeds the amount of EUR50.
- If the value of VAT exceeds the amount of EUR400, the application may be filed for any period of at least three calendar months.
- The Bratislava Tax Office shall immediately notify the applicant by electronic means of the date of receipt of the application for a tax refund. If the tax base on the invoice or import document is EUR1,000 or more or in the fuel purchase invoice EUR250 or more, the applicant shall submit a copy of the invoice or import document by electronic means together with the application for a refund.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details, see the chapter on the EU.*

The Slovak Republic applies the principle of reciprocity; that means the country where the claimant is established must also provide VAT refunds to Slovak businesses. There is no list of countries made publicly available by the Slovak tax authorities to which Slovak tax authorities will refund the VAT. However, the foreign business may request the information from the Slovak tax authorities whether non-EU business is eligible for VAT refund in the Slovak Republic (whether the reciprocity exists between the Slovak Republic and the country of its establishment).

Find below specific rules for the Slovak Republic:
- Non-EU businesses are entitled to apply for refund of VAT incurred on:
  – Movable property and services purchased from a Slovak VAT payer
  – Imported goods

  If all conditions set out by the Slovak VAT legislation are met, applicants must file the refund request using the form issued by the Slovak tax authorities *(Žiadosť o vrátenie dane z pridanej hodnoty zahraničnej osobe podľa § 56 až 58 zákona* č. *222/2004 Z. z).*
- The refund application must be submitted in the Slovak or English language. The application form is submitted in paper form to Tax Office Bratislava I:
  Daňový úrad Bratislava
  Radlinského 37
  811 07 Bratislava
- Non-EU business applicants that are registered as non-established VAT payers in Slovakia must submit the refund request in electronic form.
- Requests must be filed with Tax Authorities Bratislava by 30 June of the year following the year in which the VAT was incurred, or the import VAT was paid.

The request must be filed together with the following documents:
- The original invoices or import documents (for imports, documents evidencing payment of the tax must also be included).
- A certificate of status issued by the applicant's local tax authorities confirming that the applicant is registered for VAT in the country where it is established or has its permanent address.
- An annual claim may be filed if the total VAT incurred exceeds EUR50 for the calendar year. A foreign person from a third country may also file a VAT refund application for half a calendar year if the total VAT requested exceeds EUR1,000. If such a request was filed for the first half-year, the amount of VAT requested in the second half should exceed EUR50. The tax authorities must decide on the application for the refund within six months after the date the request is filed.

Late payment interest. If the tax authorities do not refund the VAT within the deadline, the VAT refund applicant (established in another EU Member State) is entitled to a late payment interest. The interest is calculated as three times the basic interest rate of the European Central Bank valid on the last day of the period from which the VAT amount should be refunded. If this interest rate does not reach 10%, the annual interest rate of 10% will be applied. Interest is calculated for each day of delay.

This is applicable only for VAT refund applicants established in another EU Member State. In the Slovak Republic, interest is not paid on late refunds to non-established businesses outside of the EU.

H. Invoicing

VAT invoices. A registered taxpayer must issue a VAT invoice for:
- Supply of goods or services having a place of supply in the Slovak Republic rendered to a taxable person or to a nontaxable legal person
- Supply of goods or services with a place of supply in another EU Member State (if a person liable to VAT is the recipient), even if the supply is exempt from VAT
- Supply of goods or services to a taxable person with a place of supply in a non-EU country
- Supply of goods in the form of distance selling with a place of supply in the Slovak Republic (if an OSS scheme is not applied)
- Intra-Community supply of goods
- Advance payments for goods and services
- Supply of radio, television broadcasting and electronic services with a place of supply in another Member State to a nontaxable legal person under certain conditions

Taxable persons providing services with a place of supply outside the Slovak Republic are obliged to issue VAT invoices at the time the service is being completed or a down payment for that service being received.

The obligation to issue a VAT invoice does not apply to supplies of goods and services with a place of supply in the Slovak Republic that are exempt from VAT with no right of VAT deduction and to supplies of insurance and financial services with a place of supply in EU countries other than the Slovak Republic or in non-EU countries.

The invoice must be drawn no later than 15 days after the date the tax was chargeable, usually (1) the date of supply of goods or services or (2) the date on which the advance payment is received, or no later than 15 days from the end of the calendar month in which the payment was received if it concerns the provision of reverse-charge service.

For intra-Community supplies and services supplied with a place of supply outside the Slovak Republic, the invoice must be drawn no later than 15 days from the end of the month in which

the supply of goods or services took place. In cases of corrective invoices, the deadline of 15 days counts from the end of the calendar month in which the facts prompting the correction occurred.

An invoice issued by a member of a VAT group must mention identification details of the group member and the VAT number of the group.

It is necessary to hold a VAT invoice to support a claim for input tax deduction (with the exception of reverse-charge services received from abroad and purchases from abroad of reverse-charge goods supplied with installation or assembly).

Credit notes. If the tax base is corrected as a result of a decrease or increase in the price, the cancellation of all or part of a supply or the return of the goods, the taxpayer must issue a corrective invoice, credit note or debit note. Each document or notification correcting the original invoice should contain a reference to the serial number of the original invoice and the data subject to change. The corrective document (credit note/debit note) must contain the sequential number of the original invoice and all the other data that are being changed. A credit note can, for example, refer to invoice no. 100–130, but it cannot refer to a time period (e.g., invoices issued in October). There must be a specific reference to the invoice number(s), so global credit notes are not allowed to be issued. If the amount of VAT is subject to change on the credit note, there does not have to be any specific comment that the customer should repay it back to the treasury.

Electronic invoicing. Electronic invoicing is allowed in the Slovak Republic, but not mandatory

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the Slovak Republic. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*.

There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the Slovak Republic.

The law allows the sending or accessing of invoices electronically, subject to approval by the recipient of services/goods. An electronic format is not specifically determined, but any method chosen needs to provide for authenticity, legibility and integrity of the document content from its issuing until the end of the obligatory archiving period. Actual payment of an electronically issued invoice is interpreted as approval to its electronic issuance.

The electronic invoice must contain all the compulsory items as the paper invoice. Where electronic invoices are sent or made available to the same recipient in a batch, the details common to the individual invoices may be mentioned only once where, for each invoice, all the information is accessible.

At the time of preparing this chapter, the Ministry of Finance of the Slovak Republic intends to implement a new mandatory system of electronic invoicing and reporting real-time data from both issued and received invoices to the Slovak Financial Administration. For further details, see the subsection Digital tax administration below. However, preparation of Slovak legislation for real-time invoice reporting is on hold and there is no public official information on when or if there will be any legislative framework drafted for the Slovak Republic, independent of what will be agreed on EU level.

For electronic invoicing applicable for the government sector, there will be an obligation to submit electronic invoices for supplies between G2G (government-to-government) and B2G. Testing of the mentioned system has already launched and the reporting obligation is expected to take effect during 2024 at the earliest.

For electronic invoicing between B2B and B2C, the whole legislation process has been postponed, but may be resumed in 2024 or 2025 as per the latest information published from the Ministry of Finance. New legislative initiatives concerning data reporting requirements and electronic invoicing may depend on negotiations at the EU level and the adoption of the EU VAT in the Digital Age (ViDA) legislation, which shall be subsequently transposed into the Slovak tax system. For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. A document produced by an electronic or online cash register for goods and services can serve as a simplified invoice only if the price of the goods or services, including VAT, does not exceed EUR1,000 for cash payments and EUR1,600 for noncash payments. Also, a document issued by an automatic refueling machine may be treated as a simplified invoice if the invoiced amount, including VAT, settled by electronic means does not exceed EUR1,600. Documentation does not need to be produced by the electronic cash register for supplies of goods or services worth EUR100 and less. A simplified invoice does not need to include the unit price and information on the recipient.

A simplified VAT invoice shall not be issued in the following cases:
- Supply of goods or services with a place of supply in another EU Member State (if a person liable to VAT is the recipient), even if the supply is exempt from VAT
- Supply of goods in the form of distance selling with a place of supply in the Slovak Republic (if an OSS scheme is not applied)
- Intra-Community supply of goods

Self-billing. Self-billing is allowed in the Slovak Republic. Taxpayers may arrange for invoices to be issued by the customer (self-billing) or another person (third-party billing); such invoices must be issued in the name of and on behalf of the taxpayer supplying the goods or services.

Self-billing is subject to a written agreement on the issuance of invoices between the taxpayer and the customer (as per the Slovak VAT Act). An agreement needs to set out the conditions to be fulfilled for the supplier to accept invoices issued by the customer. The taxpayer who supplies the goods or services remains responsible for the accuracy of the information on the invoices and the timeliness of their issuance, even if an invoice is issued by a customer or via another person.

Proof of exports and intra-Community supplies. Goods exported outside the EU or supplied to a taxable person in another EU Member State are zero-rated for a taxpayer that sells upon meeting the conditions specified in the VAT legislation. A taxpayer that exports goods or supplies goods to other EU Member States is generally entitled to recover the related input tax.

To qualify as zero-rated, exports must prove by evidence confirming that goods were exported abroad. A taxpayer must substantiate the export of the goods with the transport document and:
- A certified electronic customs declaration, indicating the date, confirmed by the customs office, for the release of the goods into the customs regime of export with the confirmation of exit of the goods from the EU territory, with the VAT payer required to hold the electronic customs declaration.
- Other proofs, pursuant to a special regulation in case of customs declarations on exportation of goods is provided in verbal form, or an act regarded as customs declaration on exportation goods is performed.

To qualify for zero-rating, an intra-Community supply of goods must be supported by the following documents:
- Copy of the invoice
- Proof of dispatch if transport is arranged by the supplier or customer through one of the authorized postal service companies, or by a copy of a transportation document in which the receipt of goods in another EU Member State is confirmed by the customer or by a person empowered

by the customer where the transport is arranged through a third party or, if such documentation unavailable, receipt of goods proven by alternative evidence
- If transport is arranged by the supplier or customer using their own means of transport, the supplier's documentation confirming receipt of the goods by the customer or by a person empowered by the customer, which must include:
  - Identification of the customer, description of the supplied goods and their amount, place and date when the goods were taken over by the customer (if transport performed by the supplier); place and date when transport was finished (if transport performed by the customer)
  - Name and surname of the driver providing the transport and the driver's signature and the registration number of the vehicle used in the transport
- Other documentation, particularly the contract on delivery of the goods, delivery note, payment confirmation on the purchase of goods, confirmation of payment for transportation service

If the transport is arranged by the customer (or on its behalf), the taxpayer must have the documents under bullet two above (i.e., proof of dispatch) and bullet three (i.e., transport arranged by customer or supplier) available within six months after the end of the calendar month in which the supply of goods occurred (as per the Slovak VAT Act). If this is not met, the taxpayer shall apply output tax in the tax period in which the six-month period elapsed.

No special documentation applies in the Slovak Republic for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. If the payment for a supply is requested in foreign currency, the total VAT must be converted into the domestic currency, which is the euro (EUR), using the exchange rate published by the European Central Bank on the date preceding the date of the tax point. Alternatively, the taxpayer can opt for a customs foreign exchange rate valid on the date of the tax point to be used over a calendar month. This option may not be revoked during the entire calendar year. For imports, the customs foreign-exchange rate rules apply.

Supplies to nontaxable persons. Under the Slovak VAT Act, a taxpayer is not obliged to issue an invoice for the supply of goods and services in the Slovak Republic to a nontaxable person (B2C). An invoice must be issued for supplies to a legal person who is not a taxable person.

Distance selling. For intra-Community distance sales of goods made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In the Slovak Republic, examples of what records must be held for VAT purposes include detailed records for each tax period on the supplied goods and services and received goods and services; separate records should be kept on delivery of goods and services to another Member State, on acquisition of goods from another Member State and on import of goods.

The records shall contain the information essential for correct computation of the tax.

For the purpose of tax deduction, the taxpayer shall keep the records separately for the goods and services with the input tax deduction and for the goods and services with no input tax deduction and with partial input tax deduction. The taxpayer shall keep records also on any payments received prior to the delivery of goods and services and any payments provided prior to the delivery of goods and services. A member of a VAT group has to keep records on the delivery of the goods and provision of the services to another member of the group.

Separate records must be kept on the following:
- Supply of goods free of charge
- Temporary transfer of goods to another Member State
- Provision of services free of charge, private use of services
- Provision of services to the EU and outside of the EU, including those that are tax exempt

- Supply of goods with installation and assembly in the EU
- Goods transferred and received within call-off stock arrangements (including records on return of goods, replacement of the designated customer)
- Other records according to Section 70 of the Slovak VAT Act

In the Slovak Republic, VAT books and records can be held outside of the country. In general, the documents relating to VAT must be kept in the Slovak Republic. However, a taxable person may ask the Ministry for Interior Affairs to allow the export of the records abroad for a certain period of time. A separate request must be filed on regular/annual basis.

Record retention period. Generally, an invoice should be archived for 10 years for VAT purposes. However, if the invoice pertains to certain capital goods, it should be archived until the end of the period for the adjustment of VAT deductions (e.g., 20 years for the adjustment of deducted input tax relating to immovable property).

Taxable persons are required, when retaining invoices, to guarantee the authenticity of the origin, the integrity of the content and the legibility of invoices throughout the retention period. These documents must be retained for 10 years following the year in which the sale or purchase took place. From a VAT perspective, taxpayers are required to retain copies of invoices for a period of 10 years following the year to which they relate. On the other hand, the Accounting Act stipulates a five-year retention period following the year to which the documents relate.

Electronic archiving. Electronic archiving is allowed in the Slovak Republic. Following the EU Invoicing Directive, the Slovak VAT Act provides that tax documents in paper form and in electronic form have equal status. The documents obtained in paper form can be kept and archived electronically under the presumption that the taxable person can ensure (by technical means) the authenticity of the origin (i.e., the assurance of the identity of the supplier or the issuer of the tax document), the integrity of the content (i.e., the content of the tax document was not altered) and the legibility of the document (i.e., it is possible to read the tax document directly or by using a technical device) during the whole archiving period. The documents obtained electronically can be archived only electronically. The tax document may be converted from paper form into electronic form and vice versa for retention purposes.

The taxable person that stores invoices and other documents by electronic means is obliged to enable the tax authority, for auditing purposes, to access, download and use such invoices, upon request. The requirements for the invoice, whether in paper or in electronic form, which must be secured from the time of issue until the end of the period for retention of the invoice.

Obligations concerning invoice reporting (real-time invoicing) are intended to be implemented (estimated to be no earlier than from 2026), to a large extent, based on EU Directive No. 2020/284 of 18 February 2020. *At the time of preparing this chapter, no wording of the bill has been made available.*

I. Returns and payment

Periodic returns. The general tax period is a calendar month. In special cases, a period of a calendar quarter may be applicable.

Slovak VAT returns must be submitted by the 25th day after the end of the tax period. The VAT returns (as well as other VAT filings, such as VAT ledger, EC sales listing) are filed electronically via e-portal of the Slovak tax authorities in XML format.

Periodic payments. Payment of VAT liability in full is due by the same date as the return submission deadline, i.e., by the 25th day after the end of the tax period.

The payment must be made via bank transfer to a specific unique IBAN number assigned to the taxable person with a specific variable symbol identifying the tax and the tax period. The deadline for the payment is met when the payment is debited from the bank account number of the taxable person on the due date.

Electronic filing. Electronic filing is mandatory in the Slovak Republic for all taxable persons. VAT returns and all documents for the tax authorities must be submitted electronically by VAT payers, using either advanced electronic signature or other means of electronic filing agreed with the tax authorities.

The taxpayer must complete its VAT return in the standard electronic form issued by the Ministry of Finance. All taxpayers are obliged to communicate only electronically with the Slovak tax authorities. In order to do so, the taxpayer should either use the advanced electronic signature or the taxpayer concludes an agreement on electronic filing with the Slovak tax authority in writing.

Payments on account. Payments on account are not required in the Slovak Republic.

Special schemes. *Secondhand goods, works of art, collectors' items and antiques.* A special scheme is to be applied for every sale of works of art, collectors' items, antiques and secondhand goods, which have been delivered to the trader in the territory of the European Union, if the goods have been acquired by it from:
- A person who is not identified for tax purposes in the Slovak Republic or in another Member State
- A person who is identified for tax in the Slovak Republic or in another Member State and the supply of goods has been exempt
- Another trader if it applies the special scheme in the Slovak Republic or in another Member State

The tax base is the positive difference between the selling price and the purchase price less the tax. Separate VAT records are to be kept for the transactions falling under the special scheme. VAT cannot be stated on the invoices (or any other document) when applying the special VAT scheme. Input tax deduction is restricted when applying the special VAT scheme. If the trader opts for standard taxation when selling these products, input tax on the purchase (as well as import) may be deducted. The special scheme has to be applied for at least two successive calendar years.

The trader may also use a special scheme for the sale of:
- Works of art, collectors' items and antiques imported from third countries
- Works of art supplied to them by the author of the work of art or their legal successor

The invoice issued by the trader applying the special scheme must contain following wording:
- Adjustment of the surcharge taxation – secondhand goods: "úprava zdaňovania prirážky – použitý tovar"
- Adjustment of the surcharge taxation – works of art: "úprava zdaňovania prirážky – umelecké diela"
- Adjustment of the surcharge taxation – collectors' items and antiques: "úprava zdaňovania prirážky – zberateľské predmety a starožitnosti"

Investment gold. The scheme is applied to gold in the form of bars or bricks and gold coins, both subject to certain specifications.

The supply of investment gold, the acquisition of investment gold from another Member State, the import of investment gold and other certain gold-related transactions specified within the Slovak VAT Act are exempt from VAT. Intermediation of a supply of investment gold in the name and on behalf of another person is exempt from tax.

A taxpayer who produces investment gold or converts gold into investment gold may opt to tax the supply of investment gold if supplied to another taxpayer. Intermediation of the supply of investment gold in the name and on behalf of another person may also be taxed if the taxpayer has decided to tax the supply of investment gold. The input tax deduction is subject to certain limitations for the taxpayer under this special scheme.

Travel agents. The range of entities required to apply the special scheme for travel agents includes those that procure goods and services for the purpose of a journey/travel from other taxable persons ("accommodation and travel services") and those that act in their own name toward customers, whether they are taxable or nontaxable persons.

The special scheme for travel agents does not apply only to travel agencies and travel agents in the traditional sense, but to all taxpayers who procure travel services, such as accommodation and transport, in their own name. The taxpayers applying the special VAT scheme for travel agents should follow all specific rules stipulated by the Slovak legislation for this special scheme (e.g., the taxpayers applying the special scheme should not deduct input tax from the acquired goods and services linked to the accommodation and travel services, the recipients of these services should not be able to deduct the input tax from purchased accommodation and travel services; since the issued invoices for the accommodation and travel services will not show any VAT, the taxpayers should track and keep separate VAT records with respect to the special scheme).

Cash accounting. The cash accounting scheme is available only to domestic taxpayers, who must meet the following criteria:
- The taxpayer's annual turnover did not exceed EUR100,000
- The taxpayer is not in bankruptcy and has not entered into liquidation

Under the cash accounting scheme, the chargeable event (tax point) is only after the receipt of payment for the goods or services supplied and for the amount received from the customer. As it regards the assigned receivables, the tax point of such receivables should be the day of their assignment. General tax point rules do not apply in such a case. The same applies on the input tax deduction right, which arises only after payment of an invoice (if paid partially, only on the amount of payment).

The invoice issued by a taxpayer who has opted for the scheme should include the legible statement "cash accounting scheme." If this information is not stated on the invoice, the VAT liability arises in accordance with standard rules for the determination of the tax point under the Slovak VAT Act. A customer of a taxpayer running the scheme has the right to deduct input tax on the day of payment for the supply (up to the paid amount).

The list of taxpayers who have opted for the cash accounting scheme will be maintained and published on the webpage of the Financial Directorate of the Slovak Republic.

Taxpayers may voluntarily quit the cash accounting scheme only at the end of the respective calendar year; however, if they exceed the turnover of EUR100,000, if they become a member of a VAT group, or if their business ceases to exist, they are required to quit the scheme as of the following VAT period.

Annual returns. Annual returns are not required in the Slovak Republic.

Supplementary filings. *VAT ledger.* Taxpayers are obliged to submit a detailed VAT ledger report as a separate filing along with the VAT return. The obligation arises for each VAT period, except when zero returns are filed or for re-exports of imported goods. The report should include the information for every invoice received or issued by the taxpayer, including corrective invoices and down-payment invoices, but excluding invoices for exports, zero-rated and exempt supplies. Simplified invoices are to be reported in aggregate values for the tax period. The exception

applies only to simplified invoices received by the taxpayer if the total amount of deductible VAT from these invoices exceeds a threshold of EUR3,000 for a tax period. Such documents have to be reported in the VAT ledger separately and not in an aggregate amount. Information will need to be compiled by the taxpayer electronically and filed by means of the electronic filing portal provided by the Slovak Financial Directorate.

The deadline for submission of the VAT ledger is 25 days after the end of the relevant tax period. The deadline is not tied to the date of the VAT return filing.

Bank account reporting. VAT payers are obliged to register each of their own bank accounts held in a domestic or foreign bank, which they use for business activities within the scope of the Slovak VAT, with the Financial Directorate. The bank accounts shall be registered immediately as of the VAT registration date or the date on which the bank account used for business purposes has been opened (even if used more than one). It is also necessary to disclose to the tax authorities any changes to bank accounts, for example, details of a new bank account should be notified before it is used for business purposes. In the case of not fulfilling the reporting obligation, the VAT payers can be imposed a penalty of up to EUR10,000.

The VAT payers, who, for example, use cash-pooling, may register a bank account owned by another person. However, it is also necessary to identify the actual owner who will be then jointly and severally liable for the VAT stated on the invoice. The notification of the bank account shall be submitted electronically via a special form, which is available on the web portal of the Financial Administration and already pre-filled for registered VAT payers.

The list of registered VAT payers' accounts is published and updated on the website of the Finance Directorate. These registered bank accounts are further used to mitigate the risk of a VAT payer (as a customer) being held liable for the VAT unpaid by its supplier. If the consideration for the supply of goods/services, where the VAT payer claims the input tax deduction is paid on a bank account of the supplier, which is different from the one(s) announced to the Slovak tax authorities (and published on the official list of bank accounts), the VAT payer can be held liable for the unpaid VAT on a previous level in the transaction chain.

Intrastat. A Slovak taxable person that trades with other EU Member States must complete statistical reports, known as Intrastat, if the value of goods dispatched or received exceeds the exemption thresholds. Separate reports are required for intra-Community acquisitions (Intrastat Arrivals) and for intra-Community supplies (Intrastat Dispatches).

Intrastat information is reported each calendar month (the reference period). Each report must be submitted to the local customs authority by the 15th day of the month following the reference period.

The threshold for both Intrastat reporting obligations (Arrivals and Departures) is EUR1 million. This does not apply to subjects with business activities in agriculture and food industries (registered with the Statistical Office of the Slovak Republic), in case of which the threshold remains EUR200,000 for Arrivals and EUR400,000 for Departures.

If a taxpayer's turnover for the preceding calendar year did not exceed these thresholds, it was not required to submit an Intrastat report. If the threshold is exceeded, the taxpayer is required to submit Intrastat declarations (so-called complete declarations).

If the taxpayer does not exceed the exemption threshold or if the entity is not a Slovak taxpayer, it is not required to report the intra-Community movement of goods using Intrastat. Eligible taxpayers are required to complete and submit Intrastat declarations, including for those months in which zero movements of goods occur. Intrastat returns must be filed in EUR.

EU Sales Lists. A Slovak taxpayer must submit an EU Sales List (ESL) reporting the following transactions:

- Intra-Community supplies of goods
- Exempt transfers of goods to other EU Member States (*see the chapter on the EU*)
- Supplies of goods within a triangular transaction if the taxpayer acts as first customer
- Supplies of services with the place of supply in another EU Member State to a taxable person or an entity that is not a taxable person but is identified for VAT, for which the recipient is liable to pay the VAT
- Transfer of goods within call-off stock arrangements, including the case of the change of the recipient of the goods and return of the goods

Services exempt from VAT are not reported in ESLs. ESLs must be submitted on a monthly basis by the 25th day following the end of the respective calendar month. If the value of goods supplied during the calendar quarter does not exceed EUR50,000 and if the value of goods supplied during the preceding four calendar quarters did not exceed EUR50,000, the taxpayer can file quarterly ESLs instead of monthly ESLs by the 25th day following the end of the calendar quarter.

The Slovak law requires submission of the ESLs via electronic means.

Correcting errors in previous returns. When the taxpayer finds out the tax shall be higher, or the input tax shall be lower than stated in the filed tax return, it is obliged to file a supplementary tax return by the end of the month following the month of finding out the discrepancies. The increased tax shall be due within the same deadline. The taxpayer is obliged to file the supplementary tax return if it does not contain correct data concerning the performed and received taxable transactions for the relevant tax period.

The taxpayer may file a supplementary tax return if it finds out that tax should be lower, or the input tax should be higher than reported. Filing of the supplementary VAT return is made electronically in a way of voluntary disclosure made by taxpayer.

If the filed VAT ledger of EC Sales List contained any errors, the taxpayer is obligated to file supplementary filings as well.

Digital tax administration. *Electronic cash register (eKasa).* During the first half of 2019, the amendment of the Act on use of electronic cash registers introduced the requirement for all cash registers in the Slovak Republic to have a direct online connection to the Slovak Financial Directorate (the system called "eKasa"). With the introduction of eKasa, the hardware is no longer relevant for the use and storage of the information as all information is sent automatically directly to the tax authorities. The amendment also introduces the abolishment of the obligation to print bills in case the bill can be send to the customer via email (upon its agreement).

Real-time invoicing. In 2021, the Slovak tax authorities published a preliminary intention to start legislative proceedings toward enacting so-called "live invoice data reporting." Based on the information available from the government, they postponed their intention to impose the new obligations on Slovak businesses for invoice reporting to 2026 or beyond. *At the time of preparing this chapter, this initiative is on hold.*

J. Penalties

Penalties for late registration. The penalty for non-fulfillment of a registration obligation can range from EUR60 to EUR20,000. In principle, the Slovak VAT legislation does not allow a retroactive registration of a taxable person. However, a mechanism is in place for reconciling VAT in the event of a late VAT registration. A domestic or non-established person that failed to register for Slovak VAT can reconcile their VAT obligations retrospectively in a single VAT return filed for the period before the late VAT registration, covering all transactions in the period during which it should have been registered.

Penalties for late payment and filings. The penalties for noncompliance with the reporting requirements range from EUR30 to EUR3,000. The penalty for the late submission of a tax return (after the statutory deadline) ranges from EUR30 to EUR16,000. If the taxpayer does not submit the tax return by the deadline stipulated by the tax authorities in an appeal, the penalty for late filing ranges from EUR60 to EUR32,000. If the taxpayer commits more than one offense, the tax authority will levy only one aggregate penalty for the offense that has the highest upper limit.

Interest on late payment applies in the following circumstances:
- The VAT liability is not paid before or at the deadline
- The proper amount of the VAT liability or the amount stipulated in a decision of the tax authorities has not been paid

The rate of interest on late payment is calculated as the higher of the annual interest rate of 15% or four times the basic interest rate of the European Central Bank.

For Intrastat, a penalty may be imposed for late submission or for missing or inaccurate declarations, up to EUR3,320.

For ESLs, if a taxpayer fails to submit an ESL within the statutory deadline, a penalty for noncompliance with non-monetary obligations ranging from EUR60 to EUR3,000 applies. In the event of a failure to submit an ESL after receiving a request from the tax authorities, the penalty may be imposed repeatedly. Because the amount of the penalty for noncompliance with nonmonetary obligations depends on the severity, duration and consequences of the breach of obligations, the penalty for failing to submit the ESL should generally fall in the lower third of the range.

New rules of the so-called "second chance" are expected to be introduced with effect from 1 January 2024. This is in accordance with the proposed amendment to the Tax Procedure Code, such that the tax or customs authority would not impose a penalty on a taxpayer committing the below listed offenses, if these were committed by a taxpayer for the first time and such offense occurred after 31 December 2023:
- Non-submission of a tax return within the stipulated deadline
- Non-fulfillment of a registration obligation within the stipulated deadline
- Non-fulfillment of a reporting obligation within the stipulated deadline
- Non-fulfillment of an obligation imposed by the decision of a tax administrator
- Non-fulfillment of an obligation of a nonmonetary nature

At time of preparing this chapter, the changes outlined above have been proposed in the amendment to the Slovak Tax Procedure Code but have not been approved.

Penalties for errors. A penalty is imposed if the VAT liability or excess VAT refund declared by the taxpayer in the tax return is different from the amount assessed by the tax authorities. This penalty amounts to 10% per annum or three times the base interest rate of the European Central Bank per annum (whichever is higher). The penalty is calculated on the difference between the value declared in the tax return and VAT assessed by the tax authorities.

An option to submit a supplementary tax return within 15 days of the beginning of the tax audit is allowed. This offers taxpayers the possibility of decreasing the imposed penalty, compared to tax audit determination of the tax assessment to 7% per annum or twice the base interest rate of the European Central Bank per annum (whichever is higher).

If the difference is declared by the taxpayer in a supplementary VAT return, the penalty is calculated at 3% per annum or the basic interest rate of the European Central Bank per annum, whichever is higher.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty for noncompliance, which ranges from EUR30 to EUR3,000. The actual amount of the penalty levied is at the discretion of the tax administrator. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Intentional tax evasion (including unlawfully applying for repayment of VAT) may be regarded as a criminal offense, resulting in fines or imprisonment for a term of up to 12 years, depending on the amount of tax evaded and the nature of conduct. Similarly, hindering the tax administration (e.g., submission to the tax authorities of documents that give false or misleading information, failure to comply with a statutory obligation or obligations imposed by the tax authority during a tax audit) may be regarded as a criminal offense, resulting in imprisonment for a term of up to eight years.

The above conduct may give rise to the criminal liability of natural persons (including company directors or other personnel), as well as criminal liability of the company involved (as a legal entity). The Ministry of Finance publishes a list of taxpayers' names on its website detailing amounts of unpaid tax. The list contains taxpayers' tax identification numbers and the amount of tax due in descending order.

Personal liability for company officers. Tax criminal offenses under the Slovak Criminal Code require intentional conduct or omission. Under certain circumstances, company directors (or other personnel) can be held personally liable for including incorrect data in VAT declarations and reporting. Potential penalties include imprisonment (as outlined above), monetary penalties and other sanctions under the Slovak Criminal Code.

Statute of limitations. The statute of limitations in the Slovak Republic is five years. Tax authorities can open tax audits and impose penalties within five years from the end of the year in which the taxpayer was obliged to submit the VAT return, or in which the taxpayer was obliged to pay the tax. However, if there was any tax audit opened within the period of five years that resulted in paying additional tax, the period is calculated again from the end of the year from which the VAT payer obtained the decision about this act. The period can be extended to a maximum of 10 years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Davek na dodano vrednost (DDV)
Date introduced	1 July 1999
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (Tax Administration) (http://www.fu.gov.si/)
VAT rates	
Standard	22%
Reduced	5%, 9.5%
Other	Zero-rated (0%) and exempt
VAT number format	SI12345678
VAT return periods	Monthly or quarterly
Thresholds	
Registration	
Established	EUR50,000
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	None
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Slovenia by a taxable person, including use of goods forming part of the business assets or for private use or for use of employees.

- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person, including intra-community transfer of own goods (*see the chapter on the EU*)
- Reverse-charge services received by a taxable person in Slovenia
- The importation of goods from outside the EU, regardless of the status of the importer

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

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. For an overview of the Quick Fixes rules, *see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

Slovenian VAT legislation follows EU legislation with the following implementations:
- The VAT ID number became a substantive condition for applying the VAT exemption for intra-Community transactions. In addition to the condition of proof of transport of goods, the supplier therefore must indicate the VAT No. on the invoice. Taxable persons can provide that the goods left Slovenia with different documents, including the confirmation from the purchaser who receives the goods from the destination country.
- It adopts unified and simplified taxation rules from EU law for the transfer of goods from one Member State to another when applying call-off stock simplification.
- It simplifies the chain transactions to enhance legal certainty by following the unified rules for successive or chain deliveries of goods.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Slovenia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. According to the Slovenian VAT Act, in the event of transfer of a business or a part thereof to another taxable person, it is deemed that no supply of goods or services has taken place. To apply the transfer of a going concern (TOGC) provision, the recipient must continue with the transferred activity and is, for VAT purposes, deemed to be the legal successor of the transferor. Nevertheless, a recipient who uses acquired assets for purposes other than those for which it is entitled to input tax deductions is liable to pay VAT in accordance with the provisions of VAT Act, which applies to the charging of VAT for the use of goods and services for private purposes. To apply the TOGC rule, the recipient must be VAT registered in Slovenia. When conditions for a TOGC are met, the application of the TOGC regime is mandatory.

Transactions between related parties. Slovenia follows the principle of the open market value for transactions between related entities (as defined in the corporate and personal income legislation), which do not have the full right to input tax deduction. The taxable amount for the supply of goods and services between connected persons is equal to the open market value when the consideration for the supply is as follows:
- Lower than the open market value and the recipient of the supply, it is not entitled to full input tax deduction or exemption according to the VAT Act
- Higher than the open market value and the supplier, it is not entitled to a full input tax deduction

The open market means the full amount that the customer or recipient would be required to pay to an independent supplier or contractor for a comparable supply of goods or services in the territory of Slovenia upon acquisition of goods and services in conditions of fair competition. When no comparable supply of goods or services can be determined, the open market value has the following meaning:

- For goods, an amount not lower than the purchase price of goods or of similar goods or, where there is no purchase price available, the cost price determined at the time of supply
- For services, an amount not lower than the full cost to be paid by a taxable person for the services supplied

C. Who is liable

A taxable person is any person who independently carries out, in any place, any economic activity, regardless of the purpose or results of that activity.

VAT registration is required before the beginning of taxable activities in Slovenia. Under the VAT law, retrospective VAT registration is not possible.

Exemption from registration. Established businesses performing only VAT exempt transactions, non-established businesses that perform only VAT exempt and/or zero-rated export transactions, and non-established and non-VAT registered businesses who make domestic supplies to a recipient registered for VAT purposes in Slovenia where the recipient is obliged to settle the VAT via the reverse-charge mechanism, do not have to register for VAT in Slovenia.

Voluntary registration and small businesses. For small, established businesses (whose taxable turnover in the last 12-month period has not exceeded or is unlikely to exceed EUR50,000), voluntary VAT registration in Slovenia is allowed. In this case, a small business that wishes to register must notify their choice in advance to the tax authorities and be treated as a taxable person for at least 60 months. Voluntary VAT registration is possible also for foreign non-established businesses performing domestic supplies to VAT-registered businesses (see the subsection *Exemption from registration* above).

Group registration. Group VAT registration is not allowed in Slovenia.

Holding companies. In Slovenia, a pure holding company cannot be a member of a VAT group, as group VAT registration is not allowed in Slovenia.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has not been implemented in Slovenia.

Fixed establishment. Slovenian VAT legislation does not have special provisions to define the term "fixed establishment" and follows EU legislation and practice. Existence of a fixed establishment depends on circumstances of each separate case and should be considered on case-by-case basis. There are no administrative guidelines outlining the conditions to be met for a fixed establishment.

Non-established businesses. A "non-established business" is a business that does not have an establishment in Slovenia. A non-established business must register for VAT purposes in Slovenia if it performs taxable activities in the territory of Slovenia. There is no registration threshold applicable for non-established businesses, which means that a non-established business must register for VAT purposes prior to performing the first taxable transaction. The VAT registration threshold therefore does not apply for non-established businesses.

Consequently, non-established businesses must register for VAT if they make any of the following supplies:

- Intra-Community supplies

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

Non-established businesses that perform only VAT exempt and/or zero-rated export transactions do not have to register for VAT. There is also no provision for them to voluntarily register for VAT on this basis. Non-established businesses do not need to register for VAT if they provide domestic supplies to VAT-registered businesses, which are obliged to self-account for the VAT via the reverse-charge mechanism. See the subsection *Exemption from registration* above.

Tax representatives. A nonresident business (taxable person) with its seat outside the EU (which from 1 January 2021, includes the United Kingdom (UK)) must appoint a tax representative.

A nonresident business (taxable person) from another EU Member State that does not have a registered business or fixed establishment in Slovenia may appoint a tax representative. Individuals and legal entities that are taxable persons in Slovenia can be appointed as tax representatives if they have an establishment or permanent address and VAT ID number in Slovenia and are not a branch of a company.

A nonresident business, either established in another EU Member State or third country that wishes to account for import VAT in a VAT return must appoint a VAT representative. The VAT representative is held jointly and severally liable for any VAT due on imports (which includes the use of postponed import VAT accounting).

Tax representative of non-EU companies or EU companies having Procedure 42 are in general not jointly liable based on the tax authorities' guidelines. This means that tax representatives are only held jointly and severally liable for postponed import VAT accounting.

Reverse charge. The reverse charge applies to supplies of most services made by non-established businesses to taxable persons established and registered for VAT in Slovenia (i.e., business-to-business (B2B) supplies). The reverse-charge mechanism also applies to supplies made by a non-established and non-VAT-registered business to a VAT-registered recipient in Slovenia, where the recipients of goods and services are then obliged to charge and pay VAT. The recipient of the services accounts for the VAT by using the appropriate Slovenian VAT rate. If the reverse charge applies, the non-established supplier is not required to register for VAT in Slovenia.

The reverse charge generally does not apply to the following services:
- Real estate-related services
- Restaurant and catering services
- Cultural, artistic, scientific, educational, sporting, entertainment or similar services
- Valuations of movable tangible property or work on such property
- Short-term rentals of vehicles

Domestic reverse charge. Slovenia applies a domestic reverse-charge mechanism for certain supplies between two VAT-registered businesses. If a supplier is not VAT registered, the general reverse-charge rules may apply, as outlined in the subsection above. The following activities fall within the scope of the domestic reverse charge:
- Certain supplies and services related to immovables falling in Category F of the Slovenian Standard Classification of Activities (e.g., construction services) and the installation of montage houses
- Hiring out of staff used for activities falling in Category F of the Slovenian Standard Classification of Activities
- Supplies of real estate for which the parties opted to tax
- Supplies of used material waste and scrap (special listed goods)
- Trade of greenhouse gas emissions

If a VAT-registered taxable person performs supplies subject to domestic reverse charge, it must file a PD-O Report. Deadline for the submission of the report is the last working day of the month, following the reporting period.

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

For detail on the application process in Slovenia, refer to the subsection, *Non-established businesses,* above.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

Where a taxable person chooses Slovenia as the country where they will centrally comply with their VAT obligations, they should notify the Slovenian tax authorities of the date on which taxable activity under OSS rules will commence. The Slovenian tax authorities will assign a VAT

identification number to a taxable person who meets the prescribed conditions for the application of this special scheme.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance ales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

The IOSS in Slovenia can be used by taxable persons that have their registered office or business unit in Slovenia or have their registered office in a third country with which the EU has concluded an agreement on mutual assistance. Taxable persons selling goods imported from third territories or from third countries may join the import regime in Slovenia indirectly by appointing an intermediary with its registered office or business unit in Slovenia to fulfill their obligations under this special regulation.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

In Slovenia, a postal or courier service applying this special arrangement must use it for all packages which, upon importation, are submitted to the tax authority on behalf of the recipient and whose real value does not exceed EUR150. A postal or courier service charges the VAT on imported goods, collects it from the recipient of the package upon delivery and pays it to the Slovenian tax authority. A postal or a courier service applying this special regime reports to the Slovenian tax authority on the VAT collected in the monthly reports and pays the total amount of VAT to the tax authority. A postal or courier service should keep good records of transactions, which enable the tax authority to monitor the correctness of the VAT declared and paid.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons who "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

A facilitator can register for VAT in Slovenia from 1 April 2021. The facilitator should meet the following conditions:
- Display on the webpage the amount of VAT that the buyer has to pay in the EU at the latest when the ordering process is completed
- Ensure that VAT is collected from the buyer on delivery
- Submit a monthly VAT return in electronic form via the government portal for imports in Slovenia
- Keep the records of sales for 10 years if registered in Slovenia

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. Slovenian VAT legislation defines two types of vouchers, single-purpose (SPV) and multi-purpose vouchers (MPV).

The supply of goods or services to which the SPV relates is deemed to be any transfer of a SPV by a taxable person acting on its own behalf. The actual delivery of goods or services in exchange for a SPV accepted by the supplier as payment or partial payment is not considered to be a separate transaction.

If the transfer of a SPV is made by a taxable person acting on behalf of another taxable person, the supply of the goods or services to which the voucher relates is deemed to have been made by the taxable person on whose behalf the taxable person acts.

If the supply of goods or services is made by a supplier that is not the taxable person who issued the SPV in their own name, that supplier is deemed to have supplied the goods or services to which the voucher relates to the taxable person who issued the SPV on their own behalf.

In the case of MPV, the obligation to charge VAT on a such voucher does not arise upon its transfer, but only upon the actual handing over of the goods or the actual provision of the services in return for an MPV accepted as consideration, or part consideration, by the supplier for that supply or provision.

In the case of MPV, the consideration for the voucher constitutes the tax base for the supply of goods or services. In the absence of such information, the tax base is the monetary value shown on the voucher itself, which is reduced by the value of VAT paid for the supply of goods or services.

Registration procedures. VAT registration consists of two phases. In the first phase, the taxable person and its legal representative are entered in the Slovenian tax register and assigned tax numbers (paper forms available in English). Additionally, the taxable person is registered in the electronic filing system of the Slovenian tax authorities (paper forms available in English). For registration in the electronic filing system, a special electronic certificate should be obtained. In the second phase, the applicable form for VAT registration is submitted via this electronic system.

A taxable person must prove, by submitting a variety of documents, that it will perform taxable transactions in Slovenia. As proof that a taxable person intends to perform an VAT taxable activity, the person can submit contracts, a business plan, purchase orders, etc., and a statement that

it intends to perform taxable transactions in Slovenia. A non-established taxable person also must provide a VAT certificate of VAT registration in its home country.

Depending on the responsiveness of the tax authorities, the timing of each step varies. A VAT registration usually takes six to eight weeks to complete.

Deregistration. A taxable person can deregister for VAT by submitting a deregistration request to the tax authorities in electronic form through their online portal. The tax authorities should decide within 30 days. The taxable person is deregistered as of the date stated in the tax authorities' decision.

Changes to VAT registration details. In case of any changes to a taxable person's VAT registration details, it is the taxable person's obligation to notify the tax authorities within eight days on a prescribed form, that can be submitted online or in paper. All the information that has been entered into the tax register at the time of tax ID registration (name of company, address, legal representatives, etc.) must be updated when the change occurs.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 22%
- Reduced rates: 5%, 9.5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the reduced rate or exemption.

Some supplies are classified as zero-rated (i.e., "exempt with the right to deduct input tax"), which means that no VAT is chargeable, but the supplier may recover related input tax. Zero-rated supplies include exports of goods outside the EU and related services and intra-Community supplies of goods and intangible services supplied to another taxable person established in the EU or to a recipient outside the EU.

Examples of goods and services taxable at 5%

- Books, newspapers and periodicals if they contain no more than 50% of the promotional content or content that includes no more than 50% of music, movies and games, including lottery, as well as shows and events in the fields of politics, culture, art, sports, science and entertainment (these items changed from 9.5% to 5% with effect from of 1 January 2020)
- Typified vehicles, protective equipment, rescue gear and tools designed for firefighting, usually used at the interventions and supplied to public firefighting service or voluntary firefighting brigades (these items changed from 9.5% to 5% with effect from 2 September 2023)

Examples of goods and services taxable at 9.5%

- Foodstuffs (except alcoholic drinks and catering services)
- Water supplies
- Passenger transport
- Services of authors and composers
- Agricultural products and services
- Pharmaceutical products and medical equipment
- Cultural events
- Hotel accommodation
- Use of sports facilities
- Services of undertakers and cemetery services

- Supply and installation of solar power cells if charged directly to the investor, installed on a residential building under social policy and the finished installation constitutes an integral part of the building without changing its purpose of use
- Erecting a fence, which is an appurtenant part of an apartment building under social policy

The term "exempt" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Real estate transactions (except "new buildings")
- Financial services
- Insurance transactions
- Betting, gambling and lotteries
- Public radio and television broadcasts
- Education
- Health care and medical services
- Cultural services

Option to tax for exempt supplies. A taxable person may opt to tax real estate transactions (except "new buildings" and building land), provided that the recipient has the full right to deduct, the tax authorities do not need to be notified. However, a written agreement about the option to tax must be made between the contracting parties prior to the supply being made.

E. Time of supply

The time when VAT becomes due is called the "chargeable event" or "tax point." The following are the general rules in Slovenia for determining the chargeable event:

- VAT is due when goods are delivered or when services are performed
- If no invoice is issued for supplied goods or services, VAT is due on the last day of the tax period (month) in which the goods are delivered or the services are performed

Deposits and prepayments. If payment is made before the supply is made (prepayment), VAT is due on the day on which the prepayment is received in case of local supplies and intra-EU supplies of services. For other types of transactions, prepayments do not create a tax point.

Continuous supplies of services. In case of continuous supplies of services where periodical invoices are raised or payments are made, VAT becomes due upon expiry of the period to which the payments or invoices relate. Where services are continuously supplied over a period of more than one year and no invoices are issued or payments are made during that period, VAT becomes due at the end of each calendar year until such supplies of services come to an end.

Goods sent on approval for sale or return. There are no special time of supply rules in Slovenia for the supply of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. For reverse-charge services, in general VAT becomes due when services are performed. Prepayments may trigger obligation to self- charge VAT, as explained above.

Leased assets. In case of a financial lease (where the ownership of goods is transferred to the lessee upon payment of the last installment) this is considered a supply of goods and VAT becomes due when the assets are physically handed over. An operational lease is considered a service and VAT becomes due when the service is performed.

Imported goods. VAT for imported goods becomes due when the import is made or when the goods leave the duty suspension regime and are released for free circulation. VAT on imports can be accounted for in the VAT return, subject to certain conditions.

Intra-Community acquisitions. For intra-Community acquisitions of goods, VAT is due on the day when the invoice is issued. If an invoice for the supply is not issued or is issued before the supply is made, VAT is due on the 15th day of the month following the month in which the goods are delivered.

Intra-Community supplies of goods. For intra-Community supplies of goods, VAT becomes due on the day when the invoice is issued. If an invoice for the supply is not issued, VAT becomes due on the 15th day of the month following the month in which the goods are supplied.

Distance sales. There are no special time of supply rules in Slovenia for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Slovenia, VAT paid on imports of goods and self-assessed VAT on intra-Community acquisitions of goods and reverse-charge services.

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

If a taxable person does not make a VAT deduction in the current tax period, they may make this deduction at any time after this tax period.

The time limit for a taxable person to reclaim input tax in Slovenia is no later than the last tax period of the calendar year following the year in which they were granted the right of deduction. For example, input tax for purchases incurred in January 2023 can be claimed back in VAT return for December 2024 at the latest.

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

Examples of items for which input tax is nondeductible

- Hospitality costs (accommodation, food and drinks, and entertainment)
- Purchase, lease, fuel and maintenance of cars and boats (except if used by driving schools or for public transportation), apart from vehicles and related costs, provided that the motor vehicle is free of carbon dioxide emissions and the value of the motor vehicle, including VAT and other duties, does not exceed EUR80,000

Examples of items for which input tax is deductible (if related to a taxable business use)

- Advertising
- Purchase, lease, fuel and maintenance of buses and trucks
- Telephones
- Books and newspapers
- Attendance at seminars (except food and drinks)
- Raw materials

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

Input tax directly relating to taxable supplies is fully recoverable, while input tax directly relating to exempt supplies is not recoverable.

To determine the amount of input tax that may be recovered one of the following methods may be used:
- Primarily deduction of input tax should be made by using actual data in the taxable person's books and accounts or other records on the total amount of input tax, including the amount of input tax that is deductible.
- Determination of the amount of deductible input tax using a pro rata method for the whole business, if the taxable person is unable to determine the amount of input tax as described above.
- Determination of the amount of deductible input tax using several deductible amounts for each of its various fields of business activity separately. A "field of business activity" is any level of activity of the taxable person according to a standard classification of activities or organizational units of the taxable person (such as a separate plant or business unit).

Under the pro rata method, the total annual supplies on which input tax is deductible (exclusive of VAT) is divided by the total annual supplies, including exempt supplies, state subsidies and grants.

Approval from the tax authorities is not required to use any of the partial exemption methods in Slovenia.

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

In Slovenia, the capital goods adjustment applies to the following assets for the number of years indicated:
- Real estate: adjusted for a period of 20 years
- Other tangible fixed assets: adjusted for a period of five years

In Slovenia, the capital goods adjustment does not apply to any services. However, if services are booked into the accounts as assets, then the capital goods adjustment does apply.

Refunds. If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that same period, the taxable person has an input tax credit. An input tax credit is carried forward to the following tax period. However, a VAT-registered person is entitled to a refund of the input tax credit within 21 days after submitting a VAT return form for the tax period (if the VAT credit is claimed in the relevant VAT return).

The tax authorities pay interest on delayed repayments of VAT. The statutory rate of interest is 0.0247% per day.

Pre-registration costs. A taxable person has the right to deduct input tax incurred prior to the VAT registration in Slovenia (under the assumption that all other conditions for VAT deduction are met (e.g., received correct invoice for purchased goods, use of goods for economic activities of taxable person).

The right to input tax deduction must be exercised by the end of the year following the year in which it was received (e.g., input tax for purchase incurred in January 2023 can be claimed back in VAT return for December 2024 at the latest).

Bad debts. If payment for a supply is not received, a taxable person may adjust (reduce) the VAT amount if, according to the final court resolution of a completed bankruptcy procedure or successfully completed compulsory settlement, the taxable person's receivables were either not settled or not settled in full. The same applies to a taxable person who obtains a final court resolution or another document clearly showing that in the closing execution procedure, the taxable person's receivables were not settled or not settled in full. A taxable person may also adjust the VAT amount if their receivables were not settled due to the fact that the debtor was deleted from the court register or any other relevant register or prescribed records.

Regardless of the above provisions in the Slovenian VAT legislation, the amount of non-paid VAT for outstanding receivables can be adjusted after submission of a claim for the respective receivable in the bankruptcy proceeding or compulsory settlement. However, this claim should first be recognized by the applicable officials in the bankruptcy proceeding or compulsory settlement.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Slovenia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Slovenia is recoverable. The Slovenian VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Slovenia. Non-established businesses may claim Slovenian VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/9/EC. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Slovenia during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Slovenia:

- Requests for refund may relate to the following:
  - Purchases of goods and services for which invoices were issued during the refund period, provided VAT became chargeable before or on the invoice date, or for which the liability to charge VAT was incurred during the refund period, provided that the invoice had been issued before the date when VAT became chargeable
  - Import of goods during the period of refund
  - Invoices or import documents not included in any earlier request for refund and concerning transactions completed during the calendar year in question
- A request for refund may be made for the period of refund that shall not be shorter than three months of a calendar year and not longer than a calendar year. A request may also relate to a period shorter than three calendar months, provided that this period represents the remainder of a calendar year.
- The VAT legislation determines the minimum amount of VAT for which a refund may be claimed:
  - EUR400 when the request relates to a refund period that is shorter than one calendar year but not shorter than three months
  - EUR50 when the request relates to a refund period of one calendar year or to the remaining portion of a calendar year
- VAT refund claims must be submitted no later than 30 September following the expiry of the calendar year in which VAT is charged. If the deadline expires on a nonworking day, then the deadline shall not expire on the first working day that follows.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive.

Slovenia applies the principle of reciprocity; that means the country where the claimant is established must also provide VAT refunds to Slovenia businesses.

Find below specific rules for Slovenia:
- The deadline for refund claims is 30 June following the calendar year in which the tax was incurred. This deadline is strictly enforced.
- Applications for refunds of Slovenian VAT by non-EU businesses must be filed with the Slovenian tax authorities in electronic form using the tax authorities' online portal (https://edavki.durs.si/EdavkiPortal/OpenPortal/CommonPages/Opdynp/PageA.aspx). To gain access to the online portal of the tax authorities, a non-EU business and its legal representative(s) must each obtain a Slovenian tax number.
- A taxable person established in a non-EU Member State may submit a claim for refund with the tax authorities:
  - For a period of time that is less than one calendar year and not less than six months; however, the amount of VAT for which a refund is requested shall not be less than EUR400.
  - For a period of one calendar year or the remaining portion of a calendar year. This claim may also cover invoices or import documents that were not a part of previous claims and relate to transactions completed in the current calendar year; however, the required refund amount must not be less than EUR50.

Late payment interest. Any taxable person who does not receive the surplus VAT returned from the Slovenian tax authorities within the legally prescribed deadline is entitled to the default interest at a daily interest rate of 0.0274%.

H. Invoicing

VAT invoices. A taxable person must generally provide a VAT invoice for all taxable supplies that are made (or deemed to have been made) in Slovenia, including exports and intra-Community supplies. Invoices are not required for a limited range of supplies, including the following:
- Supplies by taxable persons that perform agricultural or forestry activities and sell these products and services to final consumers
- The sale of tickets, season tickets and tokens for passenger transport (trains, buses and cable cars), stamps, court stamps, postal forms, payments for participating in games of chance, periodicals, vending machine sales, sale of mobile phone cards by ATM, GMS network and the internet, sale of tokens from change machines and supplies of services at "teleservice points"
- Exempt financial services performed in Slovenia or outside the EU for which the taxable person issues a large number of documents to recipients. However, the taxable person should issue a consolidated document, such as a separate bank statement, which includes the value of services charged and the clause that VAT is not charged according to the applicable article of the VAT law.

The issuance of an invoice is also not required for a supplier that chooses to account for the VAT under the EU OSS.

Providing an invoice is required for all B2C supplies. Under the Act on Amendments and Additions to the Fiscal Validation of Receipts Act (ZDavPR-B), the taxable person must always give the invoice to the customer, even if the customer does not request it and regardless of the method of payment. The invoice can be provided in a physical or electronic format and must be taken and kept by the customer, as well as provided if requested by a tax or market authority.

Credit notes. If the taxable amount subsequently changes as a result of the return of goods or the granting of a discount, the tax base is lowered accordingly. The taxable person may adjust (reduce) the amount of VAT payable if it informs the recipient in writing (for example, by issuing a credit note) about the nondeductible amount. A credit note must include the information prescribed for a simplified VAT invoice.

Electronic invoicing. Electronic invoicing is mandatory in Slovenia for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Slovenia. This is in line with EU Directive 2014/55/EU *(see the chapter on the EU)*. This has been in effect from 1 January 2015. Mandatory use of electronic invoicing is applicable for public procurement. The law further mandates the use of the Public Payments' Administration system of the Republic of Slovenia (PPA). The PPA is the single entry and exit point for B2G and G2G exchange of electronic invoices.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Slovenia. This is in line with the EU Directive 2010/45/EU *(see the chapter on the EU)*. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Slovenia. The requirements related to electronic invoicing are the same as those for paper invoicing.

Note that electronic invoicing is expected to become mandatory in Slovenia from 1 January 2028. It is expected that this requirement will apply to all taxable persons, both resident and nonresident, who are registered for VAT in Slovenia and issue invoices to their customers in the jurisdiction. It is expected that the mandate will cover all types of invoices, including credit and debit notes, as well as invoices for domestic and cross-border transactions. *At the time of preparing this chapter, there is no information available on whether there will be any thresholds for the application of the e-invoicing mandate in Slovenia. However, further details on this are expected to be provided as the relevant legislation is developed and approved. As for the approval process, the relevant legislation is still in the development stage and has not been published.*

Certified cash register. Under the "certified cash register" system, all legal and natural persons that perform cash transactions (or cash equivalent transactions) and are obliged to keep books and records must use certified tax registers. The cash registers are connected to the central information system of the financial authority via the internet, so processed invoices are verified and saved in real time, enabling traceability and effective control over invoices, thus helping to reduce the grey economy.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. In general, taxable persons can issue simplified invoices for the supply of goods or services carried out in Slovenia, if at least one of the following conditions is met:
- The net amount stated on the invoice does not exceed EUR100
- If a taxable person issues a document or a message that changes the original invoice and refers to it undoubtedly
- If the invoice is issued to a final customer

A taxable person who issues a simplified invoice to another taxable person and needs such an invoice in order to claim VAT deduction has to indicate the name and address of the buyer or customer in the invoice.

A taxable person should not issue a simplified invoice for goods or services supplied to another Member State in which VAT is chargeable or if such taxable person's place of establishment in that Member State does not participate in the supply in terms of Article 192a of Council Directive 2006/112/EC and the person liable to pay VAT is the person to whom the goods or services are supplied.

A taxable person who supplies goods and services in the cases where recipients of goods and services act as persons liable for payment of VAT indicates in the simplified invoice that the reverse charge applies.

If a taxable person supplies goods or services at different tax rates, the amount of VAT in a simplified invoice must be shown by tax rate separately.

Where a taxable person supplies goods or services that are exempt from VAT, it must make reference in its invoice to the valid provision of the Sixth Council Directive 2006/112/EEC or to the corresponding Article of Slovenian VAT Act or any other reference indicating that the supply of goods or services is exempt from VAT.

Self-billing. Self-billing is allowed in Slovenia. A self-billed invoice may be issued by the buyer of goods or services for the goods or services supplied to them by a taxable person (self-invoicing) where both parties agree on this procedure in advance and specifically agree on the method of accepting each invoice by the taxable person by whom the goods or services are supplied. The buyer of goods or services must indicate on the self-billed invoice that it is issued on behalf and for the account of the taxable person who supplied the goods or services to the buyer.

Proof of exports and intra-Community supplies. Slovenian VAT is not due on supplies of exported goods or on intra-Community supplies of goods (*see the chapter on the EU*). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Slovenia. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially certified by customs. In certain cases, an invoice stamped by customs, a mail freight declaration or a transport document is acceptable
- For an intra-Community supply, an invoice with the purchaser's VAT identification number and corresponding transport document (or other suitable document that clearly refers to the freight of goods related to the invoice); in certain cases, a statement by the recipient of the goods confirming its receipt could also be used.

No special documentation applies in Slovenia for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply. In this respect, Slovenia follows Council Implementing Regulation (EU) 2022/432 of 15 March 2022 amending Implementing Regulation (EU) No 282/2011. There is no prescribed form, however, other documents than transportation documentation can be used.

Foreign currency invoices. Invoices may be issued in a foreign currency. The VAT amount must always be in the domestic currency, which is the euro (EUR). The exchange rate that must be used is the foreign exchange rate of the European Central Bank (ECB) (also published by the Bank of Slovenia) that is valid on the date on which the tax liability arises and that is published by the Bank of Slovenia.

Supplies to nontaxable persons. Special rules apply to the place of supply for supplies of telecommunications, broadcasting and electronic services to nontaxable customers. Slovenian suppliers of these services are required to issue full VAT invoices to nontaxable customers. *For further details of the VAT rules on electronic services in the EU, see the chapter on the EU.*

VAT-registered suppliers can also issue simplified invoices to non-VAT registered customers (private consumers) only where the invoice amount does not exceed EUR100. If the invoice amount exceeds EUR100, then the VAT-registered supplier must issue a normal VAT invoice.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. Every taxable person is required to keep sufficiently detailed information in its bookkeeping to enable correct and timely VAT calculations and the tax authority's control over the VAT calculations and payments. In case of use of simplifications or exemptions, such as call off stock simplification, temporary movements of goods within the EU, etc., taxable person are required to keep records in respect of such transfers. In general, invoices must be archived in their

original form. In Slovenia, examples of what records must be held for VAT purposes include issued invoices, received invoices, invoices issued in their name and on their behalf by a third party, contracts on purchase and sale of short-term financial investments, and borrowing of short-term loans, settlements, transaction accounts and others.

In Slovenia, VAT books and records must be held within the country. Nonresident businesses can hold VAT books and records outside of Slovenia. However, if resident Slovenian businesses hold documents out of Slovenia, they must notify the tax authorities of this choice within 10 days of the decision.

Record retention period. Taxable persons must keep books of account and records (including all received and issued invoices) archived in hard copy or in electronic form until the expiry of the absolute statute of limitations of the right to recover input tax to which they refer – that is amounting to 10 years. The period is 20 years if the records and invoices relate to immovable property.

Electronic archiving. Electronic archiving is allowed in Slovenia. The condition for electronic archiving is that a taxable person must ensure that the file content cannot be modified or erased while at the same time it can be reproduced if needed.

I. Returns and payment

Periodic returns. Slovenian VAT returns are submitted for monthly or quarterly tax periods. Quarterly tax periods coincide with the months of March, June, September and December. A tax period for each taxable person is determined on the basis of its turnover in the preceding calendar year in accordance with the following rules:

- Taxable persons with a turnover up to EUR210,000 submit quarterly tax returns, unless the taxable person engages in intra-Community transactions and is liable to submit a recapitulative statement
- Taxable persons with a turnover greater than EUR210,000 submit monthly tax returns

The tax period for newly established taxable persons is a calendar month for the first 12 months of business activity. The tax period for non-established businesses is always a calendar month.

VAT returns must be submitted and any VAT due must be paid in full by the last working day of the month following the end of each tax period. If the taxable person performs intra-Community supplies and must file a recapitulative statement, the VAT return must be submitted by the 20th day of the month (or earlier if the 20th day is not a working day) following the reporting period (calendar month).

Periodic payments. Any VAT due must be paid in full by the last working day of the month following the end of each tax period. Nonresident businesses must remit the amount payable to the account of the tax authorities. VAT due is paid by bank transfer to the tax authorities.

Electronic filing. Electronic filing is mandatory in Slovenia for all taxable persons. VAT returns must be filed through the electronic filing system of the Slovenian tax authorities (*eDavki*). For registration in the electronic filing system a special electronic certificate should be obtained (see the subsection *Registration procedures* above).

Payments on account. Payments on account are not required in Slovenia. However, if a taxable person proves that due to reasons over which it has no influence, serious economic damage might occur from making its VAT payment, and the deferment of or payment by installment of the tax would prevent serious economic damage, the tax authorities might grant payment in installments.

Special schemes. *Cash accounting.* A domestic taxable person whose taxable turnover (excluding VAT and excluding sales of assets) did not exceed EUR400,000 in the previous 12 months and

whose turnover is not expected to exceed this limit in the next 12 months, may, under certain conditions, charge and pay VAT on a cash basis; that is, on the basis of payments received for its supplies of goods and services. A taxable person that uses the cash accounting scheme may deduct input tax on its purchases only when the VAT is fully paid. For related companies, the turnover threshold applies to the whole group.

Small taxable persons. A Slovenian taxable person is exempt from charging VAT if in the last 12-month period its taxable turnover has not exceeded or is unlikely to exceed EUR50,000.

Farmers. Farmers are entitled to flat-rate compensation for VAT for the supply of agricultural and forest products under certain conditions.

Travel agents. The taxable amount and the price exclusive of VAT in respect of the single service provided by a travel agent is the difference between the total amount, exclusive of VAT, to be paid by the traveler and the actual cost to the travel agent of supplies of goods or services provided by other taxable persons, where those transactions are for the direct benefit of the traveler.

Secondhand goods, works of art, collectors' items and antiques. The taxable amount is the profit margin made by the taxable dealer, less the amount of VAT relating to the profit margin. A taxable dealer may apply the normal VAT arrangements to any supply covered by the special margin scheme.

Investment gold. Taxable persons who produce investment gold or transform gold into investment gold shall have the right to opt for the taxation of supplies of investment gold to another taxable person.

Annual returns. Annual returns are not required in Slovenia.

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

The threshold for Intrastat Arrivals for 2024 is EUR220,000. The threshold for Intrastat Dispatches in 2024 is EUR270,000.

Taxable persons exceeding the special threshold of EUR4 million for Arrivals and EUR9 million for Dispatches are required to report three additional items of information in addition to the mandatory data: the terms of supply with the location, the type of transport and the statistical value.

If a taxable entity exceeds any of the thresholds, they are obliged to report for Intrastat statistics, but only after a notification is sent by the Slovenian Statistics office. In practical terms, the taxable person will receive a letter approximately two to three months after first exceeding either threshold and will then need to submit reports from that period onward.

At the time of preparing this chapter, the thresholds for 2024 have not been announced.

Intrastat returns must be submitted by the 15th day of the month following the reporting period (calendar month). If the 15th day is a nonworking day, the Intrastat return must be submitted by the last working day before the 15th day of the month.

Intrastat returns must be submitted in electronic format via the internet (http://intrastat-surs.gov.si/). Intrastat returns must be filed in EUR.

EU Sales List. If a Slovenian taxable person performs intra-Community supplies or reverse-charge services that are taxable for VAT purposes in the other EU state in a tax period, it must submit an EU Sales List (also known as "Recapitulative Statement" in Slovenia) to the Slovenian

tax authorities. The Recapitulative Statement is not required for any periods in which the taxable person does not make any intra-Community supplies (i.e., nil Recapitulative Statements).

The Recapitulative Statement must be submitted monthly by the 20th day of the month (or earlier if the 20th day is not a working day) following the reporting period (calendar month).

PD-O Report. If taxable person performs supplies subject to the domestic reverse charge, it must file a PD-O Report. The deadline for the submission of the report is the last working day of the month, following the reporting period.

Correcting errors in previous returns. Errors from previous tax periods must be corrected in a taxable person's current VAT return. A self-disclosure process can be used in case of late submission and/or late payments of VAT. In the case of self-disclosure there are no penalties due; however, the taxable person must pay interest.

A taxable person who has already submitted a VAT return may replace the previously submitted VAT return with a new VAT return until the expiry of the deadline for the submission of the VAT return unless it has requested a VAT refund under the submitted VAT return. The taxable person may, at the latest until the beginning of the tax inspection or until the service of the assessment decision or until the beginning of the misdemeanor or criminal proceedings, include corrections of errors from previous tax periods in the current VAT return. Correction of errors in the calculation of VAT on the basis of self-declaration is no longer possible when one of the circumstances from the previous sentence occurs for the first time.

In the case of correction of errors from previous periods in the current VAT return, due to undercharged VAT or excessive VAT deduction, the taxable person will pay interest of 3% per annum on the amount of VAT subject to correction.

Digital tax administration. There are no transactional reporting requirements in Slovenia.

J. Penalties

Penalties for late registration. A penalty may be imposed for late registration or failure to register for VAT in Slovenia and for late filing or failure to file VAT returns. Penalties that can be imposed range from EUR4,000 to EUR125,000, depending on the size of the company and gravity of the offense. In addition, a fine may be imposed to the responsible person (i.e., the legal representative of the taxable person) in the range from EUR1,000 to EUR10,000.

Penalties for late payment and filings. For late filing or non-filing of a VAT return, a penalty ranging from EUR4,000 to EUR125,000 may be imposed, depending on the size and type of the organization.

For late payment or nonpayment of VAT, a penalty ranging from EUR4,000 to EUR125,000 may be imposed, depending on the size and type of the organization.

Default interest of 3% per year is imposed for the late payment of VAT due; however, in case of inspection, the interest rate is 7%. For Intrastat, a penalty of up to EUR1,250 may be imposed for late submission, failure to submit or for inaccurate declarations. In addition, a penalty of up to EUR125 may be imposed on a person responsible for the return.

For EU Sales Lists, penalties ranging from EUR4,000 to EUR125,000 may be imposed, depending on the size and type of the organization for late submissions, failures to submit or inaccurate filings.

In addition, a fine may be imposed to the responsible person (i.e., the legal representative of taxable person) in the range from EUR1,000 to EUR10,000.

Penalties for errors. There is no definition of an error in the Slovenian VAT Act. The offenses covered by the Act are listed in Articles 140 and 141 of the Slovenian VAT Act. The penalties imposed for errors are set in the range outlined above for late filing. Some examples of the offenses are failing to charge VAT when the chargeable event occurs, failing to charge VAT on the taxable amount, failing to state the required information or providing incorrect data on the invoice and failing to charge or incorrectly charging VAT for the statutory tax period, etc.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details results in a fine ranging from EUR1,200 to EUR30,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. An offense committed by a responsible person of a taxable entity may result in a fine ranging from EUR1,000 to EUR20,000.

The criminal offense of tax evasion is punishable by a term of imprisonment ranging from one to eight years.

Personal liability for company officers. It is possible for company officers to be liable in cases of particularly serious offenses. The penalties range from EUR600 to EUR20,000.

Statute of limitations. The statute of limitations in Slovenia is five years. This is from the day when the tax should have been declared, charged, withheld and assessed. The running of the statute of limitations regarding the right to assess tax is interrupted by any official act undertaken by the tax authorities of which the person liable for tax has been notified. After interruption, the statute of limitations will be reapplied and start running again. The tax liability ceases upon the expiry of 10 years from the day tax should have been declared, charged, withheld and assessed (absolute statute of limitations).

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	30 September 1991
Trading bloc membership	South African Development Community (SADC) Southern African Customs Union (SACU) African Continental Free Trade Area (AfCFTA)
Administered by	Commissioner for the South African Revenue Service (SARS) (http://www.sars.gov.za)
VAT rates	
Standard	15%
Other	Zero-rated (0%) and exempt
VAT number format	4220122222
VAT return periods	Monthly, bimonthly, biannually or annually
Thresholds	
Registration	ZAR1 million
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in South Africa by a registered person
- Reverse-charge services received by a person in South Africa that is not entitled to claim full input tax credits (referred to as imported services)
- The importation of goods from outside South Africa, regardless of the status of the importer

Goods that are imported from countries in the Southern African Customs Union (that is, Botswana, Lesotho, Namibia, South Africa and Eswatini (previously known as Swaziland) are not subject to customs duty, but they are subject to VAT.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In South Africa, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT/GST-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be zero-rated under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as zero-rated of VAT. In South Africa, the legislation provides for the TOGC sale between two VAT-registered persons to be subject to the zero-rate, provided certain conditions are met. Furthermore, the rules provide that certain intragroup transactions as part of a corporate restructuring arrangement, as contemplated under specific sections of the Income Tax Act, not to be a supply. For these corporate restructuring transactions, the supplier and the recipient entities are deemed to be one and the same person.

Transactions between related parties. Transactions between related parties where the recipient entity is not entitled to a full input tax credit is deemed to be at an open market value (arm's length) where there is no consideration charged or the consideration is less than the open market value.

C. Who is liable

A taxable person (i.e., a "vendor") is required to account for output tax on all goods and services supplied in South Africa, unless the supply is specifically exempted by the Value-Added Tax Act.

A "vendor" is a taxable person (business entity or individual) carrying on an activity in or partly in South Africa on a continuous or regular basis during which goods or services are supplied to another person for consideration exceeding the registration threshold. This includes persons who are registered for VAT in South Africa as well as persons who are required to register as taxable persons.

A taxable person is required to register for VAT if the value of taxable supplies exceeds (or is expected to exceed) ZAR1 million in any consecutive 12-month period or a signed contract is in place proving that the ZAR1 million threshold will be exceeded in the following 12-month period (except for some electronic services).

Importers are liable to pay VAT on imported goods at the standard rate. There are certain exemptions where VAT is not chargeable, like when goods are donated by a nonresident to an association not for gain, personal use goods imported by tourists and goods temporarily admitted for processing or repairs.

Recipients of services are liable to pay VAT on imported services to the extent that the services will be utilized or consumed in the making of nontaxable supplies. Imported services are exempt from VAT if the value of the supply does not exceed ZAR100 per invoice.

In addition to actual goods and services supplied by a taxable person, the VAT Act also deems certain supplies to be supplies of goods or services. The person making the deemed supply is liable to pay VAT. Deemed supplies include the following:

- Ceasing to be a vendor
- Short-term indemnity payments
- Change in use
- Excess payments not refunded within four months
- Fringe benefits
- Receipts of payments from any public authority or municipality by designated entities for purposes of taxable supplies
- Trading stock used for private purposes
- Betting and gambling transactions
- Disposal of an enterprise as a going concern
- Consignment or delivery of goods or services to a branch or main business outside South Africa
- Repossession or surrender of goods

Exemption from registration. The VAT law in South Africa does not contain any provision for exemption from registration.

Voluntary registration and small businesses. A person whose turnover is below the compulsory registration threshold may register for VAT on a voluntary basis if the value of its taxable supplies exceeds ZAR50,000 in any 12-month period (excluding the provision of commercial accommodation, for which the threshold is ZAR120,000). Certain industries such as welfare organizations, projects funded by foreign donors and municipalities can register even if they don't meet the voluntary registration threshold.

Group registration. Group VAT registration is not allowed in South Africa.

Fixed establishment. In South Africa, there is no legal definition of a fixed establishment for VAT purposes. However, the registration liability for VAT is not dependent on whether a person has a fixed establishment in South Africa. Provided goods or services are supplied inside or partly inside South Africa on a continuous and regular basis creates a potential registration liability (for both resident and nonresident entities).

Non-established businesses. A "non-established business" is a business that has no fixed establishment in South Africa. A non-established business that makes taxable supplies of goods or services continuously or regularly in South Africa must appoint a tax representative and open a South African bank account to register for VAT. The VAT authorities may appoint any person as an agent for any other person to recover amounts due to the SARS.

Tax representatives. A taxable person must appoint a natural person residing in South Africa as a tax representative to assist in tax matters and to represent the entity in South Africa. This requirement applies to all taxable persons, not just non-established businesses.

Reverse charge. In South Africa, a reverse charge only applies if the services are intended to be used in the making of nontaxable supplies by the recipient of the services. The recipient of the services is liable to account for the VAT thereon. This means that if the intention is to use the services for the making of taxable supplies, VAT is not accounted for on the supply (i.e., no VAT cash-flow).

Domestic reverse charge. From 1 August 2022, a domestic reverse charge has been introduced for VAT, and as such, VAT must be accounted on the supply of valuable metal between two taxable

persons (i.e., both are VAT registered in South Africa), i.e., a business-to-business (B2B) supply. Valuable metal is defined to include any goods containing gold in the form of jewelry, bars, blank coins, ingots, buttons, wire, plate, granules, in a solution, residue or similar forms, including any ancillary goods or services. Excluded is the supply of goods produced from raw material by the holder of a mining right in respect of the mine where the holder carries on mining operations.

Digital economy. The supply of electronic services by a non-established business to recipients in South Africa is subject to VAT. The liability to register for VAT will arise where the electronic services are supplied from a place outside South Africa to a recipient that is a resident of South Africa or where payment to the non-established business originates from a South African bank. This specific inclusion applies where at least two of the following circumstances are present:
- The electronic services are supplied to a South African resident
- Any payment for such services is made from a South African bank
- The electronic services are supplied to a person with a business address, residential address or postal address in South Africa where a tax invoice will be delivered

The term "electronic services" is defined in the VAT Act to mean those electronic services as prescribed by regulation. The foreign supplier becomes liable to register for VAT at the end of the month the value of taxable supplies exceeded ZAR1 million in any consecutive 12-month period.

"Electronic services" is defined as all services supplied by means of an electronic agent, electronic communication or the internet for consideration and qualifies as "electronic services," except for the following:
- Educational services supplied from outside South Africa and regulated by an educational authority in terms of the laws of that country
- Telecommunications services
- Services supplied from a place outside South Africa by a business that is non-established in South Africa to a business that is a resident of South Africa if both those businesses form part of the same group of businesses (which requires a direct or indirect 70% equity shareholding) and the business that is not a resident of South Africa itself supplies those services exclusively for the purposes of consumption of those services by the business that is a resident of South Africa

There are no other specific e-commerce rules for imported goods in South Africa.

Online marketplaces and platforms. Where electronic services are supplied by an intermediary (such as an online marketplace or platform) who is acting on behalf of another person who is the principal for the purposes of that supply, the supply is deemed to be made by the intermediary and not the principal if the following requirements are complied with:
- The intermediary should be a vendor
- The principal should not be a resident of South Africa and not a registered vendor
- The electronic services are supplied or to be supplied by the principal to a person in South Africa

The effect of the above is that the principal is not required to register for VAT and levy VAT on the electronic services, but the intermediary must do so instead.

Registration procedures. A VAT 101 form needs to be completed and supporting documentation such as the following needs to be presented (note that exact requirements change regularly and can differ per office):
- Company registered in South Africa with the Companies and Intellectual Property Commission (CIPC):
  - Copy of certificate of incorporation

  - Copy of identity document or passport of two members/directors/shareholders/trustees of the company
  - Bank details
  - Original letter from bank
  - Three months' bank statements with original bank stamp from a registered bank
  - Copy of financial information listed as source under financial particulars (to determine value of taxable supplies (no cash flow projections or business plans will be accepted)
  - If a practitioner is submitting the application on behalf of a taxable person, a power of attorney authorizing the practitioner to act on behalf of the taxable person
  - Copy of identity document, driving license or passport of representative taxable person
  - Confirmation of business address
  - Recent copy of the business municipal account or utility bill or CRA01 Form
  - Confirmation of residential address
- Non-established business:
  - Copy of certificate of incorporation – if in a foreign language it must be translated in writing into English
  - Where the non-established business has a physical presence in South Africa, a copy of the municipal account of the business must be submitted
  - Certified copy of passport documents of the members directors/shareholders/trustees of the business
  - Copies of financial information listed as source in the financial particulars section of the application form to determine the value of taxable supplies, if the value is not in South African currency, the South African rand equivalent must be provided (no cash flow projections or business plans will be accepted)
    - Bank details
    - Original letter from bank
    - Three months' bank statements with original bank stamp
    - Relevant material required for representative taxable person/authorized practitioner
    - In case of a practitioner, a letter of authority or power of attorney to authorize the practitioner to act on behalf of the applicant
    - Certified copy of identity document of representative taxable person
- "Electronic service" company:
  - Copy of certificate of incorporation
  - Proof of registration with foreign authority, i.e., issued tax registration certificate issued in the country of residence confirming registration of any tax administered by that foreign country
  - Copy of identity document or passport of the appointed foreign representative or specified contact person with regards to the registration application
  - Copy of a recent bank statement from the South African registered bank in South Africa (if a bank account was opened in South Africa; it is, however, not a requirement to have a South African bank account in the case of registering a foreign electronic service provider)

The registration process for "electronic services," as well as entities already registered with the tax authorities for corporate tax purposes, can often be completed through the SARS e-Filing system. Alternatively, visits to the tax offices may be required.

Deregistration. A taxable person can apply to SARS to be deregistered if its taxable supplies during a 12-month period are below the ZAR1 million threshold. If a taxable person's taxable supplies during a 12-month period are below the voluntary registration threshold of ZAR50,000, the commissioner will automatically deregister the person. The deregistration rules apply to all taxable persons.

If a taxable person ceases to carry on all enterprises, the commissioner must be notified within 21 days.

Changes to VAT registration details. A taxable person is required to notify SARS within 21 days of any changes in its registered details, including any change in the representative, business address, banking details, trading name or if a taxable person ceases trading. These changes can be made by updating the RAV01 Form on e-Filing or submitting the RAV01 Form at a SARS branch if not registered on e-Filing.

In the case of banking details, the taxable person or the authorized representative taxable person must make the changes in person at any SARS branch (preferred) or through the SARS e-Filing system if registered as an e-Filer. SARS may, however, request a taxable person to come into a branch to verify changes to banking details that may have been done on e-Filing.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 15%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods and related services
- International transport of passengers and goods and related services
- Certain supplies of goods that are used exclusively in an export country
- Services supplied outside South Africa and to foreign branches and head offices
- Services supplied directly in connection with land or any improvement thereto outside South Africa
- Certain services supplied to nonresidents
- Services deemed to be supplied to a public authority or municipality
- Certain basic foodstuffs
- Sanitary towels (pads)
- Illuminating kerosene and leaded and unleaded gasoline
- Supply of gold coins issued by the reserve bank
- Supply of an enterprise capable of separate operation as a going concern (provided that all of the requirements are met)
- Supply of fuel levy goods and certain fuels obtained from crude to be refined to produce fuel levy products
- Receipt of certain grants
- Supply of intellectual property for use outside of South Africa
- Supply of services to nonresidents subject to certain provisions
- Triangular supplies (the taxable person supplies goods to a nonresident but delivers them in South Africa; special requirements apply)
- The supply of goods that have been imported and entered for storage in a licensed Customs and Excise storage warehouse but have not been entered for home consumption
- The supply of certain goods used or consumed for agricultural, pastoral or other farming purposes

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services, including Sharia finance premiums

- Fare-paying passenger transport by road or rail
- Educational services
- Childcare
- Donated goods supplied by certain nonprofit (charitable) bodies
- Rental of residential accommodation
- Immovable property located outside South Africa
- The supply of goods by a non-established business before the goods are entered for home consumption, unless the non-established business applies in writing to the SARS to have the supplies zero-rated
- Certain supplies made by bargaining councils to their members are exempt from VAT; the exemption was previously limited to situations in which the supplies were covered by membership contributions

Option to tax for exempt supplies. Where a nonresident nontaxable person supplies goods in South Africa that have not been entered for home consumption, the supply is exempt from VAT. However, the nonresident may apply to the Commissioner to, having regard to the circumstances of the case, direct that the exemption from VAT shall not apply to the person.

E. Time of supply

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

In South Africa, the basic time of supply is the earlier of the issuance of an invoice or the receipt of payment.

Other tax points are used for a variety of situations, including betting transactions, construction transactions, supplies made from vending machines and "lay-by" sale agreements.

The tax point for supplies of goods between related persons is when the goods are removed by or made available to the purchaser or recipient of the goods. The time of supply for the supply of services between related persons is when the services are performed.

The tax point for goods consigned or delivered to a branch or main business outside South Africa is when the goods are actually consigned or delivered. The tax point for services supplied to a branch or main business outside South Africa is when the services are performed.

The supply of immovable property is deemed to take place at the earlier of the following dates:
- The date on which the registration of the transfer is made in a deed's registry
- The date on which payment is received

Deposits and prepayments. The time of supply for deposits and prepayments is deemed to take place at the earlier of when an invoice is issued, or any payment of consideration is made.

Continuous supplies of services. The tax point for periodic supplies is the earlier of the date on which payment is due or the date on which payment is received.

Goods sent on approval for sale or return. There are no special time of supply rules in South Africa for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). It is the earlier of the issuance of an invoice or the receipt of payment.

Reverse-charge services. The time of supply for reverse-charge services is the earlier of when the supplier issues an invoice, or the time payment is made in respect of the supply.

Leased assets. The time of supply for leased assets is to the extent that payment becomes due or is received, whichever is the earlier.

Imported goods. The tax point for imported goods varies depending on the source of the goods being imported. The following are the applicable rules:

- For goods that are imported from a Southern African Customs Union country: when the goods are brought into South Africa at the border post
- For goods imported from other countries: when the goods are cleared for home consumption
- For goods imported and entered into a licensed Customs and Excise storage warehouse: when the goods are cleared from the warehouse for home consumption

Where an importer is registered for VAT purposes and will utilize or consume the imported goods in the making of taxable supplies, the importer may claim the VAT paid on importation as an input tax deduction. Where a customs deferment account is used by the importer (or its clearing agent) the importer needs to ensure that the VAT is paid to SARS before it claims an input tax deduction. The importer is entitled to claim the VAT paid on importation as an input tax deduction in the tax period in which the goods are released in terms of the customs and excise act.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax (that is, VAT charged on goods and services supplied to it for business purposes) by offsetting it against output tax, which is VAT charged on supplies made in a particular tax period provided they have valid tax invoices.

Input tax includes VAT charged on goods and services supplied in South Africa and VAT paid on the importation of goods.

A taxable person is entitled to an input tax deduction on the acquisition of secondhand goods located in South Africa from a resident of the Republic. Secondhand goods are specifically defined as goods that were previously owned and used, excluding animals. The definition of "secondhand goods" excludes gold and goods containing gold (i.e., goods consisting solely of gold and gold coins). Other secondhand goods containing gold, such as computers or watches, acquired for the sole purpose of supplying those goods in substantially the same state, still qualify for the notional input tax deduction. In addition, a taxable person must hold a completed VAT264 Declaration for supply of secondhand repossessed or surrendered goods form in order to deduct notional input tax on secondhand goods acquired.

The time limit for a taxable person to reclaim input tax in South Africa is five years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (e.g., goods acquired for private use or services used for making exempt supplies). In addition, input tax may not be recovered for specifically excluded business expenditure, such as entertainment.

Examples of items for which input tax is nondeductible

- Purchase or hire of a motor car (subject to certain exceptions)
- Business and staff entertainment (subject to certain exceptions)
- Business gifts (to the extent that the gift constitutes "entertainment," as defined)
- Club subscriptions

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire and maintenance of vans and trucks
- Attendance at conferences and seminars
- Vehicle maintenance costs (including motor cars)
- Mobile phones
- Air transport within South Africa
- Aviation fuel

- Trading stock
- Raw materials
- Marketing expenditure

This list is not exhaustive. Input tax can be claimed to the extent that it is incurred for the making of taxable supplies.

Partial exemption. Input tax directly related to the making of exempt supplies is not recoverable. If a taxable person makes both exempt and taxable supplies, it may recover only a portion of the input tax incurred. In South Africa, the deductible portion is determined using the following two-stage calculation:

- The first stage identifies the input tax directly attributable to taxable and exempt supplies. Input tax directly attributable to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that cannot be directly attributed to the making of taxable or exempt supplies. Such input tax may be deducted only to the extent that it relates to the making of taxable supplies. In general, the deductible portion is determined by comparing the value of taxable supplies to total supplies. However, a taxable person may apply to the SARS for another equitable apportionment method (for example, apportionment based on floor space or activity), particularly if significant investment income, foreign-exchange gains or other nontaxable passive income is realized.

Approval from the tax authorities is not required to use the partial exemption standard method (known as the standard turnover-based method of apportionment) in South Africa. However, where the standard turnover-based method is unfair and unreasonable, a taxable person may apply to SARS to use an alternative method.

Capital goods. If a recipient intends to use a capital good (e.g., fixed property) acquired for making taxable supplies, the recipient may deduct the input tax incurred on acquisition, but only to the extent of payment made. If the capital good is intended to be used partially for making taxable supplies and partially for nontaxable supplies, only the portion relating to the intended taxable use may be deducted.

Capital goods are defined as land (together with improvements affixed thereto), any sectional title unit, any share in a share block company that confers a right to or an interest in the use of immovable property, any time-sharing interest and any real right in any such land, unit, share or time-sharing interest.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, a refund of the excess may be claimed.

The SARS pays interest at the prescribed rate if it does not pay the refund claimed within 21 business days after the date on which the VAT return is received by the SARS. The SARS is not liable for interest if the taxable person did not provide bank account details, if the returns furnished were incomplete or defective in any material respect, or if the return is being investigated.

Pre-registration costs. Where goods or services are acquired for or on behalf of a company or in connection with incorporation of that company, the goods or services will be deemed to be received by that company if the person who paid the cost was reimbursed and the goods were acquired in the carrying out of that company's enterprise. The goods or services will be deemed to have been paid by that company in the same tax period during which the reimbursement took place. This shall not apply in any of the following circumstances:

- Expenses occurred more than six months prior to incorporation

- The company does not have sufficient records to substantiate that the goods or services received were taxable supplies
- The expenses relate to secondhand goods

Bad debts. Where a taxable person writes off bad debt, it may deduct a portion of the output tax levied on the supply. The portion of output tax levied that may be deducted is calculated as the ratio of consideration written off to total consideration. The requirements that should be complied with to deduct VAT on bad debt written off are (i) the taxable person should have made a taxable supply for consideration in money, (ii) the taxable person should have submitted a VAT return wherein the output tax levied on the supply was accounted for and (iii) the taxable person should write off so much of the consideration as has become irrecoverable.

A taxable person may not make an input tax deduction in respect of a debt that has:
- Become irrecoverable under an installment credit agreement if the goods supplied in terms of that agreement have been repossessed by or surrendered to the taxable person
- Become irrecoverable if the taxable person accounts for tax on the payment basis
- Become irrecoverable in respect of a taxable supply of goods or services to another taxable person if the vendor and the recipient taxable person are wholly owned members of the same "group of companies" for income tax purposes, for as long both the vendors are wholly owned members of the same "group of companies"
- Been transferred at face value to another person on a non-recourse basis

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in South Africa.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in South Africa is not recoverable. However, VAT incurred by businesses that are neither established nor registered in South Africa may be recovered only with respect to goods that are exported from South Africa. The goods must be exported from a designated port within 90 days after the invoice date. A refund may be claimed from the VAT Refund Administrator. No claim may be made with respect to services (such as hotel accommodation and restaurant meals) consumed in South Africa.

A business that regularly or continuously supplies goods or services in South Africa may be liable to register as a VAT vendor, even though the business is neither established nor registered in South Africa, if it carries on an enterprise and meets the registration requirements. In this instance, the non-established business registered as a vendor may recover input tax through the normal VAT return process.

H. Invoicing

VAT invoices. Taxable persons are required to issue a full tax invoice for all supplies made if the consideration (that is, the total amount received inclusive of VAT) amounts to ZAR5,000 or more. In some cases, tax invoices need not be issued (e.g., for certain periodic supplies) if the underlying documentation, such as a rental agreement, includes the information contained in a tax invoice.

Credit notes. A VAT credit note, or debit note may be used to reduce VAT charged and reclaimed on a supply of goods or services. A credit note or debit note may be issued only if the tax charged is incorrect or if the supplier has paid incorrect output tax as a result of one or more of the following circumstances:
- The supply has been canceled
- The nature of the supply has been fundamentally varied or altered

- The previously agreed consideration has been altered by agreement with the recipient of the supply
- All or part of the goods or services have been returned to the supplier, including goods or services returned to a taxable person who acquired a business as a going concern and the goods or services returned were supplied by the previous owner of the concern
- An error has occurred in stipulating the amount of consideration agreed upon for that supply

If a credit note adjusts the amount of VAT charged, it must be clearly marked "credit note" and must refer to the original tax invoice. It must briefly indicate the reason that it is being issued and provide sufficient information to identify the transaction to which it refers.

Agents must issue a tax invoice within 21 days of making a supply on behalf of a principal. Furthermore, an agent importing goods on behalf of a principal is required to issue a statement to the principal containing certain particulars in regard to importations for a particular period.

Electronic invoicing. Electronic invoicing is allowed in South Africa, but not mandatory.

Scope of electronic invoicing. For B2B, business-to-consumer (B2C), and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in South Africa. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in South Africa. The requirements related to electronic invoicing are the same as those for paper invoicing.

The format of electronic invoices is not prescribed, but it should contain the same particulars as nonelectronic invoices. The electronic transmission and retention of documents is regulated by the Electronic Communications and Transaction Act, which requires that the following requirements are complied with for documents to be presented or retained in its original format:

- The integrity of the information should be assessed from the time when it was first generated in its final form as a data message by considering whether the information has remained complete and unaltered.
- The information should be capable of being displayed or produced to the person to whom it is to be presented.

Taxable persons wishing to issue electronic tax invoices must ensure that they meet all these requirements. Taxable persons do not need prior approval from the Commissioner to implement electronic invoicing.

At the time of preparing this chapter, a VAT modernization discussion paper was released by SARS during September 2023 for public comments. This paper is very high-level on the SARS strategic objective of modernizing its VAT systems to provide digital and streamlined online services like the rest of the world. SARS has also indicated that these updates might take three to five years. No further details have been released.

Simplified VAT invoices. If the total amount in money for the supply is less than ZAR5,000, the supplier may issue an abridged tax invoice, which does not require the name, address and VAT registration number of the recipient to be in the invoice. Where the total consideration for a supply (i.e., VAT inclusive consideration) does not exceed ZAR50, the supplier is not required to issue a tax invoice. However, the supplier is required to provide the recipient with a document such as a till slip or sales docket indicating the VAT charged by the supplier.

Self-billing. Self-billing is allowed in South Africa. A taxable person may issue recipient-created tax invoices subject to the following:

- The Commissioner's approval
- The supplier and recipient agreeing that the supplier shall not issue a tax invoice
- The recipient providing the document to the supplier and retaining a copy

The Commissioner has granted preapproval for issuing recipient-created tax invoices where the recipient carries out the following:
- Determines the consideration for the supply
- Is in control of determining the quantity or quality of the supply, or is responsible for measuring or testing the goods sold by the supplier

Proof of exports. Exports can be classified as either direct exports or indirect exports. Direct exports (that is, the selling taxable person is responsible to deliver the goods at an address outside South Africa) can be zero-rated if certain documentary requirements are met. In the case of indirect exports (that is where the recipient is responsible for exporting the goods from South Africa), the supplying taxable person may only zero-rate the supply if the goods are supplied to a non-established recipient and the supplier ensures that the goods are delivered at a designated harbor or airport from where the recipient exports the goods, or the goods are delivered to the recipients appointed agent that exports the goods via road or rail.

Documentation that must be retained in the case of a direct export where the supplier is (under certain circumstances) entitled to elect to apply a zero-rate is:
- A copy of the zero-rated tax invoice
- The customer's order or the contract between the customer and supplier
- The customs documentation
- Proof that the movable goods have been received by the customer in the export country
- The transport documentation as required for the relevant mode of transport (i.e., road manifest, a copy of the combined consignment note and wagon label issued by the rail operator, or a copy of the container terminal order or freight transit order issued by the container operator or the rail operator, the sea freight transport document or the airfreight transport document)
- Proof of payment for the movable goods supplied to the customer

Where the supplier contracts with a cartage contractor to deliver the goods to a customer outside South Africa, the following additional documentary proof:
- Proof that the supplier paid the transport costs
- In the case of transport by road, a copy of the proof of delivery issued by the cartage contractor that the movable goods have been received by the customer in the export country

Documentation that must be retained in the case of a indirect export where the supplier elects to apply a zero-rate is:
- A copy of the zero-rated tax invoice
- A copy of the customer's trading license (i.e., a document indicating that the customer is carrying on a business outside South Africa)
- The customer's order or the contract between the customer and supplier
- Proof of payment for the movable goods supplied to the customer
- A letter from the customer authorizing a person to represent the customer and a copy of such person's passport
- Proof of delivery of the goods to the harbor or airport
- Export documentation

Documentation that must be retained in the case of an indirect export where the supplier elects to apply a zero-rate and where the customer's agent exports the goods from South Africa via road or rail is:
- A copy of the zero-rated tax invoice
- A copy of the customer's trading license (i.e., a document indicating that the customer is carrying on a business outside South Africa)
- A letter from the customer authorizing a person to represent the customer and a copy of such person's passport
- The customer's order or the contract between the customer and the supplier

- Proof of payment for the movable goods supplied to the customer (the proof of payment must be in compliance with South African Reserve Bank (SARB) requirements where applicable)
- Proof of delivery of the goods to the customer's agent's premises
- A statement from the customer's agent containing an inventory reconciliation of all the movable goods received from the supplier and exported by the agent or a cartage contractor engaged by either the customer or its agent to the customer
- Confirmation of the proof of export from the customer's agent

Foreign currency invoices. In general, a tax invoice must be issued in the domestic currency, which is the South African rand (ZAR). However, if the invoice relates to a zero-rated supply, the tax invoice may be issued in any currency. If an invoice is issued in a foreign currency, the rand equivalent of the net amount, the VAT amount and the gross amount (or just the gross amount with a statement that it includes 15% VAT) must be disclosed on the invoice and must be determined using one of the following exchange rates:

- The daily exchange rate on the date the time of supply occurs
- The daily exchange rate on the last day of the month preceding the time of supply
- The monthly average rate for the month preceding the month during which the time of supply occurs

The exchange rate as published on the following websites may be used:

- The South African Reserve Bank (www.resbank.co.za/Research/Rates/Pages/SelectedHistoricalExchangeAndInterestRates.aspx)
- Bloomberg (www.bloomberg.com/markets/currencies/cross-rates)
- The European Central Bank (www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html)

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in South Africa. As such, full VAT invoices are required.

Records. In South Africa, examples of what records must be held for VAT purposes include the general ledger, invoices, documents to support the application of the zero-rate, output and input tax calculations, import documents and rulings. In South Africa, VAT books and records can be held outside of the country. Any records kept outside South Africa require approval from SARS. However, the issuing of these approvals had been suspended in anticipation of changes to this requirement. SARS are in the process of removing the requirement that records must be kept in South Africa, as a large portion of taxable persons keep records outside the country. *However, at the time of preparing this chapter, no further details have been announced.*

Record retention period. Records, including tax invoices, should be retained for a period of five years from the date that the relevant VAT return in which the input tax is deducted is submitted. Where tax invoices are relevant to an audit or investigation, or if the taxable person has objected or filed an appeal against an assessment, tax invoices should be retained until the audit or investigation is concluded or the assessment becomes final.

Electronic archiving. Electronic archiving is allowed in South Africa. Tax invoices should be retained in their original form or in a form, including electronic form. Where documents are retained in electronic form, the following requirements must be complied with:

- The integrity of the electronic record should satisfy the standard contained in the Electronic Communications and Transactions Act. This effectively means that the taxable person should be able to prove that the electronic record remained complete and unaltered from the time that it was created in electronic form.
- The taxable person should, within a reasonable period when required by SARS, be able to provide an electronic copy of the e-invoice to SARS in a format that SARS can access, read and analyze, or be able to send the e-invoice to SARS in an electronic format that is readily accessible by SARS, or provide SARS was a paper copy of the e-invoice.
- SARS should be able to access the electronic records for purposes of performing its functions.

- The e-invoices should be kept and maintained at the place physically located in South Africa. If the e-invoices will be kept at a place outside of South Africa, the taxable person will have to obtain preapproval from SARS.
- The taxable person must ensure that measures are in place for adequate storage of the e-invoices for the duration of the period that it is required to retain the e-invoices. This includes the appropriate storage of the media on which the electronic records are recorded, the storage of all electronic signatures, login codes, keys, passwords or certificates required to access the e-invoices and procedures to obtain full access to electronic records that are encrypted.
- The e-invoices should be available for inspection by SARS at all reasonable times and at premises in South Africa. The e-invoices should also be available to SARS for audit purposes.
- The taxable person should ensure that the electronic system used enables it to demonstrate to SARS during an inspection that these rules are complied with.
- Any electronic signatures, login codes, keys, passwords or certificates that are required to access the e-invoices must be made available to SARS to enable it to carry out an inspection.

I. Returns and payment

Periodic returns. The tax return period is monthly for persons with annual taxable turnover greater than ZAR30 million. The tax return period is bimonthly for persons with annual taxable turnover below ZAR30 million. Other tax periods are available (biannually, i.e., six-monthly, and annually) for special categories of persons with annual taxable supplies lower than ZAR1.5 million, such as farmers, farming enterprises and nonprofit associations, but only with the prior agreement of the SARS.

VAT returns must be filed by the 25th day after the end of the tax period or, if returns are filed electronically through the SARS e-Filing system, by the end of the month following the tax period. If the due date falls on a Saturday, Sunday or a public holiday, the due date is the last business day before the 25th or the last business day before the end of the month in the case of electronic filing.

Periodic payments. VAT must be paid by the 25th day after the end of the tax period or, if paid electronically through the SARS e-Filing system, by the end of the month following the tax period. If the due date falls on a Saturday, Sunday or a public holiday, the due date is the last business day before the 25th or the last business day before the end of the month in the case of electronic filing.

Electronic filing. Electronic filing (e-Filing) is allowed in South Africa, but not mandatory. Taxable persons may file returns electronically, via e-Filing, which allows a taxable person to make submissions and electronic payments to SARS electronically. Registration for e-Filing and the submission of VAT returns via e-Filing is compulsory for VAT registered nonresident suppliers of electronic services. Other taxable persons may still submit paper-based VAT returns at a SARS office.

Payments on account. Payments on account are not required in South Africa.

Special schemes. No special schemes are available in South Africa.

Annual returns. Annual returns are not required in South Africa.

Supplementary filings. No supplementary filings are required in South Africa.

Correcting errors in previous returns. A taxable person can submit an amended return for the correction of an undisputed error made on the return. This means that prior to SARS issuing any assessment, a request for correction can be made on e-Filing on the "Return History" option. If a request for correction is not available on e-Filing, a taxable person will need to lodge an objection.

With a request for correction, input tax may not be increased, and output tax may not be decreased. After correcting a VAT return for the second time onwards (e.g., version three), relevant material must be sent to SARS with the submission to support the changes made.

A taxable person may submit a voluntary disclosure to SARS to limit the exposure to penalties relating to the late payment of tax. This may be submitted on the e-Filing system.

Digital tax administration. There are no transactional reporting requirements in South Africa.

J. Penalties

Penalties for late registration. A taxable person is required to register for VAT within 21 days of becoming liable for registration. A 10% late payment penalty, interest at the prescribed rate (currently 7% per annum) and an understatement penalty of between 5% and 200% of the VAT payable may be levied in a case where a person registers late. Where such late registration is made under a voluntary disclosure application, the understatement penalty will not be levied, and the person can apply for a remission of the 10% late payment penalty.

Penalties for late payment and filings. A penalty equal to 10% of the net VAT due is imposed if the VAT return is submitted late or if the VAT payment is made after the due date. The SARS may remit the penalty if satisfied that:

- The penalty has been imposed for a first incidence of noncompliance or involved an amount of less than ZAR2,000
- Reasonable grounds for the noncompliance exist
- The noncompliance at issue has been remedied
- If exceptional circumstances are present

Interest is charged at the prescribed rate on late payments of VAT, calculated for each month or part of a month. A taxable person may request the SARS to remit interest if the late payment was due to circumstances beyond the taxable person's control (like natural or human disaster, civil disturbance or disruption and serious illness or accident).

Penalties for errors. In the case of an understatement, the taxpayer has to pay, in addition to the VAT payable, an understatement penalty determined according to an understatement penalty percentage table, which ranges between 5% and 200%. An understatement means prejudice to the SARS or the fiscus in respect of a tax period as a result of:

- A default in rendering a return
- An omission from a return
- An incorrect statement in a return

Where a default is disclosed to SARS under a voluntary disclosure application before SARS commences with an audit or investigation, the understatement penalties are reduced to 0%.

Late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details is an offense and upon conviction subject to a fine or to imprisonment for a period not exceeding 24 months. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In the case of an understatement where the taxable person's behavior amounts to gross negligence or intentional tax evasion, the taxable person must pay, in addition to the VAT payable, an understatement penalty of between 100% and 200%.

Personal liability for company officers. A company public officer is responsible for all acts, matters or things that the public officer's company is obliged to do under a tax act. In the case of default, the public officer may be guilty of an offense and on conviction be liable to a fine or imprisonment.

Statute of limitations. The statute of limitations in South Africa is five years. Additional assessments may not be raised after the expiration of five years from the date the original return had been submitted. The limitation will not apply in the case of fraud, intentional or negligent misrepresentation or nondisclosure of material facts or failure to submit a return.

South Sudan

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A. At a glance

Name of the tax	Sales tax (ST)
Local name	Sales tax (ST)
Date introduced	27 November 2012
Trading bloc membership	East Africa Community (EAC)
	African Continental Free Trade Area (AfCFTA) – *At the time of preparing this chapter, South Sudan is a member of AfCFTA, but has not ratified the agreement to become a state party under the Agreement*
Administered by	National Revenue Authority (NRA) (https://nra.gov.ss/)
ST rates	
Standard	18%
Special	20%
Other	Exempt
ST number format	Tax identification number (TIN) 123-345-678
ST return periods	Monthly
Thresholds	
Registration	SSP12,000 (services)/SSP100,000 (goods)
Recovery of ST by non-established businesses	No

B. Scope of the tax

Sales tax (ST) applies to the following transactions:
- Production of goods in South Sudan
- Importation of goods into South Sudan
- Specified services (e.g., hotel, restaurant and bar services)

Note that ST does not apply after production and goods that are exported from South Sudan. Exports are outside the scope of ST (i.e., not subject to the standard rate nor exempt).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In South Sudan, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in South Sudan. As such, ST applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In South Sudan, there are no specific rules that indicate the value for ST purposes for transactions between related parties.

C. Who is liable

Tax registration in South Sudan is universal for all taxes. Each legal person is required, if liable, to register for ST. This is where any persons who manufacture goods or supply prescribed services (e.g., hotel, restaurant and bar services, telecommunication services and financial services) are subject to ST.

Exemption from registration. The ST law in South Sudan does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The ST law in South Sudan provides for mandatory ST registration for businesses supplying specified services worth more than South Sudanese pound (SSP)12,000 per year. Whereas for local producers the registration threshold is set at supplies worth more than SSP100,000. A business may register for tax including ST if its taxable turnover is less than SSP12,000 for specified services and SSP100,000 for local producers.

Group registration. Group ST registration is not allowed in South Sudan.

Fixed establishment. In South Sudan, there is no legal definition of a fixed establishment for ST purposes. However, the permanent establishment rules that apply for direct taxation also apply for ST, as the law allows for use of the prevailing Organisation for Economic Co-operation and Development (OECD) and United Nations (UN) models.

Non-established businesses. All businesses are treated the same for tax purposes, including non-established businesses. As such, there are no special rules for non-established businesses. However, in cases of restaurant and bar services, non-established businesses that have an annual turnover of less than SSP12,000 or those that do not have a sitting area for customers are exempted from ST. Other non-established domestic producers making taxable supplies with a turnover of less than SSP100,000 are also exempted.

Tax representatives. The ST law in South Sudan allows a taxable person to appoint a tax advisor to represent it on tax matters. A tax representative, a position that carries more responsibility compared to a tax advisor, is not provided in the ST law. However, in South Sudan, these two can be used interchangeably. There is no distinction between the two. A tax advisor is the same as a tax representative, as long as they are an outside agent to the taxable person they are appointed to represent.

Reverse charge. The reverse charge does not apply in South Sudan. ST is not applicable on services purchased abroad, meaning no ST is accounted for imported services. For goods purchased abroad, taxable persons must account for ST at the point of clearing the goods through customs. Subsequently, they are not required to file any return if their ST is through importation only.

Domestic reverse charge. There are no domestic reverse charges in South Sudan.

Digital economy. No special rules exist for the digital economy in South Sudan.

Nonresidents providing electronically supplied services for both business-to-business (B2B) and business-to-consumer (B2C) are not required to register and account for ST in South Sudan. The reverse-charge mechanism does not apply in South Sudan, and as such no ST is accounted for on imported services. See the subsection *Reverse charge* above.

There are no other specific e-commerce rules for imported goods in South Sudan.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in South Sudan.

Registration procedures. Tax registration is performed by making a written application to the National Revenue Authority (NRA). The application includes a cover letter, a completed prescribed form, certificate of registration, Chamber of Commerce certificate, operating license and lease agreement. The NRA may request for a site visit before registering a person for tax.

Deregistration. Tax deregistration can occur under any of the following circumstances:
- An incorporated entity closes down, ceases to exist, sells or transfers a business
- In the case of a sole proprietorship, if the individual dies
- In the case of a partnership, if it is dissolved or there is a change of a partner
- The legal status of the registered person changes
- If a person is registered in error
- In any other case as may be provided by law or regulations

Changes to ST registration details. Every registered taxable person must provide the Director General of Taxation with notice in a prescribed form of any changes in the information pertaining to registration details within 15 days of such change.

Until the date that the Director General of Taxation receives notice of such change, all information in the application for registration shall be deemed to be correct for the purposes of the Taxation Act, including any liability for tax, penalty, additional charge or interest due under the Act. As such, no penalties apply.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of ST.

The ST rates are:
- Standard rate: 18%
- Special rate: 20% *(with effect from 14 August 2023)*

The standard rate of ST applies to all supplies of goods or services, unless a specific measure provided for a special rate or an exemption.

Note that the standard rate of ST is only applicable for the manufacture of goods (i.e., produced goods) or the supply prescribed services (i.e., telecommunication services and financial services).

Examples of goods and services taxable at 20%

- Imported goods
- Hotel, restaurant and bar services

The term "exempt supplies" refers to supplies of goods and services that are not liable to ST.

Examples of exempt supplies of goods and services

- Exemption from ST is on a case-by-case basis. These exemptions are only granted to diplomatic missions or donor funded projects based on agreements with government of South Sudan.

E. Time of supply

The time of supply rule for produced goods is when goods are released outside the production premises.

The time of supply rule for services is when services are provided.

Deposits and prepayments. There are no special time of supply rules in South Sudan for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in South Sudan for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in South Sudan for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. Reverse charge is not applicable on services purchased abroad, as no ST is due on imported services.

Leased assets. There are no special time of supply rules in South Sudan for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply rule for imported goods is at the time the importation is completed.

F. Recovery of ST by taxable persons

ST cannot be recovered in South Sudan.

G. Recovery of ST by non-established businesses

ST cannot be recovered in South Sudan. As such, input tax incurred by non-established businesses in South Sudan is not recoverable.

H. Invoicing

ST invoices. It is mandatory for transactions requiring collection of ST to be accompanied by an invoice detailing the name of the business, taxpayer identification number, description of sale, sale value and ST applicable. This, however, does not include transactions at the time of import.

Credit notes. South Sudan law does not provide detail for the issuance of credit notes. However, in practice, credit notes and similar adjustments and other related transactions should be treated in a similar manner as invoices.

Electronic invoicing. Electronic invoicing is allowed in South Sudan, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in South Sudan. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in South Sudan. The requirements related to electronic invoicing are the same as those for paper invoicing.

Taxable persons are encouraged to generate all invoices via the eTAX platform to strengthen the validity.

At the time of preparing this chapter, the NRA is considering mandating e-invoicing in the future. No further information has been released on this.

Simplified ST invoices. Simplified ST invoicing is not allowed in South Sudan. As such, full ST invoices are required.

Self-billing. Self-billing is not allowed in South Sudan.

Proof of exports. On exportation, at the point of exit, the South Sudan customs office will sign off and stamp export declaration forms, which serve as evidence of goods having left South Sudan.

Foreign currency invoices. ST invoices can be issued in another currency, as well as the domestic currency, which is the South Sudanese pound (SSP). However, for reporting purposes, any transaction that is recorded in or effected in a foreign currency must be converted into SSP at the prevailing market rate.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in South Sudan. As such, full ST invoices are required.

Records. In South Sudan, examples of what records must be held for ST purposes include all records of daily sales of goods or provision of services subject to tax, including the amount of each transaction. Other records to be kept are transactions completed but not yet invoiced, any nontaxable transaction, and payments of goods and services, including amount paid and the name and address of the supplier.

In South Sudan, ST books and records can be held outside of the country. However, while there are no specific provisions on where the records must be stored, in the event of an audit, physical documents are required to be provided to the tax authorities.

Record retention period. Records must be kept for at least six years. Each taxable person must keep accounts of all transactions and these accounts must be made available in South Sudan for inspection by a revenue officer.

Electronic archiving. Electronic archiving is allowed in South Sudan.

I. Returns and payment

Periodic returns. The tax period in South Sudan is a calendar month. Returns must be filed on a monthly basis along with the payment of the tax due. Upon payment of the tax, a tax receipt is issued by the receiving bank. This tax receipt, together with the completed tax return and any other supporting documents, should then be submitted to the nearest NRA office. ST returns must be submitted by the 15th of the following month from the end of the tax period.

Periodic payments. ST due must be paid by the same date as the ST return submission deadline of the 15th of every month. Monthly payments are made directly through a designated commercial bank using a prescribed form.

Electronic filing. Electronic filing is mandatory in South Sudan for all taxable persons. All taxable persons are required to register, file returns and pay taxes through the online platform (eTAX).

Payments on account. Payments on account are not required in South Sudan.

Special schemes. No special schemes are available in South Sudan.

Annual returns. Annual returns are not required in South Sudan.

Supplementary filings. No supplementary filings are required in South Sudan.

Correcting errors in previous returns. Filing in South Sudan is done electronically via eTAX. To correct an error previously done, the taxable person can prepare the amended return and submit online or physically to the NRA together with payment receipts if required.

Digital tax administration. There are no transactional reporting requirements in South Sudan.

J. Penalties

Penalties for late registration. Late registration for ST attracts a penalty of SSP500 for each month or part month during which such failure to register continues. Additionally, criminal charges may be brought against person(s) who fail to register for ST.

Penalties for late payment and filings. Late filing of ST returns attracts a penalty of 5% per month for each month the ST return remains unfiled, up to a maximum of 25%. Additionally, late payment of ST attracts a penalty of 5% per month for every month the ST remains unpaid. This penalty is not capped.

A monthly interest rate of unpaid tax is at the rate of 120% of the prime commercial rate for such a period. The prime commercial rate is the average rate commercial banks in South Sudan charge other banks and financial institutions.

Penalties for errors. Where there is an understatement of ST, the following penalties may apply:
- Less than 25% of the tax due, the taxable person shall be liable to a 10% penalty of the understatement.
- Exceeds 25% of the tax due, the taxable person shall be liable to a 50% penalty of the understatement.
- Exceeds twice the times of the tax due, the taxable person shall be liable to a penalty of between 100% to 200% of the understatement.
- If the error is voluntarily disclosed by the taxable person, the taxable person shall be liable to a penalty of 5% of the understatement.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's ST registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Penalty for fraud is not specifically provided in the ST law in South Sudan. However, any offense specifically not provided in law when adjudicated for can attract a maximum penalty of one year in prison.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in ST declarations and reporting in South Sudan.

Statute of limitations. The statute of limitations in South Sudan is three or six years. The statute of limitations for assessment of tax is three years. This is from the date the tax return was filed or the date the tax return was due. The above notwithstanding, an assessment may be made at any time where a taxable person with the intent of evading the payment of tax fails to file a return, files a return that is determined to be incorrect or commits fraud by or on behalf of a person in relation to tax liability.

The statute of limitation for collection of the assessed tax is six years. This is after the date of the notice of assessment and demand of the tax or before the expiration of any period for collection agreed upon in writing by the designated officer and the taxpayer, and in lieu of that, the claim to any tax or other charges shall be forfeited by the Government of the Republic of South Sudan (GRSS).

At the time of preparing this chapter, there is no legislation on a set time period for a taxable person to voluntarily correct errors. In practice, the taxable person notifies the Commissioner and amends the return, paying requisite taxes and penalties that have accrued. There is an option to apply for waiver, which is at the discretion of the NRA.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto sobre el Valor Añadido (IVA)
Date introduced	1 January 1986
Trading bloc membership	European Union (EU)
Administered by	Ministry of Finance (http://www.aeat.es and http://www.hacienda.gob.es)
VAT rates	
Standard	21%
Reduced	4%, 5%, 10%
Other	Zero-rated (0%) and exempt
VAT number format	A – 1 2 3 4 5 6 7 8 or B – 1 2 3 4 5 6 7 8 or N – 1 2 3 4 5 6 7 C or W – 1 2 3 4 5 6 7 C (in case of permanent establishment) (ES prefix must be added if the taxable person is included in the VAT Information Exchange System [VIES] census)
VAT return periods	Monthly (if turnover exceeded EUR6,010,121.04 in the preceding year or if the taxable person is included in the monthly VAT refund procedure or if the company is included in a VAT group or if the company applies for the ISI system)
	Quarterly
	Annual statement (required for taxable persons not applying ISI system)
Thresholds	
Registration	
Established	None
Non-established	None
Distance selling	EUR10,000
Intra-Community acquisitions	None
Electronically supplied services	EUR10,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Spain by a taxable person
- The intra-Community acquisition of goods from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- The importation of goods from outside the EU, regardless of the status of the importer
- Reverse charge on goods and services received by a taxable person in Spain

For VAT purposes, the territory of Spain excludes the Canary Islands, Ceuta and Melilla.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies*.

The Quick Fixes were transposed into the Spanish legislation through the Royal Decree-law 3/2020 of 4 February 2020. The Quick Fixes are four specific measures that intend to solve in the short-term period some problems related to the implementation of VAT. These measures are related to (i) call-off stocks, (ii) chain transactions, (iii) proof of transport and (iv) the VAT number of the recipient of an intra-EU delivery of goods. Conversely to the measure related to the proof of transport, which was implemented on 1 January 2020, the other three measures were enforced on 1 March 2020.

Call-off stock. Sales of consignment goods or agreements to reserve stock (i.e., call-off stock), refer to a situation where the supplier sends goods from one Member State to another (e.g., to Spain), for storage (i.e., warehouse) and subsequent pick-up by the customer (e.g., an entrepreneur) in accordance to its needs.

Before the Quick Fixes, a transaction treated as an intra-Community supply of goods (i.e., transfer) in the Member State of departure of the goods and, at the same time, a transaction treated as an intra-Community acquisition of goods in the Member State of arrival, would both be carried out by the supplier. Now as a result of the application of Quick Fixes simplification, it becomes an exempt intra-Community supply of goods in the Member State of departure carried out by the supplier and an intra-Community acquisition of goods in the Member State of arrival made by the customer.

The application of the simplification implies that the supplier would no longer be obliged to be registered in Spain.

Requirements for the application of the simplification:
- The supplier and customer must be taxable persons.
- The supplier must not be established in the Member State of arrival.
- The customer must be VAT registered in the Member State of arrival.
- The simplification applies to goods that are transported from one Member State to another, by the supplier or on their behalf.
- The goods must be called-off or returned to the Member State of dispatch within 12 months of arrival.
- The customer's identity and VAT number must be known by the supplier at the time when transport begins.
- The transport and supplies must be recorded in a register by the supplier.
- The arrival and acquisitions must be recorded in a register by the customer.
- The identity and VAT number of the intended customer must be recorded in the EC Sales List (VIES) by the supplier. VIES returns should be submitted in line with EU VAT regulations when the stock is called off.

Chain transactions. This measure intends to simplify the situation where goods are subject to several deliveries, but they are transported from the first member of the chain to the last one, from one Member State to another. The implementation of this Quick Fix provides clarification regarding which of the parties to the transaction will be able to apply for the exemption in the intra-EU delivery of goods, i.e., which of them will be considered to perform the transportation of goods.

To determine that the operation shall be considered the VAT exempt intra-EU supply of goods in chain transactions, the following rules to allocate the intra-EU transport should be taken into account:
- As a general rule, it shall be considered that the intra-EU transport is linked to the supply performed by the first supplier (A) to the intermediary (B) – A will be the party performing the VAT exempt intra-EU supply.

- However, if B communicates to A a Spanish VAT ID number, the transport will be linked to the supply performed by B and the supply A-B will be a domestic supply – B will be considered the party performing the VAT exempt intra-EU supply to party C.

VAT number of the recipient of an intra-EU delivery of goods. As per the implementation of this Quick Fix, to consider an intra-EU supply of goods exempt, the following requirements should be met:
- The goods should be transported to another Member State.
- The recipient of the goods should have a VAT number granted by the authorities of a Member State other than Spain and must communicate it to the seller.
- The supplier should include the VAT number of the recipient in its EU sales list (Form 349).

Proof of transportation. The Spanish VAT Regulation envisages that any means of evidence admitted by law is valid (i.e., the principle of freedom of evidence). Particularly, the means of evidence envisaged in Article 45 of the Council Implementing Regulation 282/2011 (there is a direct reference of the Spanish VAT Regulation). The Spanish VAT law does not specify any other document. As per the principle of freedom of evidence, any type of document that provides enough evidence of such transport will be acceptable. However, it would be advisable to use the documents established in the EU Regulation, since these will be presumed as valid, providing legal certainty. Also, means of evidence different from the above could draw the attention of the authorities and even their reluctance to accept them.

Consequently, according to the EU Regulation to apply for the exemption in the intra-EU delivery of goods, the transport should be proven by the following means:
- If the transport is carried out by the vendor, it should have at least two noncontradictory means of proof from the list below.
- If the transport is carried out by the acquirer, the vendor should have (i) a statement whereby the acquirer certifies the transport of the goods and (ii) at least two noncontradictory means of proof from the list below.

The allowed means of proofs are the following:
- Documents related to the delivery of the goods, such as a CMR (*Convenio relativo al Contrato de Transporte Internacional de Mercancías por Carretera*; or Convention on the Contract for the International Carriage of Goods by Road), bill of lading, freight invoice or an invoice of the carrier
- An insurance policy or any bank document that proves the payment of the transportation.
- Documents issued by public bodies that certificate the arrival of the goods in the destination Member State
- Receipt from the depositary of the goods in the destination Member State

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

The Spanish VAT law envisages that certain services should be subject to Spanish VAT if their effective utilization or exploitation were to take place within the Spanish VAT territory. The services impacted by the use and enjoyment rules are the following (Article 70 of the Spanish VAT Law has been amended by Law 31/2022 as of 1 December 2023, and Law 13/2023 as of 1 May 2024, to modify the scope of the use and enjoyment rule):
- B2B and B2C services: the leasing of means of transport

- B2C services:
  - Transfers and concessions of copyrights, patents, licences, trademarks or commercial brands and the rest of intellectual property or industrial rights, as well as any other similar rights
  - Transfer or concession of goodwill, exclusive right to trade or perform professional activities
  - Advertising services
  - The services of consultants, auditors, engineers, consultancy bureaus, lawyers, accountants or tax experts and other similar services
  - Data processing and supply of information, including procedures and experiences of a commercial nature
  - Translators, proofreading and editing, as well as those provided by interpreters
  - Insurance, reinsurance and capitalization transactions, as well as financial services
  - Provision of staff
  - Movie dubbing services
  - Hiring out of movable tangible property
  - Services of access to the natural gas or electricity distribution systems, transport or delivery of gas or electricity through such systems, as well as the provision of other services directly related to any of the services included in this paragraph
  - Obligations to refrain from providing, wholly or partially, any of the services mentioned in this list

Transfer of a going concern. In accordance with Article 7.1 of the Spanish VAT law, a transaction consisting of a transfer of going concern (TOGC) will not be subject to VAT provided that certain requirements are met: "Not subject to Spanish VAT will be the transfer of a group of tangible and, if applicable, intangible elements which, comprising the taxable person's business or professional assets, constitute an autonomous economic unit for the transferor, capable of developing a business or professional activity by itself, regardless of the tax regime applicable for other taxes purposes and for paragraph four of Article 4 of this law."

In this regard, the GDT has further defined, based on the Court of Justice of the European Union's criteria, that to consider a TOGC as not subject for VAT it is not necessary that all assets and liabilities of a whole company are transferred, but that the elements transferred are indeed capable of developing a business or a professional activity, as an autonomous unit.

The main requirements to determine whether or not the TOGC relief would apply could be summarized as follows:

- The assets transferred must constitute an autonomous economic unit for the transferor
- The economic autonomous unit must be capable of developing an economic activity by its owns means
- The assets/liabilities transferred must include a minimum organizational structure in terms of material and/or human resources
- The acquirer should affect or intend to affect said assets/liabilities transferred to the performance of a business activity

Transactions between related parties. For a transaction between related parties, the value for VAT purposes is calculated as the market value of the goods delivered or services provided.

C. Who is liable

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

No VAT registration threshold applies in Spain. A taxable person that begins its activity must notify the VAT authorities of its liability to register before the beginning of its activities.

Exemption from registration. Exemption from VAT registration in Spain is allowed for the following legal or individual bodies:

- Taxable persons who only carry out transactions that do not give the right to the total or partial VAT deduction (e.g., exempt supplies cultural, medical, financial transactions) or taxable persons who carry out transactions that are subject to the agriculture, livestock and fishing special schemes, or legal persons that do not carry out transactions as professionals or entrepreneurs, when the intra-EU acquisitions of goods carried out by the mentioned legal persons are not subject to VAT.
- Bodies that do not act as professionals or entrepreneurs that carry out intra-EU acquisitions of new means of transport.
- Bodies that occasionally carry out VAT exempt supplies of new means of transport.
- Professionals or entrepreneurs not established in the Spanish VAT territory who only perform in Spain transactions for which they are not considered to be a taxable person.
- Professionals or entrepreneurs not established in the Spanish VAT territory who only carry out supplies in Spain of intra-EU acquisitions of goods and subsequent supplies of those goods.

In addition to the above, it is important to note that there are two types of VAT registrations in Spain: the limited VAT registration and the full VAT registration.

The limited VAT registration applies in cases where nonresident entities need a VAT number for the purpose of carrying out intra-EU acquisitions of goods or deemed the intra-EU acquisition of goods or imports of goods. However, they are not deemed as taxable persons in respect of subsequent supplies of those goods performed within Spain (since, for instance, the reverse charge applies to the ongoing local supplies of those goods).

The full VAT registration under the general taxable person regime is needed when the nonresident entity is going to perform transactions in Spain for which it is considered to be a taxable person, such as domestic supplies where output tax should be charged, exports of goods or intra-EU supplies of goods.

Voluntary registration and small businesses. The VAT law in Spain does not contain any provisions for voluntary VAT registration or special rules for small businesses, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT in the terms described above).

Group registration. VAT grouping is allowed under Spanish VAT law. Notwithstanding this rule, companies that belong to a VAT group must still register for VAT purposes individually. This is such that the VAT group will be assigned by a Spanish tax ID number and, in addition, each entity belonging to the group will have its own Spanish tax ID number.

A VAT group should have a parent company and subsidiaries should have at least 50% participation by the parent company.

The minimum time period required for the duration of a VAT group is three years.

All members of a VAT group in Spain are jointly and severally liable for VAT debts and penalties.

Holding companies. As a general rule, pure holding companies (i.e., those that solely acquire and hold shares of their subsidiaries, without carrying out any economic activity or involving themselves in the management of such subsidiaries) are not entitled to deduct and, hence, to recover the input tax borne, to the extent that they do not have the status of a taxable person.

However, if a holding company carries out an entrepreneurial activity, it could recover the Spanish input tax borne on those expenses exclusively used for the purposes of its business activity. Nevertheless, the fact that a holding company has mixed activities would not automatically imply that it would be entitled to deduct its input tax on a 100% basis, insofar as it would be

necessary that such input tax is allocated to transactions that grant the taxable person the right to deduct it.

To be part of a VAT group, it is necessary to be a business or professional, so a pure holding company could not be part of the VAT group. However, the fact that a holding company performs management support services for other entities of the group, could lead to a mixed holding company, and therefore this holding company could be part of the VAT group.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f)) has been implemented in Spain. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Spanish VAT law).

Among other requisites, those services should be used directly and exclusively in the abovementioned activity, and they should be necessary. The members are limited to the reimbursement of the share of joint expenses.

Fixed establishment. A foreign business is deemed to have a fixed establishment for VAT purposes in Spain in the following circumstances:
- The place of management, branch, office, factory, workshop, installation, store, shop and, in general, any agent or representative empowered to conclude contracts on behalf and for account of the entrepreneur.
- A mine, quarry, slag heap, oil or gas well, or any other place for extraction of natural resources
- A construction, installation or assembly project carried out by the entrepreneur and whose duration exceeds 12 months, among others.

The General Directorate of Taxes (GDT) has issued several binding rulings (i.e., V1479-14, V3311-15, V3311-17) according to which a VAT fixed establishment is deemed to exist if the following requirements are met:
- Have a necessary minimum structure in another Member State different from the one in which it is considered as a resident (i.e., a fixed place of business)
- This minimum structure implies having a minimum organization, understood as material and human resources factors that may imply a certain division of the work
- Permanence in time of the fixed place of business
- Autonomy of the VAT fixed establishment in the activities carried out, different from the head office; it should imply a certain capacity of decision in the management of the administrative activities that should be performed

Non-established businesses. A non-established business that makes supplies of goods or services in Spain must register for VAT if it is liable to account for Spanish VAT on the supply.

Tax representatives. A non-established business must register in Spain for VAT purposes if it makes any of the following supplies:
- Intra-Community supplies or acquisitions
- Distance sales in excess of the threshold unless the EU One-Stop-Shop (OSS) system applies
- Supplies of goods and services that are not subject to the reverse-charge mechanism
- Exports

In general, non-established businesses must appoint a tax representative in Spain.

Taxable persons established in the EU, foreign companies established in the Canary Islands, Ceuta or Melilla, and foreign companies established in a country that has a mutual assistance agreement with Spain are exempt from the above general rule. However, in practice, the tax authorities require the appointment of a VAT representative even for companies established in the EU because it is mandatory to have a Spanish address where communications issued by the tax authorities can be easily received. This means that the foreign entities need to request a specific

digital certificate to access their notifications or appoint a local representative to receive the notifications on a company's behalf.

A fiscal representative is no longer compulsory when an EU company is going to be registered for VAT in Spain. However, a fiscal representative is required for non-EU companies. The fiscal representative must be tax registered and willing to act as the local tax representative of the company, managing queries and filing obligations of the company for dealings with the tax authorities.

Reverse charge. The reverse-charge mechanism generally applies to supplies made by non-established businesses to taxable persons. Under this mechanism, the taxable person is the recipient of the goods or services supplied.

If a foreign taxable person supplies goods to a company established in Spain, the recipient of the supply becomes liable for VAT purposes. However, the reverse-charge mechanism does not apply to certain items, including the following:
- Distance sales
- Exempt exports
- Exempt intra-Community supplies

The reverse-charge mechanism also applies if a foreign taxable person supplies goods in Spain to another foreign taxable person.

If a foreign taxable person supplies services to a company established in Spain, the company established in Spain is treated as the taxpayer.

If a foreign taxable person supplies services subject to Spanish VAT to another foreign taxable person, in general, the supplier is liable for the VAT due.

Domestic reverse charge. Apart from the cases described above, the reverse charge also applies to the following domestic transactions in Spain:
- Supplies of certain kinds of gold and gold-processed products, silver, platinum and palladium
- Supplies of certain wastes from iron, paper or glass industries
- Supplies of services related to rights on greenhouse gases
- Supplies of immovable property on the frame of insolvency proceedings, warranty executions or exempt supplies of immovable property when the exemption is waived
- Work executions
- Supplies mobile phones, video game consoles, tablets and laptops
- Supply of plastic and textile waste

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (i.e., e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice, these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see the *Section B. Effective use and enjoyment* subsection above). Therefore:
- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.

- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 with effect from 1 July 2021). This VAT can be reported using a single VAT registration, using a One-Stop-Shop (OSS) mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Spain there are no additional special rules.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for the VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:
- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Spain, a taxable person must submit Form 035 to the Spanish tax authorities to register for the OSS portal and register for VAT to account for all intra-EU distance sales of goods and B2C supplies of services. To register and pay VAT on all supplies in a single electronic quarterly return, a taxable person must submit Form 369. No other special rules apply in Spain.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination, and the Member State can decide freely who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal services and couriers scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR150), the VAT can be collected using the special scheme for postal services and couriers.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply).
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes.

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU if the supplier is not established within the EU. This applies to both local shipments within one Member State as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. The regulation on the VAT treatment of vouchers has been implemented through the Resolution dated on 28 December 2018, from the Spanish General Tax Directorate, which is based on the Council Directive (EU) 2016/1065 of 27 June 2016 amending Directive 2006/112/EC as regards the treatment of vouchers. According to it, there are two kinds of vouchers:

- Single-purpose vouchers (SPVs) are those in which the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issuing the voucher. The taxation of a supply of an SPV is the same as the supply of goods or services to which the voucher is referred. An SPV is subject to VAT at the time of its supply.
- Multi-purpose vouchers (MPVs): are vouchers which, at the time of their issuance, the taxation of the underlying supply cannot be known. In particular, MPVs are those that can be redeemed by goods or services located inside or outside the VAT territory or goods or services taxed at different VAT rates. The supply of the MPVs is not subject to VAT. It will be the supply of goods or services for which the MPVs are redeemed that will be subject to VAT.

Registration procedures. To obtain a Spanish VAT number, an application must be made in Spanish, which requires certain supporting information:

- Excerpt of the Commercial Registry or similar where the company is registered and where the names of the legal representatives are shown
- Power of attorney for the company's fiscal representative
- Passport copies of the legal representatives of the company

- Spanish identification numbers for foreigners (NIE numbers); the Spanish tax authorities require the person or persons signing on behalf of a nonresident entity for the purposes of its registration to have a nonresident ID number in Spain; therefore, a new Form 030 is required by the Spanish tax authorities in connection with the registration of nonresident entities; although this obligation could be argued according to law (it is not required according to the wording of the VAT law currently in force), the Spanish tax authorities are refusing to register nonresident entities without the ID numbers of their representatives
- Census forms (i.e., Forms 036-030)

In principle, the registration should be performed before the commencement of the economic activity in Spain. Once all the necessary information is gathered, the registration should be obtained on the same day that the registration return (Form 036) is filed. The common procedure is to provide the documentation in person to the tax authorities.

Deregistration. To deregister for VAT purposes, the taxable person must submit online, a census return (Form 036) to the Spanish tax authorities.

Deregistering from the census as a professional entrepreneur involves more, as it cancels the tax identification number. The same census return (Form 036) is submitted in the same way, but it must be accompanied by additional documentation.

Changes to VAT registration details. Changes related to the company information, such as business address, corporate form, application to special VAT regimes, etc., should be informed to the tax authority. Generally, the communication should be processed through the electronic filing of a census return (Form 036) within one month of its occurrence.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 21%
- Reduced rates: 4%, 5%, 10%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for a reduced rate or an exemption.

Examples of goods and services taxable at 0%

- Basic foodstuffs *(this is a special reduced rate in effect until 30 June 2024)*
  - Common bread, as well as frozen common bread dough and frozen common bread intended exclusively to produce common bread
  - Bread-making flours
  - The following types of milk produced by any animal species: natural, certified, pasteurized, concentrated, skimmed, sterilized, UHT, evaporated and powdered
  - Cheeses
  - Eggs
  - Fruits, vegetables, legumes, tubers and cereals, which have the condition of natural products in accordance with the Food Code and the dispositions dictated for its development

Examples of goods and services taxable at 4%

- Books, journals and magazines
- Pharmaceutical products for humans
- Certain goods and services for handicapped persons
- Public subsidized housing when it is delivered by the promoters

- Leases with an option to purchase public subsidized housing
- Feminine hygiene and contraceptive products

Examples of goods and services taxable at 5%

- Olive and seed oils and pastas *(this is a special reduced rate in place until 30 June 2024)*

Examples of goods and services taxable at 10%

- Food and drink for human or animal consumption
- Pharmaceutical products for animals
- Prescription glasses and contact lenses
- Certain medical equipment
- Services related to agricultural and livestock activities
- Residential dwellings
- Passenger transport
- Hotel and restaurant services
- Garbage collection
- Trade fairs and exhibitions
- Cinema tickets
- Cultural live shows/entertainment
- Supply of electricity *(until 31 December 2024)*
- Supply of gas *(until 31 March 2024)*
- Supply of briquettes and pellets of biomass and wood for firewood *(until 30 June 2024)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Immovable property, in certain cases
- Medical services
- Finance
- Insurance
- Universal postal services

Option to tax for exempt supplies. Taxable persons may opt to pay tax on supplies of real estate (land or buildings) if:

- The recipient has the right, total or partial, to deduct input tax.
  Or
- The recipient has no right to deduct input tax, but the goods acquired would be destined, totally or partially, to carry out operations giving the right to deduct input tax.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when the goods are placed at the disposal of the purchaser. The basic time of supply for services is when the service is performed. If the service is ancillary to a supply of goods, the time of supply is when the goods are placed at the disposal of the purchaser. A VAT invoice must generally be issued at the time of supply.

Deposits and prepayments. The tax point for prepayments or advance payments is the date when the advance payment is received.

Continuous supplies of services. The tax point for supplies of continuous supplies of services is when each payment is due.

Goods sent on approval for sale or return. There are no special time of supply rules in Spain for supplies of goods sent on approval for sale or return. As such, the general time of supply rules

apply (as outlined above). However, where the goods are returned, the taxable amount must be modified, and a rectifying invoice should be issued from the supplier.

Reverse-charge services. There are no special time of supply rules in Spain for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The tax point for supplies of leased assets is when each payment is due.

Imported goods. The time of supply for imported goods is the date of importation (according to the customs documents) or the date on which the goods leave a duty suspension regime.

Intra-Community acquisitions. The tax point for intra-Community acquisitions is the following:
- The 15th day of the month following the commencement of the dispatch or transport date of the goods to the acquirer
- The issuance date of the invoice documenting the supply, if it is issued prior to the commencement of the dispatch/transport

  Or
- The general rule for pre-payments does not apply to intra-Community supplies and acquisitions of goods, i.e., prepayment does not modify the tax point

Intra-Community supplies of goods. The time of supply will take place:
- The 15th day of the month following the commencement of the dispatch or transport date of the goods to the acquirer

  Or
- The issuance date of the invoice documenting the supply, if it is issued prior to the commencement of the dispatch/transport

Distance sales. There are no special time of supply rules in Spain for supplies of distance sales. As such, the general time of supply rules apply (as outlined above).

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is tax charged on supplies made. Input tax may be deducted in the accounting period in which the output tax was charged or in any successive period, up to a period of four years from the time of supply.

Input tax includes VAT charged on goods and services supplied in Spain, VAT paid on imports of goods, and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge transactions.

A valid tax invoice or customs document is required to apply for input tax deduction.

The time limit for a taxable person to reclaim input tax in Spain is four years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used directly and exclusively for business purposes. In addition, input tax may not be recovered for some items of business expenditure.

In general, input tax may be claimed with respect to travel, hotel and restaurant expenses if the Spanish corporate income tax law allows for a deduction.

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

Examples of items for which input tax is nondeductible

- Business entertainment

- Business gifts (unless of very low value)
- Alcohol and tobacco
- Private expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- 50% of purchase, hiring, leasing, maintenance and fuel for cars, vans and trucks (a higher percentage of deduction is allowed if the taxable person provides to the authorities the evidence proving that the percentage of time used for business purposes exceeds 50%)
- Attending conferences, seminars and training courses
- Advertising
- Business use of home telephone or mobile phone
- 50% of parking
- Taxis, restaurant meals, hotel accommodation and travel expenses if the expense is allowable under the Spanish income tax or corporate tax law or if the taxable person has the appropriate documentation (generally, an invoice)

Partial exemption. Input tax directly related to the making of exempt supplies is, as a rule, not recoverable. If a Spanish taxable person makes both exempt and taxable supplies, it may not recover input tax in full. The amount of input tax that a partially exempt business may recover is calculated using the general pro rata method or the direct allocation method. The general pro rata method is usually used unless the taxable person chooses the direct allocation method. However, the direct allocation method must be used if the general pro rata method provides a VAT recovery amount that exceeds by 10% or more the amount of input tax recoverable using the direct allocation method.

General pro rata method. The general pro rata method is based on the ratio of taxable turnover and total turnover during the calendar year. Because the taxable person cannot know its annual ratio for the current calendar year when filing its periodic VAT returns, the pro rata percentage for the preceding year or an agreed provisional percentage is used. The calculation is regularized in the last period of the VAT year (i.e., the actual figures for the year are calculated and applied and any further adjustment is made).

Direct allocation method. The direct allocation method consists of the following two-stage calculation:

- In the first stage, the taxable person must distinguish between input tax that corresponds to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned using the general pro rata method. The recovery percentage is rounded up to the nearest whole number (e.g., a percentage of 16.3% is rounded up to 17%).
- Taxable persons can opt for the direct allocation method in December of the current year. That method is then applied to the deductions for that whole year and in the following two years.

Deductions in different sectors. If a taxable person undertakes activities in different economic sectors, it must apply different methods to calculate the partial exemption deduction for each sector, as if each economic activity were carried out by an independent business. This rule applies if the business undertakes activities that are subject to different pro rata recovery percentages. A business is deemed to undertake such activities in the following circumstances:

- The activities fall under different groups according to the national classification of economic activities.
- The pro rata percentage for VAT recovery for one economic sector of the business differs by more than 50 percentage points (either higher or lower) from another sector of the business.

If goods or services are used in one of the distinct economic sectors, the VAT paid is recovered according to the pro rata recovery percentage for that sector. However, if goods or services are used by more than one economic sector, the amount of VAT recovered must be based on the general pro rata method.

For the direct allocation method (i.e., the standard partial exemption method), if the application of this method is compulsory because the 10% requirement is exceeded (as per the details outlined above), in the last VAT return of the calendar year (i.e., the December period), the taxable person must indicate the application of this regime and present a census form informing the tax authorities of the application.

For the special methods, i.e., the different sector methods, where goods or services are used in one of the distant economic sectors, the pro rata recovery percentage for that sector must be used. These methods are mandatory, and as such taxable persons are not required to submit a census form reporting to the tax authorities of its application.

Capital goods. Capital goods are items of capital expenditure that are used in a business over one year and that have an acquisition price exceeding EUR3,005.06. Input tax is deducted in the VAT year in which the goods are acquired and first used. The amount of input tax recovered depends on the taxable person's pro rata recovery percentage in the VAT year of acquisition and first use. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's pro rata recovery percentage differs by 10 percentage points during the adjustment period or if the goods are transferred or sold during the adjustment period.

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

- Immovable property: adjusted for a period of 10 years (the year of the acquisition and first use and the following nine calendar years)
- Movable property: adjusted for a period of five years (the year of the acquisition and first use and the following four calendar years)

The adjustment is applied each year following the year of acquisition and first use, to a fraction of the total input tax (1/10 for immovable property and 1/5 for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business increases or decreases, compared with the year in which the capital goods were acquired and first used. In Spain, the capital goods adjustment does not apply to any services.

Refunds. If the amount of input tax recoverable exceeds the amount of output tax payable, a refund may be claimed. A business may choose to request a refund of the excess VAT or to carry it forward to offset output tax in the following four years.

Two different procedures are available with respect to applications for refund of the excess input tax. These procedures are summarized below.

General procedure. Under the general procedure, the taxable person may only apply for the refund in the last VAT return of the year (monthly or quarterly). The tax authorities have a six-month period beginning on the date of the application to analyze whether the taxable person has the right to obtain the refund. After such term is exceeded, delay interest on the refund due is payable to the taxable person.

Special procedure. Under the special procedure, the taxable person may apply for inclusion in the monthly VAT refund census. Taxable persons included in such a census may apply for the VAT refund in each monthly VAT return. The tax authorities have a six-month period beginning on the date of the application to analyze whether the taxable person has the right to obtain the refund. After such term is exceeded, delay interest on the refund due is payable to the taxable person. However, as of the month following the request, the company will be obliged to submit

the information related to its invoices through the "Immediate Submission of Information" (ISI) (*Suministro Inmediato de Información [SII]*) system.

Pre-registration costs. Input tax incurred on pre-registration costs in Spain is not recoverable. However, the Spanish courts have accepted it in certain cases.

Bad debts. Entities with an annual turnover of EUR6,010,121 or lower could consider that a credit qualifies as bad debt, and thus, the taxable amount could be modified once six months or one year has elapsed as of the date of the accrual.

The term to amend the taxable base is extended from one to three months, as of the date of bankruptcy declaration.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Spain.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Spain is recoverable. The Spanish VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Spain. Non-established businesses may claim Spanish VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of the EU 2008/9/EC Directive. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Spain during the refund period (excluding supplies covered by the reverse charge). *For full details, see the chapter on the EU.*

Find below specific rules for Spain:
- The Spanish VAT authorities have made the commitment to pay refunds within six months after the date on which the claim for a refund is submitted, but if additional information is requested, the reimbursement procedure could take up to eight months. Interest is paid on late refunds.
- The deadline for claiming the Spanish input VAT would be the 30th of September of the following year.
- Claims must be submitted using VAT refund claim Form 360.
- Invoices supporting transactions whose taxable base exceeds the amount of EUR1,000 would have to be attached to the VAT refund claim.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive.

Spain applies the principle of reciprocity; meaning the country where the claimant is established must also provide VAT refunds to Spanish businesses. Spanish VAT is only refunded on the condition of reciprocity to taxable persons of Canada, Israel, Japan, Monaco, Norway, Switzerland and the UK (as from January 2021).

Find below specific rules for Spain:
- Non-EU businesses that apply for the refund should appoint a representative that is established in Spain, which should comply with the tax formalities and is jointly liable when applying for the VAT refund.
- The refund procedure starts with the submission of the documents that support the claim with the submission of Tax Form 361.
- The application must be submitted electronically by the fiscal representative of the non-established business in Spain. The amount to be refunded can cover the VAT accrued in the year before the application. The deadline for submitting the application is September 30th of the following year.

- The following documents should be submitted to support the claim:
  - A draft letter with information of the company (such as name, tax ID, address, telephone number, email address), a description of the activities performed by the company in Spain, the VAT period of claiming, the total amount of the refund and a bank account where the refund should be received
  - A commitment to reimburse any amount wrongly received and the statement through which the non-EU business states that no other activity other than that described in the draft letter is being performed in Spain
  - A certificate granted by the tax authorities of the country where the taxable person is established that states that the company performs economic activities
  - A list of the documents that originate the right to deduct input VAT must be available for the STA.; it would be advisable to provide the tax authority with a copy of those documents anticipating its future request

Late payment interest. The tax authorities have a six-month period beginning on the date of the application to analyze whether the taxable person has the right to obtain the refund. After such term is exceeded, delay interest on the refund due is payable to the taxable person. The administrative delay interest for 2023 is 4.06253%. *However, at the time of preparing this chapter, the 2024 rate for delay interest has not been approved.*

H. Invoicing

VAT invoices. A Spanish taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. VAT invoices are not automatically required for certain transactions if the taxable amount does not exceed EUR400 (EUR3,000 for certain retail transactions). Simplified invoices are issued instead, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 2008/9/EC Directive or the EU 13th Directive refund schemes (*see the chapter on the EU*).

Credit notes. The Spanish Invoicing Regulations do not foresee the so-called "credit notes" or "debit notes" and consequently the invoices are amended through a rectifying invoice (*factura rectificativa*), which must be cross-referenced to the original invoice and must contain the same information together with the reason for the amendment and the final corrected position.

Electronic invoicing. Electronic invoicing is mandatory in Spain for certain taxable persons.

Scope of electronic invoicing. For business-to-government (B2G) supplies, electronic invoicing is mandatory in Spain. This is in line with EU Directive 2014/55/EU *(see the chapter on the EU)*. This has been in effect from 15 January 2015.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Spain. This is in line with EU Directive 2010/45/EU *(see the chapter on the EU)*. However, for B2B supplies, electronic invoicing will become mandatory and soon take effect. The Spanish government recently released a draft implementing regulation. It was approved though law 18/2022, dated 28 September 2022, and will enter into force according to the following deadlines, which are linked to the approval of the implementing regulation (Royal Decree):

- Companies with an annual turnover exceeding EUR8 million: one year after the date of the approval of the implementing regulation
- All other companies and professionals: two years after the date of the approval of the implementing regulation

After the public hearing period, which was due 10 July 2023, the Royal Decree will have to be submitted to the Council of State for its opinion, then approved by the Council of Ministers and finally published in the Official State Gazette (*Boletín Oficial del Estado [BOE]*). The Royal

Decree will not be approved and published before the end of 2023. *At the time of preparing this chapter there are no further developments.*

The new obligation has two main objectives. First, it aims to combat late payments in commercial transactions. Second, it seeks to promote the digitalization of Spanish companies, especially smaller ones. Under the new requirement, all invoices must be submitted to a public e-invoicing solution, providing details on their content and status. This will enable the Spanish tax authorities to monitor payment deadlines.

The new Spanish e-invoicing system will operate through:
- Private e-invoice platforms that are required to meet the requirements set out in the implementing regulation.
- A public e-invoicing solution that will be run by the Spanish tax authorities (*Agencia Estatal de Administración Tributaria*).

Companies and professionals must issue, send and receive the B2B e-invoices through the private e-invoicing platforms, the public e-invoicing solution or a combination of both. If the exchange of the e-invoices takes place directly between private e-invoice platforms, an automatically generated copy of each e-invoice must be submitted to the public e-invoicing solution. The public e-invoicing solution will become an e-invoice repository that will (i) allow the Spanish tax authorities to monitor the e-invoices´ content and status, and (ii) entitle the e-invoicing recipients to check the received e-invoices via the public e-invoicing solution.

Companies and professionals affected by the new e-invoicing obligation are primarily those who are Spanish-based or have a permanent established in Spain intervening in the B2B transaction. Some exclusions are provided for certain types of invoices. The draft implementing regulation details the semantic data model of the core elements of the e-invoice and the list of syntaxes allowed. Private e-invoice platform operators will be obliged to interconnect with any other private e-invoice platforms and to accept all interconnection requests. Under client permission, operators might use the public electronic invoicing solution to interconnect.

The recipients of the e-invoices must inform issuers of the following invoice statuses:
- Commercial acceptance or rejection of the invoice and associated date
- Full effective payment of the invoice and associated date; companies obliged to comply with the Spanish electronic VAT books (SII 1 system) must process the effective payment and associated date through an SII book of received invoices within a very tight four-day timeframe

The implementing regulation sets out the technical requirements to be met by the private e-invoice platforms.

Lastly, the Spanish tax authorities will develop a free e-form, which will enable small businesses and professionals to generate the e-invoices and send them to recipients and the Spanish tax authorities under certain circumstances.

The Immediate Submission of Information (ISI) (*Suministro Inmediato de Información [SII])* system moves from a system that has been in place for the last 30 years to a new system whereby VAT books are registered with the electronic office of the Spanish tax authorities by supplying invoice information on an almost immediate basis. Companies will be required to keep VAT books with the electronic office of the Spanish tax authorities, by electronically providing invoice details. In this regard, companies are required to send the Spanish tax authorities their invoice data and the Spanish tax authorities will use this information to configure the different VAT books of the company in real time.

In addition, the Spanish tax authorities will use the ISI system to cross-check in real-time the information provided by suppliers and clients. Therefore, discrepancies between information provided by the company and information provided by third parties should be avoided, as they

can be immediately detected by the Spanish tax authorities and could have negative consequences for both parties. For more detail on the ISI, see the subsection *Digital tax administration* below.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the EU.

Simplified VAT invoices. The Spanish Invoicing Regulation foresees, in its Article 4, a list of transactions and circumstances under which the transactions can be documented by a simplified invoice (replacing the former "tickets"). Simplified invoices can be generally used if the amount of the invoice does not exceed the threshold of EUR400 (VAT included) and for amending invoices.

In particular, if the amount of the invoice does not exceed the threshold of EUR3,000 (VAT included) and the transactions correspond to the following supplies:
- Ambulance supply of goods or supply of services
- Home delivered supply of goods or supply of services
- Passenger and luggage transport services
- Hotel and catering services provided by restaurants and similar establishments, as well as the supply of drinks or meals to be consumed immediately
- Services provided by dance halls and discotheques
- Telephone services provided through the use of telephone booths for public use, as well as through cards that do not allow identification of the person who is phoning
- Hairdressing services and those provided by beauty institutes
- Use of sports halls
- Photo development and services provided by photographic studios
- Parking services
- Movie rental
- Dry cleaning and laundry services
- Use of toll roads

In addition, the Spanish invoicing regulation is not in line with the EU rules (which foresee the general invoicing exemption, e.g., for OSS distance sales). Instead, in Spain the supplier must issue invoices under the Spanish invoicing regulation when it applies to the OSS and IOSS scheme, being that Spain is the Member State of Identification.

Self-billing. Self-billing is allowed in Spain. Self-billing by the recipient of the transaction is allowed in Spain when the following conditions are met:
- There must be an agreement through which the supplier authorizes the recipient to issue the invoice.
- The recipient must forward a copy of the invoice to the supplier, who must accept and approve the invoice.
- These invoices are considered to have been issued in the name and on behalf of the supplier.

Proof of exports and intra-Community supplies. VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (*see the chapter on the EU*). However, to qualify as zero-rated, exports and intra-Community supplies they must be supported by evidence that the goods have left Spain. Acceptable proof includes the following documentation:
- For an export, the documentation consists of the customs declaration (export SAD) with evidence that it was filed and admitted by the customs authorities, transport documents and an indication on the invoice of the article of the Spanish VAT law that allows exemption with credit for the supply.
- For an intra-Community supply, the supplier must retain a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU Member State), together with a range of commercial documentation, such as bills of lading, transport documentation and proof of payment. Such proof for intra-Community supplies is included within the EU Quick Fixes, coming into effect from 1 January 2020. See the subsection on *Quick Fixes* above for more information.

No special documentation applies in Spain for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, the values for VAT purposes and the VAT amounts must be converted to the domestic currency, which is the euro (EUR). The exchange rate that is used must be the official selling rate published by the Bank of Spain for the date on which the VAT is due. The VAT amount must be expressly stated in EUR.

Supplies to nontaxable persons. The Spanish Invoicing Regulation foresees, in its Article 4, a list of transactions that can be documented by a simplified invoice (replacing the former "tickets"), for instance in a retail supply (see the subsection above on *Simplified VAT invoices*).

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Spain, examples of what records must be held for VAT purposes include all invoices issued and received, customs documents and accountancy documents.

The ISI system is the record-keeping system in Spain. Under the system, the information related to all the records listed above must be transmitted electronically and almost immediately to the Spanish tax authorities, so that the Spanish tax authorities have all of the information relating to the operations carried out by taxable persons in real time. In particular, the information related to each invoice issued or received must be electronically communicated to the Spanish tax authority within four working days of the date of its issuance or from the date it was accounted for, respectively. For further details, see the *Digital tax administration* subsection below.

In Spain, VAT books and records can be held outside of the country. A taxable person can keep records electronically outside of Spain only if there is a mutual assistance agreement in place with the country where the records are kept. If not, the taxable person should inform the Spanish tax authorities accordingly for approval to keep such records outside of Spain.

Record retention period. For VAT (and tax) purposes, taxable persons are obliged to retain such records for four years, as this is the statute of limitations period. However, the Spanish Commercial Code expresses the generic obligation, for civil and commercial law purposes, that businesses are obliged to retain such records for a period of six years.

Electronic archiving. Electronic archiving is allowed in Spain. The Invoicing Regulation envisages the obligation of keeping the invoices in a format that ensures their readability, authenticity and content. This obligation can be fulfilled by electronic means if the above requirements are met.

I. Returns and payment

Periodic returns. Periodic VAT returns are submitted in Spain on a monthly or quarterly basis, depending on the taxable person's turnover and activities.

Taxable persons whose turnover in the previous year exceeded EUR6,010,121 must file their VAT returns on a monthly basis. Taxable persons included in the monthly VAT refund census must also file monthly VAT returns (and the VAT books), because they are entitled to apply for a VAT refund on a monthly basis. Taxable persons within a VAT group must also submit VAT returns on a monthly basis.

Monthly VAT returns must be submitted by the 20th day of the month following the month of the assessment.

Quarterly VAT returns must be submitted by the 20th day of the month following the end of the quarter for the first three calendar quarters and by 30 January of the following year for the last calendar quarter.

Periodic payments. For monthly VAT returns, full payment of the VAT due must be made by the 30th day of the month following the month of the assessment.

For quarterly VAT returns, full payment of the VAT due must be made by the 20th day of the month following the end of the quarter for the first three calendar quarters and by the 30th day of the month following the end of the fourth (and last) calendar quarter (i.e., 30 January).

Whether the VAT return results in a credit position, the taxable person should proceed with the payment to submit the VAT return. In this sense, there are some alternatives:

- The payment can be made through direct debit in a Spanish bank account of the taxable person. In those cases, the VAT return needs to be submitted at least five days before the end of each reporting period.
- The payment can be also made by using the Spanish bank account of the taxable person or even by using a debit card of the company from a Spanish bank account.
- If the company does not have a Spanish bank account, the payment could be done:
  - By a third party with a Spanish bank account
  - Through the procedure of "recognition of tax debt" and making a transfer to the bank of the authorities – this is a special procedure

Electronic filing. Electronic filing is mandatory in Spain for all taxable persons. A VAT return (Form 303) and the Informative Annual Summary VAT return (Form 390) must be filed through electronic means by using an electronic signature owned by the taxable person or a third party duly empowered. When a VAT return (Form 303) results in amounts to be paid, a Spanish bank account number is required.

Payments on account. Payments on account are not required in Spain.

Special schemes. *Travel agencies.* There is a special scheme for travel agencies that includes, among others, the opt-out possibility in connection with B2B supplies where the normal VAT regime could be applied.

Cash accounting. Under the cash accounting scheme, taxable persons report the VAT charged on sales of goods or supply of services on the date when the payment is received and the right to deduct input tax arises when payment is made. The scheme is optional and is subject to certain requirements.

Simplified regime. The simplified regime allows taxable persons to determine the payable amount on the basis of certain indexes, modules and other parameters. This regime can only be applied by individuals and some other entities conducting certain activities envisaged by the law.

Farming, agriculture and fishing. Under this regime, taxable persons are not obliged to charge VAT for their sales and do not have the right to deduct the input tax borne in the purchases. Additionally, taxable persons are released from most of the formal obligations.

Secondhand, art and antique goods. The special system for secondhand goods is a type of VAT system, applied voluntarily to resellers when acting in their own name and supplying the goods referred to above. These supplies will be charged with VAT by applying the corresponding tax rate on a taxable basis, which will be the profit margin obtained in each transaction.

Investment gold. Mandatory regime applicable to the supplies of gold qualifying as investment gold. In general, the regime implies that the supplies of investment gold are VAT exempt, with a limitation to deduct the input tax and the possibility to waive such exemption.

Retailers. The regime is applicable to any retailers selling goods to final consumers, in case the retailer does not carry out any transformation over the goods to be sold. Under the retailer regime, the supplier of the retailer will charge the latter an extra cost in the invoices (in general 5.2%). By doing this, the retailer avoids all the formal obligations (i.e., submission of VAT returns), but it will not be entitled to deduct the input tax.

Annual returns. All taxable persons not applying the ISI system must complete an annual summary VAT return. The Informative Annual Summary VAT return (Form 390) contains information declared in the periodical VAT returns of the corresponding calendar years and additional information. It must be filed electronically between 1 January and 30 January of the following year.

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

The threshold for Intrastat Arrivals and Dispatches is EUR400,000.

The Intrastat return submission period is monthly. The submission deadline is the 12th day following each month. A taxable person required to file Intrastat returns must file them each month even if they are nil returns. Intrastat returns must be filed in EUR.

EU Sales and Acquisitions List. If a Spanish taxable person makes intra-Community supplies or intra-Community acquisitions of goods and/or services in any return period, it must submit an EU Sales and Acquisitions List (ESAL) return. An ESAL return is not required for any period in which the taxable person does not make any intra-Community supplies or acquisitions of goods and/or services.

In principle, ESAL returns are submitted on a monthly basis. However, ESAL returns must be filed on a quarterly basis if the intra-EU supplies of goods and/or services performed in the current quarter or during the four preceding calendar quarters do not exceed the threshold of EUR50,000.

ESAL returns must be submitted by the 20th day of the month following the end of the monthly or quarterly filing period. The last monthly or quarterly ESAL return for a year must be filed by 30 January of the following year.

Correcting errors in previous returns. In case the error causes prejudice to the Spanish tax authority (e.g., the right input tax is less than stated as deductible), the amendment should be done through the submission of a supplementary return. However, if the error is prejudicial for the taxable person's interest, in certain cases, it should amend it through the submission of a corrective letter applying for the amendment of the filed VAT return. In other cases, the amendment can be applied in the VAT return corresponding to the period in which the corrective invoice is issued or received.

In case the error is spotted before the deadline for submitting the VAT return, it can be amended through the filing of another VAT return, which is going to replace the one previously submitted.

All the above filings must be done online through the tax authorities' website (https://sede.agenciatributaria.gob.es/).

Digital tax administration. *Immediate Submission of Information (ISI).* The ISI system entered into force from 1 July 2017. Under the new system, the information related to all invoices issued and received, customs documents and accountancy documents, if any, must be transmitted electronically and almost immediately to the Spanish tax authorities, so that the Spanish tax authorities have all the information relating to the operations carried out by taxable persons in real time.

In particular, the information related to each invoice issued or received must be electronically communicated to the Spanish tax authority within four working days of the date of its issuance or from the date it was accounted for, respectively. The new system is compulsory for businesses and professionals who are required to file VAT returns on a monthly basis, in other words those who:
- Have a turnover of over EUR6 million
- Are included in the monthly refund regime
- Are applying the VAT grouping provisions

The system can be used by any other business or professional by filing a census form, whereby they expressly opt to be included in the system.

Taxable persons who are not obliged to comply with ISI must keep their VAT books in their ERP system and provide them to the Spanish tax authorities upon request. The VAT books must be provided to the Spanish tax authorities upon its request within the deadline provided by the authorities in said request, and as a general rule, this is generally 10 to 15 working days.

The deadline for filing VAT returns for taxable persons who file on a monthly basis is extended to the 30th day of the following month or for the return relating to January, until the last day of February. Additionally, taxable persons obliged to comply with the ISI are not obliged to file the annual summary and the annual return of transactions with third parties (Form 347).

Bookkeeping system for products subject to excise duties (i.e., SILICIE). As of 1 January 2020, compliance with bookkeeping requirements relating to products subject to excise duties and, when applicable, raw materials used in their production, will be carried out via the tax agency's e-office with the electronic delivery of accounting records. The Immediate Submission of Accounting Records for Excise Duties (*El Suministro Inmediato de Información de Libros Contables de Impuestos Especiales (SILICIE)* will be compulsory to the owners of factories, tax warehouses, tax stores, receiving warehouses and vinegar factories. Under the new system, the information related to the accounting records must be transmitted electronically and almost immediately to the Spanish tax authorities. In general terms, the information must be electronically communicated to the Spanish tax authorities within 24 hours of the date of the movement, the transaction or the process that is recorded.

J. Penalties

Penalties for late registration. A penalty of EUR400 may be assessed for late registration. This penalty may be reduced to EUR200 if the taxable person registers voluntarily (albeit late) without receiving a prior request from the Spanish tax authorities.

Penalties for late payment and filings. The following surcharges apply to the late submission of VAT returns or late payment of VAT before any request by the tax authorities:
- Delay up to 12 months: 1% of the tax due for each month of delay
- Delay longer than 12 months: 15% of the tax due plus delay interest

The penalty for late or incorrect Intrastat filings depends on the level of infringement. Penalties range from EUR60 to EUR30,050.

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

Penalties for ISI. Potential penalties that the Spanish tax authorities can impose for not complying with the ISI submission correctly:
- Lack of ISI submission – 1% of the turnover: in case of failing in the obligation to keep the VAT books of invoices through the ISI, the authorities can impose a penalty consisting of 1% of the turnover, with a minimum of EUR600 and without maximum.
- Delay in the ISI reporting – 0.5% of the invoice: the delay in the submission of data in the ISI might imply the imposition of a proportional pecuniary fine of 0.5% of the amount of the

relevant invoice, with a minimum of EUR300 per quarter and a maximum of EUR6,000. This penalty may apply when the legal deadlines for reporting the invoices have been surpassed. The deadline for reporting the invoices is four working days as from the issuance date (in case of AR invoices) or posting date (in case of AP invoices), and in any case before the 16th of the following month.

- Inaccuracy or omission of transactions – 1% of the invoice: in case of inaccuracy or omission of transactions (e.g., invoices ISI reported but not correctly), the penalty would be 1% of the amount of the transactions recorded incorrectly, with a minimum of EUR150 and a maximum of EUR6,000.

Penalties for errors. The penalties for errors in VAT returns depend on whether mistakes have caused economic damage to the tax administration or not. If no economic damage has been produced, the penalty for late filing amounts to EUR200, while the penalty for incorrect filing amounts to EUR150. If an error has caused economic damage to the tax authorities (e.g., the taxable person indicates a lower amount of output/payable VAT) the penalty amounts to 50% of the unpaid amount.

For these penalties, an error means any inaccuracy or incorrect data indicated in the VAT returns or any VAT statement to be filed by taxable persons.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Under the Spanish General Tax law, the use of fraudulent means makes any infringement to qualify very severe. In such a case, the applicable penalty related to a particular infringement is considerably increased.

Personal liability for company officers. Company directors can be held liable for the tax debts of a company when, acting on purpose or even negligently, they have not performed the necessary acts to comply with tax requirements or they have agreed with not complying them. Furthermore, in certain cases, they can be held responsible for the penalties imposed on the company.

Statute of limitations. The statute of limitations in Spain is four years. This means that the tax authorities cannot review or assess VAT four years after of the VAT liquidation period or four years after of the moment of the infraction. If such period is interrupted according to the rules mentioned in this section, the four-year period of the statute of limitation calculation is re-initiated as from the interruption date.

Sri Lanka

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A. At a glance

Name of the tax	Value-added tax (VAT)
	Social Security Contribution Levy (SSCL)
Local name	Ekathu Kala Agaya Matha Badu (VAT Badda)
	Samaja Arakshana Dayakathwa Badu (Samaja Arakshana Badda)
Date introduced	1 August 2002 (VAT)
	1 October 2022 (SSCL)
Trading bloc membership	South Asian Association for Regional Cooperation (SAARC)
Administered by	Sri Lanka Inland Revenue Department (DIR) (www.ird.gov.lk)
VAT rates	
Standard	18%
Other	Zero-rated (0%) and exempt
SSCL rates	
Standard	2.5%
VAT/SSCL number format	Tax identification number (TIN), nine-digit number with code number 7000 (e.g., 123456789-7000)
VAT/SSCL return periods	Quarterly (both), Monthly (VAT only)
Thresholds	
VAT registration	Quarterly revenue of LKR20 million/annual revenue of LKR80 million *(At the time of preparing this chapter, this has been proposed to decrease to LKR15 million per quarter or LKR60 million per annum but is not legally enacted.)*

SSCL registration	LKR120 million (annual)/LKR30 million (quarter) *(At the time of preparing this chapter, this has been proposed to decrease to LKR15 million per quarter or LKR60 million per annum but is not legally enacted.)*
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The taxable supply of goods or services by a registered person in the course of carrying out a taxable activity in Sri Lanka
- The importation of goods into Sri Lanka

VAT is charged at the time of supply on every taxable supply of goods or services made in a taxable period by a taxable person in the course of carrying on, or carrying out, a taxable activity by such person in Sri Lanka.

While only taxable persons (i.e., upon exceeding the relevant threshold) are liable to account for VAT on supplies made, all importers are liable to payment of VAT on the importation of goods.

Taxable activity means:
- Any activity that is carried on as a trade, business, profession or vocation (other than employment).
- In relation to a club, association or organization, it means the provision of the facilities for consideration (to its members or others) and the payment of a subscription.
- Anything done in connection with the commencement or cessation of any activity or provision of facilities referred to in the two points above).
- There is the hiring or leasing of any movable property or the renting or leasing of immovable property or the administration of any property.
- The exploitation of any intangible property, such as patents, copyrights or other similar assets, where such assets are registered in Sri Lanka, or the owner of such assets is domiciled in Sri Lanka.

With effect from October 1, 2022, SSCL is charged on every person who carries out the following:
- Imports any article.
- Carries on the business of manufacture of any article.
- Carries on the business of providing any service.
- Carries on the business of wholesale or retail sale of any article (including import and sale).

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Sri Lanka, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Sri Lanka. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

There will be no SSCL liability on the transfer of a business on the basis that it does not arise as a result of transactions carried out in pursuance of a business of manufacture, wholesale and retail or provision of services.

Transactions between related parties. In Sri Lanka, for a transaction between related parties, the value for VAT purposes is calculated at the open market value.

In relation to VAT, if a transaction is between two associated persons, the assessor shall determine the open market value of the supply on which tax shall be charged, having regard to the circumstances of the transaction and the time of supply entered into a transaction, in respect of which the sale of any article or the provision of any service has been made where it is of the opinion that the transaction has happened at less than the open market value (resulting in the avoidance of paying tax).

Similarly, under SSCL, the Assistant Commissioner shall, having regard to the circumstances of the transaction and the time period of the sale of such article or the provision of such service, determine the open market value of such article or service on which the levy shall be charged where it is of the opinion that the transaction has happened at less than the open market value (resulting in the avoidance of paying tax).

C. Who is liable

A "registered person" in terms of the Sri Lanka VAT Act is a taxable person and liable for VAT on the taxable supply of goods and services. This includes any "company" or "body of persons" that makes taxable supplies of goods and/or services in the course of carrying out a taxable activity in Sri Lanka and who is registered for VAT.

VAT registration is required if the taxable supplies exceed LKR20 million per quarter or LKR80 million per annum. *At the time of preparing this chapter, this has been proposed to decrease to LKR15 million per quarter or LKR60 million per annum but is not legally enacted.*

Further, where any person has proved to the satisfaction of the Commissioner General of the Inland Revenue Department (CGIR), that such person has commenced any business or any project in Sri Lanka and undertakes to make taxable supplies in respect of such business or project within a period of 30 months from commencement of such operation, then the CGIR may register such person, i.e., Section 22 (7). Furthermore, if the CGIR, having regard to the nature of the activity, is of the opinion that a person is required to register, such person must register for VAT.

For SSCL, a person carrying out a business of manufacturing, provision of services or wholesale and retail who exceeds the relevant threshold and persons importing goods to Sri Lanka, are liable for SSCL. A person whose turnover exceeds LKR120 million within 12 months immediately prior to the date of operation of this law is required to register within 15 days of the law coming into operation, i.e., 1 October 2022. Any other person who has turnover exceeding LKR30 million per quarter (or expects the turnover to so exceed) is required to register within 15 days. *At the time of preparing this chapter, this has been proposed to decrease to LKR15 million per quarter or LKR60 million per annum but is not legally enacted.*

Exemption from registration. The VAT law in Sri Lanka does not contain any provision for exemption from registration.

Voluntary registration and small businesses. If a taxable person has commenced making taxable supplies irrespective of whether the value of taxable supplies has reached the relevant threshold, any such taxable person who wishes to register for VAT can apply for registration voluntarily. The application is to be reviewed by the CGIR and it may be refused.

Group registration. Group VAT registration is not allowed in Sri Lanka.

Fixed establishment. In Sri Lanka, there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. Only taxable persons carrying out taxable activities in Sri Lanka are liable to register for VAT upon satisfying the relevant threshold. Businesses that have no presence (i.e., no premises, employees or agents) in Sri Lanka are not obliged to register for VAT to carry out taxable activities involving the supply of goods and/or services to persons in Sri Lanka from outside Sri Lanka.

However, if such a taxable person carries on a taxable activity and supplies goods and/or services in Sri Lanka through an agent in Sri Lanka who is acting on behalf of the non-established business, then such agent will be liable to VAT on such supply made on behalf of the non-established business. In Sri Lanka, a taxable activity can be carried on by a non-established business in more ways than via an agent (e.g., via a legal presence/employees). Therefore, a non-established business would not be required to register for VAT unless it carries on a taxable activity in Sri Lanka (directly or via an agent).

Tax representatives. Tax representatives are not required in Sri Lanka.

Reverse charge. The reverse charge does not apply in Sri Lanka. Where a non-established business (i.e., a nonresident person) carries out a business in Sri Lanka that would give rise to a taxable activity, such persons will be required to register for VAT if the relevant threshold has been exceeded. Upon registration, the nonresident person carrying out the taxable activity in Sri Lanka will be required to charge VAT on the supplies made and account for the same.

Domestic reverse charge. There are no domestic reverse charges in Sri Lanka.

Digital economy. There are no special VAT rules applicable to the digital economy, electronically supplied services or e-commerce in Sri Lanka. Hence, general VAT rules will apply. If the digital services are provided during the course of carrying out a taxable activity in Sri Lanka, an exposure will arise (subject to any exemptions/zero ratings that may be applicable), provided the relevant threshold is satisfied.

Nonresident providers of electronically supplied services for business-to-consumer (B2C) and business-to-business (B2B) supplies, would be required to register and account for VAT in Sri Lanka once its supplies exceed the registration threshold.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Sri Lanka.

Registration procedures. *VAT.* A person can obtain a tax identification number (TIN) registration by submitting the relevant documents to the Department of Inland Revenue (DIR) in person or online. This would take approximately two weeks if all the documents are in place.

The relevant documents required to be submitted for registration may vary depending on the person applying for it (e.g., an individual, a foreign company, a resident company). Generally, a resident company can obtain a TIN if the following is submitted with the relevant application form:

- Certificate of incorporation (Form 2A)
- Application for registration of a company (Form 1) (Certified copy issued by the registrar of companies)
- Articles of association with signatures of the shareholders
- Photocopies of the National Identity Card of the directors

Once the taxable person obtains the TIN from the DIR, the person can complete the VAT registration form and submit it to the DIR. This form can be obtained in person (from the Tax Registration Unit) and online (e-services). This can be submitted in person to the Taxpayer's Service

Unit (TPSU) of the DIR, in person or sent by post. It can also be submitted online. The following documents must be submitted with the application:
• TIN certification
• Certificate of business registration

In case of a limited liability company, in addition to the above, the following will be required:
• Articles of association
• List of directors
• Certificate of incorporation
• Copy of the National Identity Cards of the directors of the business
• Particulars of sales to prove the turnover
• Monthly bank statements to verify cash receipts.

A VAT registration may take three to four weeks if all the relevant documents are in place. Upon registration, a VAT Registration Certificate will be issued by the DIR.

SSCL. For SSCL, the application form can be sent to the relevant unit at the tax authority by hand delivery, registered post or through email. However, if the request is made by email, the original application must be sent to the relevant unit.

Deregistration. A taxable person may make an application to have its registration canceled at any time after the lapse of a period of 12 months following the date of registration, where such taxable person has ceased to carry on or carry out a taxable activity or the total value of its supplies during any taxable period within such period does not exceed the VAT registration threshold.

Changes to VAT registration details. Every taxable person must notify the CGIR in writing or by electronic means no later than 14 days after the occurrence of the following changes:
• Name, address and place at which any taxable activity was carried on or carried out by such a person
• Nature of the taxable activity that was carried on or carried out by such person
• Person authorized to sign returns and other documents
• Ownership of the taxable activity

Every taxable person who fails to notify the CGIR of the above changes shall be guilty of an offense under the VAT Act and shall be liable on conviction after summary trial before a magistrate to a fine not exceeding LKR25,000, or to imprisonment of either description for a term not exceeding six months or both such fine and imprisonment.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
• Standard rate: 18%
• Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the zero-rate or an exemption.

The standard rate of VAT increased from 15% to 18% with effect from 1 January 2024. Previously when the standard rate was 15%, there was a separate special rate at 18% for financial services. As the increased standard rate is now the same as the previous special rate, the special rate is no longer effective.

SSCL is charged at 2.5% on the liable turnover. The liable turnover in respect of each of the taxable persons shall be as follows:

- Importer: 100% of the import value
- Manufacturer: 85% of the turnover (which is the sum receivable from the manufacture and sale of any article in Sri Lanka)
- Registered distributor: 25% of the turnover (which is the sum receivable from the wholesale or retail sale of any article in Sri Lanka)
- Wholesale and retail (other than by registered distributors): 50% of the turnover (which is the sum receivable from the wholesale of any article in Sri Lanka)
- Service provider:
  - Supply of financial services: 100% of the value addition attributable to financial services
  - Real estate and improvements: 100% of the turnover (which is sale value – market value of the bare land to date of sale)
  - Services other than the above: 100% of the turnover (which is the sum receivable from the provision of service in Sri Lanka)

Examples of goods and services taxable at 0% for VAT

- Export of goods where payment is received in foreign currency within six months from the end of the taxable period of which such exportation took place
- Services directly connected with movable and immovable property outside Sri Lanka for which payment is received in foreign currency within a period of six months from the end of the taxable period of which supply of such service is provided
- International transportation of goods or passengers
- Repair of any foreign ship or aircraft and refurbishment of marine cargo containers
- Services provided in Sri Lanka that are consumed or utilized outside Sri Lanka to the extent that the payment for such services are received in foreign currency through a bank in Sri Lanka within a period of six months from the end of the taxable period of which supply of such service is provided

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services for VAT

- Supply of bread, rice, rice flour provided such products are manufactured locally
- Import or supply of infant milk powder
- Supply of health care services other than hospital room charges
- Supply of locally manufactured surgical gauze used for surgery
- Supply or import of crude petroleum oil, kerosene, aviation fuel, oil for ships or fuel oil specified under the HS code description for custom purposes
- Services provided in Sri Lanka consumed or utilized outside Sri Lanka for which payment is made in LKR

Examples of exempt supplies for SSCL

- Wholesale and retail of the following:
  - Pharmaceuticals
  - Articles subject to the Special Commodity Levy, where the article is sold by the importer without any processing except for adaptation for sale
  - Any article exported
- Services of the following:
  - Medical services
  - Services of an auctioneer, broker, insurance agent or commission agent of any local product to the extent of the brokerage/commission receivable

  - Life insurance
  - Services provided to the Central Bank of Sri Lanka
  - Services provided by a public corporation out of funds from the Consolidated Fund or a loan arranged by the government
  - Services provided by any government department, ministry or local authority
  - Services provided to UN agencies/specialized agencies, diplomatic missions
  - Services provided by the EPF, ETF, pension fund, provident fund, pension trust fund and gratuity fund
  - Distribution, production and supply and exhibition of films in a cinema
- Import of
  - Articles (not being plant, machinery and fixtures) for the use in, or for, the maintenance of any article for export
  - LP Gas
  - Petroleum and petrol products
  - Fertilizer

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Sri Lanka.

E. Time of supply

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

The time of supply for the supply of goods is the earliest of the following events:
- Date of invoice
- Due date of payment
- Date of receipt of payment/advance
- Delivery of the goods

However, if the invoice is issued within 10 days of delivery, then the time of supply is the date of the invoice.

The time of supply for the supply of services is the earliest of the following events:
- When the invoice is issued.
- When the payment is due.
- When the payment is received.
- When the services are performed.

However, if the invoice is issued within 10 days of performing the service, then the time of supply is the date of the invoice.

Deposits and prepayments. A refundable deposit given in respect of a supply of goods or services is not considered as payment made for that supply unless the supplier treats the deposit as consideration for the supply. Accordingly, a refundable deposit of this nature is not treated within the scope of VAT.

There are no special time of supply rules in Sri Lanka for deposits and prepayments, where they are considered as payments made for a supply of goods or services. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Sri Lanka for continuous supplies of services. As such, the general time of supply rules apply (as outlined above). However, in situations where an agreement provides for periodic payments the time of supply will be when the payment is due or when the payment is received (whichever is earlier).

Goods sent on approval for sale or return. There are no special time of supply rules in Sri Lanka for supplies of goods sent on approval for sale or return. As such, the general time of supply rules

apply (as outlined above). As referred to above, in situations where an agreement provides for periodic payments the time of supply will be when the payment is due or when the payment is received (whichever is earlier).

Reverse-charge services. The reverse charge does not apply in Sri Lanka. As such, there are no special time of supply rules in Sri Lanka for supplies of reverse-charge services.

Leased assets. Leasing is treated as a supply of service. For the supply of leased assets (i.e., governed by agreements that provide for periodic payments), the time of supply is when each installment/rental is paid or where the payment is due. As such, separate tax invoices shall be issued for each installment/rental and the output tax is payable on such invoices. The supply of finance leases will be subject to VAT on financial services (see the *Special schemes* subsection below).

Imported goods. The time of supply rule for imported goods is the time at which goods are cleared (i.e., at the presentation of the Customs Declaration) by Customs and leave Customs or the Customs-bonded warehouse.

SSCL. The time of supply for SSCL is as follows:

Imported goods. The levy is chargeable at the time such article is imported and collected by the Director General of Customs. The Director General of Customs will make an endorsement on the import invoice relating to such article specifying the amount so collected. This amount is deemed to have been paid to the CGIR on the day on which such amount was so collected by the Director General of Customs.

Manufactured articles. The levy is chargeable at the time the sum is receivable whether received or not, in that quarter, of any article manufactured and sold in Sri Lanka.

Wholesale and retail sale. The levy is chargeable at the time the sum is receivable, whether received or not, from the wholesale or retail sale of any article in Sri Lanka. Services. The levy is chargeable at the time the sum is receivable, whether received or not, from the provision of any service in Sri Lanka.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is the VAT paid by the taxable person on the local purchase of goods and services that were used by it in its trade or business, and any VAT paid on the imports used in such business.

A taxable person generally recovers input tax by deducting it from output tax (deduction is restricted to 100% of the output tax), which is the VAT charged on supplies made. For further details on the refund procedure, as well as what happens if a taxable person has excess input tax, see the *Refunds* subsection below.

The time limit for a taxable person to reclaim input tax in Sri Lanka is 12 months from the date of the tax invoice. The input tax should be declared and claimed in the VAT return on or before the expiry of 12 months from the date of such tax invoice. For any imports, the input tax should be declared and claimed before the expiry of 24 months from the date of the customs declaration. If the taxable person declares the input tax in the VAT return within the said period, it can be carried forward in the return until it can be set off against the output tax.

A valid tax invoice or customs goods declaration should generally accompany a claim for input tax.

Nondeductible input tax. Input tax credit for VAT cannot be claimed on purchases of goods and services that are not attributable to taxable supplies made by the taxable person. In addition, input tax may not be claimed in respect of certain items of business expenditure.

Under SSCL, there is no mechanism to recover input tax incurred.

Examples of items for which input tax is nondeductible

- Private expenditure where such goods and services are not included in the value of taxable supplies
- Expenditure directly connected to exempt supplies
- Input tax not supported by a valid tax invoice

Examples of items for which input tax is deductible (if related to taxable business use)

- Professional services
- Business telephones
- Advertising
- Conferences and seminars

Partial exemption. If a taxable person is engaged in making taxable and exempt supplies (i.e., mixed supplies), only the input tax credit that is relevant to the taxable supplies (i.e., the supplies that are liable to VAT) will be allowed as an input tax deduction against the output tax.

In such cases, the input tax must be apportioned between the amount attributable to taxable supplies and the amount attributable to exempt supplies. Input tax relating to the taxable supplies and the exempt supplies should be separately identified. Accordingly, what is allowed as input tax deduction would be the amount attributable to the taxable supplies.

Approval from the tax authorities is not required to use the partial exemption standard method in Sri Lanka. Special methods are not allowed in Sri Lanka.

Capital goods. Input tax on the purchase of capital goods that are used in taxable business activities can be fully claimed. The input tax incurred on the acquisition of a capital asset can be deducted in the taxable period in which it was acquired. Normal input tax rules apply.

Refunds. If the amount of input tax recoverable in a taxable period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit or input tax surplus. This excess of the input tax cannot be refunded but can be set off against the output tax of the succeeding taxable period.

However, where a taxable person makes an excess payment to the DIR (such as an excess in a tax payment or penalty payment), during a taxable period, then within three years from the end of such taxable period, such taxable person shall be entitled to a refund of the amount paid in excess upon an application for such refund. However, practically, an audit is conducted before a refund is awarded.

Further, any taxable person who has registered under the following categories can claim refunds:

- Exporters or providers of zero-rated services
- A manufacturer that supplies goods (deemed an exporter) manufactured by itself to an exporter
- A value-added service provider who provides services to an exporter that results in improvement of the quality, character or value of the goods manufactured for export
- A project approved by the CGIR under Section 22 (7)
- Any supplier who supplies goods or services to a specified project or a strategic development project

A simplified value-added tax (SVAT) scheme is in place in Sri Lanka to help mitigate processing refunds. For further details, see the subsection *Special schemes* below.

Pre-registration costs. Input tax incurred on pre-registration costs in Sri Lanka is not recoverable.

Bad debts. The amount of tax corresponding to any bad debt incurred in the taxable activity of a taxable person on a debt created on or after 1 April 1998 and that has become bad during such taxable period can be deducted in ascertaining the taxable supply. The amount of tax deductible shall not exceed the amount paid as tax in a previous taxable period in respect of the debt that is to be written off.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Sri Lanka.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Sri Lanka is not recoverable.

H. Invoicing

VAT invoices. A taxable person must provide a tax invoice within 28 days for all taxable supplies made to other taxable persons if a request is made within 14 days. A tax invoice should indicate the value of supply and the VAT charged separately, whereas a normal invoice should indicate only the VAT inclusive total consideration. All invoices should contain the VAT registration number, serial number of the invoice, and name and address of the supplier. A VAT invoice is essential to support a claim for deduction of input tax by a taxable person who received the supply.

A taxable person is not entitled to issue a tax invoice to an unregistered person. The invoice to an unregistered person should consist of the total consideration of such supply, including the tax charged.

Credit notes. A credit note must be used to reduce the VAT charged on a supply made to a taxable person, i.e., if VAT has been overcharged in the original invoice. A credit note must be cross-referenced to the original tax invoice, must detail the reasons for the adjustment, should be in the form specified by the CGIR and must contain a serial number. However, the adjustment can be made only if the tax credit note has been issued within six months after the issue of the original tax invoice.

Electronic invoicing. Electronic invoicing is allowed in Sri Lanka, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Sri Lanka. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Sri Lanka. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, the DIR may refuse to accept digitally signed invoices/electronic invoices. Hence, the issuance of paper invoices is recommended if any invoices are requested for inspection in the case of a tax audit by the DIR.

Simplified VAT invoices. Supplies to a registered identified purchaser (RIP) can be made on a suspended tax invoice showing the VAT component as "suspended VAT." Suspended VAT means no VAT is charged on the supply. Such suspended invoices should be issued without any delay. Before making supplies under suspended terms to a taxable person, a registered identified supplier (RIS) is required to make sure the person is a RIP. The lists of which are RIPs/RISs have been published in the official web site of the DIR. For further details, see the subsection *Special schemes* subsection .

Self-billing. Self-billing is not allowed in Sri Lanka.

Proof of exports. Export invoices should be supported by evidence to the effect that goods have in fact left Sri Lanka. In the event any queries are raised, export custom declaration, bill of lading/airway bill, boat note, and other relevant documents should be furnished to prove the export of goods and to be eligible for zero rating.

Foreign currency invoices. If a tax invoice is issued in a foreign currency, the value for VAT should be computed in the domestic currency, which is the Sri Lankan rupees (LKR), based on the official bank (exchange) rate applicable on the date of the transaction.

Supplies to nontaxable persons. Where a taxable person makes supplies to any person who is not registered for VAT (i.e., a nontaxable person), a commercial invoice is required to be issued to such persons. Such invoices should not show the VAT amount charged separately (i.e., these invoices will only show the total amount charged, including VAT).

Records. In Sri Lanka, examples of what records must be held for VAT purposes include records in respect of goods and services made as part of any taxable supply, deemed a taxable supply, excluded supply or exempt supply, and a suspended supply or deemed a suspended supply, based on the tax invoice, suspended invoice or commercial invoice issued to another taxable person or partnership in a serial order. All records should be kept and maintained by every taxable person up to date with adequate information on the input and output tax to ascertain the liability of the tax payable.

In Sri Lanka, VAT books and records can be held outside of the country. There are no specific rules on the location of storage of such records. However, if the records are in relation to any taxable activities in Sri Lanka, it is recommended that the records are archived in Sri Lanka, specifically at the place of business.

Record retention period. Records must be retained for a period of five years from the end of the taxable period to which such records relate.

Electronic archiving. Electronic archiving is allowed in Sri Lanka. The record keeping regulations issued in relation to the VAT law permits the storing of records either as hardcopy or soft copy.

I. Returns and payment

Periodic returns. A VAT return is a form containing information about the supply, purchases, input tax and output tax of the business during a taxable period. The VAT return, together with the schedules *(see below)*, should be filed no later than the last day of the month after the expiry of each taxable period (quarterly or monthly as the case may be).

For any taxable person registered with the simplified value-added tax scheme as a RIP status, or where any person has commenced a business or started a project and has undertaken to comply with certain requirements in the VAT Act, it must file returns on a monthly basis. Any other taxable person must file returns on a quarterly basis.

The schedules should be filed with the VAT return to support the calculations reported in the VAT return. The following schedules are required to be filed with the VAT return:

- Schedule 01 – Output schedule
- Schedule 02 – Input schedule for Local Purchases
- Schedule 03 – Input Schedule for Imports
- Schedule 04 – Credit and Debit Notes Schedule
- Schedule 05 – Deemed Input Schedule for Wholesale and Retail Trade
- Schedule 06 – Goods Export Schedule
- Schedule 07 – Service Export Schedule

The VAT return and the schedules can be filed through the online Revenue Administration Management Information System (RAMIS). The RAMIS system is an online platform provided by the DIR on which the person can opt to register and file tax returns (and schedules) online.

A SSCL return is due on a quarterly basis on or before the 20th of the month immediately succeeding the end of that relevant quarter. To be filed in the specified form, failing which it is deemed not to have been filed.

Periodic payments. Any VAT and SSCL payable must be paid by the 20th of the following month. Generally, the VAT payable is directly deposited to the bank account of the DIR.

Electronic filing. Electronic filing is allowed in Sri Lanka, but not mandatory. The VAT return and the schedules can be submitted electronically via the electronic service maintained by the DIR. It can also be submitted either in person or by posting it to the DIR. However, manual submission is only allowed if the number of entries is less than 20. Electronic filing of the schedules is mandatory in the event the number of entries (i.e., invoices) is 20 or more.

Payments on account. Payments on account are not required in Sri Lanka.

Special schemes. *SVAT scheme.* The simplified value-added tax (SVAT) scheme was introduced to avoid the requirement to make refunds to exporters and to those who supply goods and services to exporters. The scheme provides for suspension of VAT payable by a taxable person entitled to register under this scheme. This simply means if a customer is registered under SVAT, a supplier can issue an invoice and suspend the VAT arising on same (provided such person is also registered as an SVAT supplier). RIPs and RISs are entitled to be registered under the SVAT scheme.

Any of the following persons are qualified to register as an RIP:
- Any exporter or provider of zero-rated services, having zero-rated supplies that are more than 50% of its total taxable supplies
- Registered person engaged in (i.e., the supply of goods or services to) any strategic development project or in any specific project
- Persons registered under Section 22 (7) who are entitled to claim input tax under the Act
- Manufacturers who supply goods manufactured in Sri Lanka (liable to VAT) to exporters to be utilized for manufacture of goods for export, where the value of such supplies and zero-rated supplies are more than 50% of its total taxable supplies
- Providers of value-added services to exporters that result in the improvement of the quality, character or value of any goods manufactured for export where such supply is more than 50% of its total taxable supply
- Suppliers of goods or services to the above persons where the total of such supply is more than 50% of its total taxable supply
- Any supplier of any goods or services to above RIPs are qualified to register as RISs

Supplies to RIPs can be made on a suspended tax invoice showing the VAT component as "suspended value-added tax." The goods exempt from VAT cannot be supplied under the SVAT scheme. All RIPs should submit VAT returns monthly. All RISs (who are not RIPs) should submit their VAT returns on quarterly basis.

VAT on financial services. VAT on financial services is charged on the supply of financial services on the value addition by "specified institutions" or by "any person" at the rate of 18%. This is with effect from 1 January 2022. It previously was at a special rate of 18%, but with effect from 1 January 2024, 18% is the standard rate of VAT in Sri Lanka.

The VAT Act defines a "specified institution" to mean:
- Licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988
- Finance company registered under the Finance Companies Act, No. 78 of 1988
- Licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988

Further, "any person" has been defined in the VAT Act as "any person carries on the business of supplying financial services."

Every registered specified institution or any person shall be liable to tax for each taxable period on its total value addition, which includes net profits or loss as the case may be before payment of income tax on such profit computed in accordance with the accepted accounting standards (prevailing for that taxable period), subject to adjustments for economic depreciation, emoluments payable to all the employees.

Further, the liable threshold for registration is taxable supplies exceeding LKR3 million at the end of any taxable period of three months or exceeding LKR12 million in the 12-month period. Financial services include the following:

- Operation of any current, deposit or savings account
- Exchange of currency
- Issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit
- Issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt
- Security, being any interest in or right to be paid money owing by any person other than the transfer of nonperforming loans of a licensed commercial bank to any other person in terms of a restructuring scheme of such bank as approved by the Central Bank of Sri Lanka with the concurrence of the Minister
- Issue, allotment, transfer of ownership of any equity security or a participatory security
- Issue, underwriting, subunderwriting or subscribing of any equity security, debt security or participatory security
- Provision of any loan, advance or credit
- Provision of the facility of installment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made
- Provision of goods under any hire purchase agreement or conditional sale or hire purchase agreement while being used in Sri Lanka for a period not less than 12 months as at the date of such agreement
- Provision of leasing facilities under any finance lease agreement
- Provision of leasing facilities under any operating lease agreement in respect of any installment for any period prior to on 1 November 2016, on any asset other than any land or building, if such agreement is entered into on or after 25 October 2014 and not being an agreement entered into prior to 25 October 2014

The taxable period of every registered specified institution or other person in this regard must be 12 months. Every registered specified institution or other person must furnish a return within six months immediately succeeding the end of that taxable period. Further, every registered person is required to furnish an interim estimate every six months.

SSCL of 2.5% will apply on 100% of the value addition attributable to financial services (to be determined in accordance with the attribution method in Chapter IIIA of the VAT Act).

Annual returns. Annual returns are not required in Sri Lanka.

Supplementary filings. No supplementary filings are required in Sri Lanka.

Correcting errors in previous returns. Amended tax returns can be filed by taxable persons with an explanatory letter requesting the change. The amended schedules are first required to be submitted online. Subsequently, with the acknowledgment of the online submission, the amended tax returns can be submitted in person to the DIR.

Digital tax administration. There are no transactional reporting requirements in Sri Lanka.

J. Penalties

Penalties for late registration. If a taxable person fails to register or is late to register for VAT, it is subject to a summary trial before magistrate and on conviction will be liable to the following:
- A fine not exceeding LKR25,000
- Imprisonment for a term not exceeding six months
  Or
- Both fine and imprisonment

Penalties for late payment and filings. If a taxable person files its VAT return late, the CGIR may impose the following:
- A penalty in a sum not exceeding LKR50,000
- Require such person to pay the penalty
- Require such person to furnish the return required of it within a specified period

Except where the CGIR imposes a penalty as given above, any taxable person shall be liable on conviction after a summary trial before magistrate to the following:
- A fine not exceeding LKR50,000
- Imprisonment for a term not exceeding six months
  Or
- Both fine and imprisonment

If a taxable person pays its outstanding VAT due late, it is subject to a penalty of 10% of the tax plus 2% for each month in default subject to a maximum of 100% of the tax due.

SSCL. The penalty for late payment of SSCL is as follows:
- Sum equivalent to 10% of the amount in default
- Where the amount of default is not paid before the last day of the succeeding month, a further sum equivalent to 2% for each period ending on last day of succeeding month/part of such period during which it is in default

The penalty for late filings of SSCL return is a sum not exceeding LKR50,000.

Penalties for errors. The penalty for incorrect information relating to any matter or thing affecting its own liability to tax or the liability of any other person is subject to a summary trial before magistrate and on conviction will be liable to the following:
- A fine not exceeding LKR25,000
- Imprisonment for a term not exceeding six months
  Or
- Both fine and imprisonment

The late notification or failure to notify the tax authorities within 14 days of changes to a taxable person's VAT registration details is subject to a summary trial before magistrate and on conviction will be liable to the following:
- A fine not exceeding LKR25,000
- Imprisonment for a term not exceeding six months
  Or
- Both fine and imprisonment

Penalties for fraud. The penalties for fraud apply to any taxable person who gives any false answer whether orally or in writing to any question or when requested to furnish information omits from a return any particulars that it should have included in such return or makes any false return or false entry in any return and evades or attempts to evade tax. Any person who assists any other person to evade or to attempt to evade tax is also subject to this penalty.

Such taxable persons are subject to a summary trial before magistrate and on conviction will be liable to the following:

- An amount equal to twice the amount of tax evaded, for which it is liable for the taxable period in respect of which the offence was committed
  And
- A fine not exceeding LKR25,000 or an imprisonment for a term not exceeding six months
  Or
- Both fine and imprisonment

Personal liability for company officers. Where a body corporate has not paid any tax on or before the due date, the VAT Act allows the CGIR to proceed against a manager, director, secretary or any other principal officer of such body corporate, as if such officer is responsible for such default unless it proves the contrary to the satisfaction of CGIR.

Statute of limitations. The statute of limitations in Sri Lanka is three years. The DIR can make an assessment before the expiration of three years from the end of the taxable period in respect of which the return is furnished. However, if the taxable person amends the return, then the DIR can make an assessment at any time.

Suriname

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The turnover tax (TOT) regime has been replaced with a value-added tax (VAT) regime as of 1 January 2023. Note that the TOT has a statute of limitation of five years.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Wet Belasting over de Toegevoegde Waarde
Date introduced	1 January 2023
Trading bloc membership	Caribbean Community and Common Market (CARICOM)
Administered by	Inspection of taxes (https://belastingdienst.sr/)
VAT rates	
Standard	10%
Special	5%, 25%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXXX (10 digits)
VAT return periods	Monthly
Thresholds	
Registration	SRD1 million/SRD500,000 (nonresident providers of electronically supplied services)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Supply of services for consideration by a taxable person in Suriname in the course of its business
- Supply of goods for consideration by a taxable person in Suriname in the course of its business
- Importation of goods in Suriname

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Suriname, no services are subject to the "use and enjoyment" provisions.

However, there are specific place of supply rules for certain supplies of services that are physically performed in Suriname (e.g., services related to real estate, transport of passengers and goods, cultural/sport/scientific events, restaurant and catering, short term lease of vehicles, outsourcing, marketing, consultancy, financial and insurance and electronic, telecommunication or radio and television broadcasting services).

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Suriname, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- The transfer must include elements that encompass whole or part of a taxable business with which an economic activity can be performed.
- The transferee is required to continue taxable activities, or at least intend to do so, although it does not have to perform the same activities with these assets as the transferor.

Transactions between related parties. In Suriname, for a transaction between related parties, the value for VAT purposes is calculated at the fair market value. Where a supply is performed by a taxable person for no consideration or for a consideration that is less than the fair market value of the supply and the supplier and the recipient are related, the value of the supply for VAT purposes is the fair market value of the supply if the input is entirely or partially nondeductible. This does not apply if the businesses are part of the same VAT group because transactions within a VAT group are outside the scope of VAT.

C. Who is liable

In principle, a taxable person is a business entity or individual who supplies goods or provides services (economic activities) in Suriname.

A taxable person whose threshold is more than SRD1 million, excluding VAT per calendar year of gross turnover, is required to register and account for VAT in Suriname.

In addition, a nonresident provider of electronic, telecommunication or radio and television broadcasting services to private individuals in Suriname (i.e., business-to-consumer [B2C]) whose threshold is more than SRD500,000 of gross turnover per calendar year, is required to register and account for VAT in Suriname.

Exemption from registration. Generally, a person that makes only exempt supplies in Suriname is not required to register for VAT. Also, if a person makes or will make taxable supplies during a calendar year that will not exceed SRD1 million (excluding VAT of gross turnover), then that business will not be required to be registered.

Voluntary registration and small businesses. A taxable person whose threshold is less than SRD1 million, excluding VAT per calendar year of gross turnover, is not required to register for VAT, but can voluntarily do so.

Group registration. Group VAT registration is allowed in Suriname with approval from the Tax Inspector (Article 1-f-4°). Transactions between taxable persons part of the same VAT group are outside the scope of VAT. Members of a VAT group are jointly and severally liable for VAT debts

and penalties. The legislation and regulations do not stipulate a minimum period for the VAT group.

Fixed establishment. In Suriname, there is no legal definition of a fixed establishment for VAT purposes. However, based on case law in jurisdictions with a VAT system similar to Suriname, a fixed establishment can be a business establishment in Suriname of an entity established outside of Suriname, characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services that it supplies and/or to receive and use the services supplied to it for its own needs. A fixed establishment should be capable of acting as a taxable person independently of the head office.

Non-established businesses. Non-established businesses are businesses that are not established and that do not have a fixed establishment in Suriname. A non-established business must register for VAT in Suriname if it is required to account for VAT on supplies performed in Suriname (i.e., if it exceeds the registration threshold). The reverse-charge mechanism applies for services provided by a non-established business to a resident taxable person.

Tax representatives. A taxable person may be represented by a third party based on a power of attorney. A tax representative is not a mandatory requirement for a non-established business, it is optional.

Reverse charge. For services provided by a non-established business to a resident taxable person (i.e., business-to-business [B2B]), the reverse-charge mechanism applies. In this case, the resident taxable person that acquires these services is liable for VAT and must report and pay VAT on these services.

Domestic reverse charge. There are no domestic reverse charges in Suriname.

Digital economy. Non-established businesses that provide electronic, telecommunication or radio and television broadcasting services to private individuals (i.e., business-to-consumer [B2C]) supplies will be required to register and account for VAT in Suriname if the threshold of SRD500,000 of gross compensations per current calendar year is exceeded.

Non-established businesses that provide electronic, telecommunication or radio and television broadcasting services other businesses (B2B) supplies will not be required to register and account for VAT in Suriname. Instead, the customer will be required to self-account for the VAT via the reverse-charge mechanism.

There are no other specific e-commerce rules for imported goods in Suriname.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Suriname.

Registration procedures. Taxable persons are required to register for VAT online via the tax authorities' online portal registration system. Manual application (i.e., by paper) is not allowed, online application is mandatory. In general, an extract from the Suriname Chamber of Commerce should be downloaded for businesses and included with the VAT application. In case of individuals, or by lack of an extract from the Suriname Chamber of Commerce, other documentation would be required. This depends on the status of the taxable person. The length of time it takes to obtain the VAT registration number strongly varies (can be between a few days up to several weeks).

Deregistration. There are no specific rules on deregistration in the Suriname VAT legislation. However, in practice, all VAT filing and payment obligations should have been met before applying to deregister from VAT. To apply for VAT deregistration, an email should be sent to the Suriname tax authorities. *At the time of preparing this chapter, no specific rules (e.g., conditions/*

thresholds) have been published by the tax authorities for VAT deregistration, and it is not clear if/when this will be available.

Changes to VAT registration details. *At the time of preparing this chapter, no details have been published by the tax authorities for changes to VAT registration details.*

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 10%
- Special rates: 5%, 25%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for the special rates, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Long-term rent of real estate of at least three months for permanent residence (until 1 November 2023)
- Import by and the supply of goods and services to:
  - Contractors and subcontractors pursuant to the Petroleum Act 1990 as it reads after the amendments thereto
  - State-owned enterprises pursuant to the Petroleum Act 1990 as it reads after the amendments thereto
  - Certain exceptions should be considered such as VAT on salary in kind and business gifts
- The supply of goods and services to:
  - Gold mining companies following the concerning Mineral Agreement established by law
  - Statutory bodies

The Minister may issue additional rules for the implementation of this appendix.

Examples of goods and services taxable at 5%

- Supply of water and related activities by state-owned enterprises or government service to household use only and the supply of water in package of at least five gallons (from 1 November 2023)
- Supply of electricity and cooking gas (from 1 November 2023)
- Domestic cargo transport by road, water and air (from 1 November 2023)

Examples of goods and services taxable at 25%

- Automobiles and other motor vehicles designed primarily for passenger transportation with a cylinder capacity exceeding 2,500 cm^3 or with a CIF value of at least USD40,000 with the exception of electronic motor vehicles
- Motorcycles with a cylinder capacity of more than 125 cm^3 (until 6 September 2023, and then subject to the standard rate at 10%)
- Speedboats, personal watercraft, yachts, sports and other recreational crafts (until 6 September 2023, and then subject to the standard rate at 10%)
- Helicopters and aircrafts for the carriage of less than 10 persons (until 6 September 2023, and then subject to the standard rate at 10%)
- Weapons, ammunitions, parts and accessories thereof (until 6 September 2023, and then subject to the standard rate at 10%)
- Fireworks (until 6 September 2023, and then subject to the standard rate at 10%)

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Services related to random/chance games according to the Casino Tax Act (from 1 October 2023)
- Services provided by doctors, dentists, dental technicians, nurses and obstetricians, physiotherapists and remedial therapists, chiropractors, speech therapists, dieticians, psychologists and podiatrists, as well as youth dental care and oral hygiene and the services of alternative healers and other paramedics (from 1 October 2023)
- Supply and import of goods and services by organizations of a social, cultural, charitable, sporting, or religious nature, provided that the organization has no profit motive and there is no serious distortion of competition (from 1 October 2023)
- Services provided by hospitals and laboratories for medical research (from 1 October 2023)
- Import and supply of medical aids and appliances or equipment, including orthopedic articles and appliances, including medical-surgical belts, straps and crutches, dentures, artificial teeth, artificial eyes, prosthetic limbs, and similar articles, hearing aids, splints and other articles and apparatus for the treatment of fractures in the bones, spectacles and lenses (from 1 October 2023)
- Import and supply of medicine as stated by the Ministry of Health (from 1 October 2023)
- Domestic health insurance, accident insurance and life insurance (from 1 October 2023)
- Provision of education which is under the supervision of the Ministry of Education, Science and Culture including educational resources, school supplies and school uniforms (from 1 October 2023)
- Childcare (from 1 October 2023)
- Elderly care, care for those in need of help, homes for the elderly (from 1 October 2023)
- Sick and injured transport (from 1 October 2023)
- Financial services (from 1 October 2023):
  - Money exchange transactions involving foreign currencies, either by exchanging banknotes or coins, by debiting or crediting accounts or otherwise
  - The issuance, payment, collection or transfer of ownership of cheques or letters of credit and similar digital transactions
  - The issuance, assignment, drawing, acceptance, approval or transfer of ownership of debt securities and bonds
  - The issuance, allocation or transfer of ownership of shares or units
  - The granting and mediation of credit
  - Trading derivatives or granting options, with the exception of the delivery of the underlying goods and services
- Domestic delivery for (from 1 October 2023):
  - Domestic supply of gold to licensed gold buyers
  - Domestic supply of fresh fish to licensed fish processing companies and fish exporters
  - Domestic local supply of artwork
  - The import and supply of prepared feed and raw materials for the preparation of feed intended for the livestock and poultry sectors, as well as insecticides, plastics (natural and chemical), chemical pesticides and seeds
- Domestic passenger transport by road and water (from 1 October 2023)
- Basic necessities (a non-exhaustive list: fresh vegetables, fresh chicken, fresh and unprocessed fish, eggs, rice, milk, soya oil, matches, toilet paper, contraceptives, disposable diapers, bath soap, etc.) (from 1 October 2023)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Suriname.

E. Time of supply

In Suriname, the invoice scheme applies for the time of supply. On this basis, the actual time of supply is the date on which the invoice is issued. The time when VAT becomes due is called the "time of supply" or "tax point." The VAT rule for determining the time of supply for goods is when the goods are supplied. The basic rule for determining the time of supply for services is when the service is rendered or completed.

An invoice must be issued before the 15th day of the month following the month in which the supply takes place if supplies are made to businesses and in other specific cases. The actual tax point is then the date on which the invoice is issued. However, if no invoice is issued or if the invoice is issued late, tax becomes due, at the latest, on the day on which the invoice should have been issued. If the customer is not a taxable person, the tax becomes due on the date of the supply.

If the consideration is paid in full, or in part, before the invoice is issued, the actual tax is due on the date on which payment is received (for the amount received).

Deposits and prepayments. If the customer pays the consideration in installments or makes a prepayment, the supplier must issue an invoice for each installment before the date it is due or when it receives the prepayment. The tax point is the date of the invoice. If no invoice must be issued or is issued too late, the VAT becomes due at the time of receiving the prepayment.

Continuous supplies of services. For continuous supplies of services, the main rule (time of invoice) is applicable. However, there is at least one tax point per year.

Goods sent on approval for sale or return. There are no special time of supply rules in Suriname for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The tax point for reverse-charge services arises upon when the services are provided.

Leased assets. For operational leases, the section about continuous supplies of services is applicable. For financial leases, which are normally treated as the supply of a good rather than a service, the tax point is basically the time the invoice is issued (or should have been issued).

Imported goods. For imported goods the "time of supply" is considered to be the moment of importation. The general rule for determining the tax point for imported goods is the date of importation or the date on which the goods leave a duty suspension regime. There is not any regulation for import VAT deferment at this moment.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Suriname is five years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for taxable or business purposes and for specific items listed below.

Examples of items for which input tax is nondeductible

- Food, beverages, and tobacco products
- Business gifts and other gifts

- Wages in kind and opportunities for relaxation
- Motor vehicles intended for the transport of passengers and of goods or services related to such motor vehicles, with the exception of car dealers, car leasing companies and motor vehicles with a maximum authorized mass exceeding 3,500 kg

Examples of items for which input tax is deductible (if related to taxable business use)

- Inventory used to make finished goods
- Equipment used in the business
- Professional and other services provided to the business

Partial exemption. If all supplies made by a taxable person during a tax period are taxable supplies (i.e., standard-rated, reduced-rated and zero-rated supplies), the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are taxable supplies, and costs incurred relate to both taxable and exempt activities (mixed activities), a partial recovery calculation may be required.

The standard method of apportionment is (A*B/C) where A, B and C represent the following:
A = The total amount of input tax incurred on general or overhead costs, minus the sum of input tax for which deduction is not allowed.
B = The total renumeration for taxable supplies made by the taxable person.
C = The total renumeration for all supplies made by the taxable person (taxable and exempt).

The pro rata recovery right reflects the portion of VAT that can be deducted in the event that the taxable person performs both taxable and exempt activities excluding nondeductible items such as foods and beverages.

Capital goods. The capital goods adjustment applies to real estate for a period of nine years after the year of first use and to movable property for a period of four years after the first use.

Refunds. If the amount of deductible input tax exceeds the output tax due in the period, the difference should be refunded to the taxable person. The refund must in principle take place within one month after the deduction arose.

Pre-registration costs. Input tax incurred on pre-registration costs in Suriname should be recoverable as long as the taxable person can prove that the goods or services were used in preparation of a future economic activity.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) can be recovered in Suriname if the taxable person can prove that the renumeration will not be paid. This must be shown by evidence of recovery measures that have been taken and a certain period should have elapsed to conclude that a debt can't be recovered. *However, at the time of preparing the chapter, further detail on this regulation has not been specified and information hasn't been provided by the tax authorities on how this will operate in practice.*

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities, is not recoverable in Suriname.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Suriname is not recoverable.

H. Invoicing

VAT invoices. A taxable person must issue invoices to businesses (B2B) that are dated and sequentially numbered for all taxable supplies of goods and services. The invoices, which contain the VAT due, must be issued before the 15th day of the month following the month of supply.

Credit notes. A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must refer to the original VAT invoice.

Electronic invoicing. Electronic invoicing is allowed in Suriname, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Suriname. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Suriname.

The requirements related to electronic invoicing are the same as those for paper invoicing. Invoices sent electronically are accepted by the tax inspector, provided that the authenticity of the origin and the integrity of the content, as well as the legibility thereof, are guaranteed.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Suriname. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Suriname.

Proof of exports. There is no special regulation included in the Suriname VAT legislation with regard to invoices in case of export. However, to evidence the zero-rating, documents of transportation and export documents are sufficient for proof of export in Suriname.

Foreign currency invoices. A taxable person may, on written request and with the approval of the Minister, issue invoices in a different language than Dutch and in a different currency than the domestic currency, which is the Suriname dollar (SRD).

Supplies to nontaxable persons. Taxable persons do not have to issue VAT invoices for supplies to private individuals (B2C). If no VAT invoice needs to be issued, the documents (receipts) that are issued do not have to meet all legal invoice requirements.

Records. In Suriname, examples of what records must be held for VAT purposes include records of the taxable persons' assets and of everything relating to their business in such a manner that, at any time, their rights, obligations and all other information relevant for tax purposes are clear and readily available within a reasonable time frame upon request from the tax authorities. Copies of all AR invoices and relevant AP invoices for services must be kept, as well as export documentation.

In Suriname, VAT books and records must be held within the country. While it is unclear whether such records can be kept outside Suriname, and the guidance around this is very nontransparent, in practice records are kept locally in Suriname.

Record retention period. Record retention period is 10 years.

Electronic archiving. Electronic archiving is allowed in Suriname. No special regulation is included in the Suriname VAT legislation regarding electronic archiving. In practice, it is possible so long as the taxable person can provide the documents needed within an acceptable time period.

I. Returns and payment

Periodic returns. The VAT period in Suriname is the calendar month. The VAT return must be filed before the 16th day of the month following the reporting period. The VAT due for the period must be remitted together with the return.

Periodic payments. Any VAT due for the VAT period must be remitted by the same date as the return deadline, i.e., before the 16th day of the month following the reporting period.

Electronic filing. Electronic filing is allowed in Suriname, but not mandatory. It is only allowed upon decree from the minister, and follow the instructions provided.

Payments on account. Payments on account are not required in Suriname.

Special schemes. *Cash accounting.* The cash accounting basis is a special scheme which applies to B2C transactions.

Annual returns. Annual returns are not required in Suriname.

Supplementary filings. No supplementary filings are required in Suriname.

Correcting errors in previous returns. In case a taxable person needs to correct any errors in previously filed VAT returns, it will need to file a new return over the respective period or a supplementary return. It can also file an objection against an incorrectly filed return and thus reclaim an overpayment.

Digital tax administration. There are no transactional reporting requirements in Suriname.

J. Penalties

Penalties for late registration. There is no specific penalty in Suriname for the late registration of VAT. However, if late registration results in a late payment of VAT or late submission of VAT returns, penalties may be imposed. Assessments can be imposed by the tax authorities.

Penalties for late payment and filings. VAT penalties are assessed for the late submission of a VAT return or for the late payment of VAT due in the following amounts:

- For the late or failure of submission of a VAT return, the tax Inspector may impose an administrative penalty of a maximum of SRD10,000
- For the late of failure of payment of VAT due, the tax Inspector may impose an administrative penalty of a maximum of SRD10,000
- If the late payment is caused by negligence or intent, penalties ranging from 5% to 100% of the outstanding VAT due may be imposed

Penalties for errors. The penalties outlined above for late payment and filings, also apply for penalties for errors.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In Suriname, tax fraud occurs when the taxable person by any action or omission commits fraud against the tax authorities by incorrectly calculating the amount of tax due. VAT fraud is punishable by a term of imprisonment, or a fine.

Personal liability for company officers. There is a personal liability for VAT for company officers in Suriname. In case of criminal proceedings against a legal person/taxable person, the judge can order the personal appearance of a director.

Statute of limitations. The statute of limitations in Suriname is five years. In general, it is five years after the ending of the financial year in which the VAT became due. In case the VAT due is (partially or entirely) not paid by the taxable person (following action by the taxable person with intent or gross negligence), the statute of limitations is 10 years.

Sweden

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Mervärdesskatt (Moms)
Date introduced	1 January 1969
Trading bloc membership	European Union (EU)
Administered by	Swedish Ministry of Finance (https://government.se/)
VAT rates	
Standard	25%
Reduced	6%, 12%
Other	Zero-rated (0%) and exempt
VAT number format	SE 5 5 6 1 2 3 1 2 3 4 0 1
VAT return periods	Monthly (if annual turnover exceeds SEK40 million) Quarterly (if annual turnover is SEK40 million or less, with the possibility to opt for monthly) Annually (if annual turnover is below SEK1 million)
Thresholds	
Registration	
Established	SEK80,000 (approx. EUR 7,500)
Non-established	None
Distance selling	SEK99,680 (approx. EUR10,000)
Intra-Community acquisitions	SEK90,000 (approx. EUR8,300) *(note that the threshold is only applicable when the purchaser has no right to recover VAT or if the purchaser is a legal entity but not a taxable person)*
Electronically supplied services	SEK99,680 (approx. EUR10,000)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Sweden by a taxable person
- The intra-Community acquisition of goods in Sweden for goods coming from another European Union (EU) Member State by a taxable person (*see the chapter on the EU*)
- Reverse-charge services received by a taxable person in Sweden
- The importation of goods from outside the EU, regardless of the status of the importer

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU has adopted Quick Fixes for intra-Community trade of goods. *For an overview of the Quick Fixes rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

Sweden has implemented the Quick Fixes as per 1 January 2020 through regulation according to the Swedish VAT Act. The Quick Fixes concern the following three items:
- Call-off stock simplification
- Uniform rules to simplify chain transactions
- Simplified proof of intra-Community supply of goods
- Conditions for zero-rating of intra-Community supply of goods

Call-off stock simplification. Under the call-off stock simplification, a supplier's transportation of goods from a stock in another EU Member State to its customer's call-off stock, Sweden would not trigger a VAT registration obligation in Sweden, provided that certain conditions are met. Instead, the supplier would be deemed to make an intra-Community supply of goods in the EU Member State of dispatch, and the customer would be deemed to make an intra-Community acquisition of goods in Sweden.

The scope of simplification applies to a call-off stock arrangement where:
- Goods are moved from another Member State to another taxable person in Sweden under a call-off agreement
- The supplier is not established in Sweden
- The customer is VAT-registered in Sweden
- The supplier knows the customer's identity and VAT registration number at the time of the transfer
- The supplier maintains a call-off stock register and records the transaction in its EC Sales List
- The supply of goods take place within 12 months of arrival

Chain transactions. In the case of several consecutive sales of the same product, where the product is transported from one EU Member State to another EU Member State directly from the first supplier to the last purchaser in the chain, the transport shall be attributed to the supply made to that supplier, other than the first, who transports or has transported the goods (the intermediary).

The transport shall, however, be attributed to the supply made by the intermediary if it has communicated to its supplier its VAT registration number in the EU Member State from which the goods were transported.

Conditions for zero-rating of intra-Community supply of goods. The VAT exemption can be granted to a supplier if the following material conditions are met:
- The goods must be transported from one EU Member State to the customer in another EU Member State by the supplier, the customer or on behalf of either one
- The supplier has received a valid VAT number of the customer in the other EU Member State
- The Intra-Community supply of goods has been reported in the supplier's EC Sales List with reference to the customer's VAT number

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, EU Member States can apply use and enjoyment rules that allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. *For information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.*

In Sweden, the following services are subject to the "use and enjoyment" provisions when provided business-to-consumer (B2C):
- Transfers and assignments of copyrights, patents, licenses, trademarks and similar rights
- Legal services, engineering services, auditing services, data processing and provision of information and similar services
- Bank and finance services (not including the letting of safe deposit boxes)
- Insurance and reinsurance services
- Letting of staff
- The grant of access to, and transmission or distribution through a natural gas system within the community or a gas network connected to such a system, a system for electricity or a system for heating and cooling, as well as services directly connected thereto
- Marketing and adverting services

In Sweden the following supplies are also subject to the "use and enjoyment" provisions in Sweden when supplied B2C:
- Admission to activities in Sweden of the following nature: cultural, artistic, sports, science, entertainment or certain trade shows or exhibitions (the same applies for the B2B supply of events in Sweden of the same nature)
- Goods transportation services performed only in Sweden
- Telecommunication services, broadcasting services and electronic services

In Sweden the following supplies are subject to the use and enjoyment provisions in Sweden, irrespective of whether the supply is made B2C or B2B:
- Real estate connected services when the real estate is located in Sweden
- Passenger transportation services only provided in Sweden
- Restaurant and catering services provided in Sweden
- Short-term leasing of vehicles when the goods are provided in Sweden

Transfer of a going concern. A merger or transfer of assets between two taxable persons can, under certain circumstances, be deemed as a transfer of a going concern (TOGC), which is considered a supply outside the scope of VAT and therefore not subject to VAT.

A TOGC is outside the scope of VAT if the following requirements are met:
- The assets must be a part of a transfer of a business as a going concern
- The assets must be used by the acquirer with the intention to carry on the same business as the transferor
- If only a part of the business is transferred, the transferred part must be capable of operating separately
- If the transfer would be subject to VAT, the acquirer would be entitled to recover the VAT charged
- If the transferor is a taxable person the acquirer must be a taxable person or become a taxable person as a result of the transfer

Transactions between related parties. For a transaction between related parties, the value for VAT purposes is calculated as follows: supplies between related parties, where the supplier or the recipient has a limited right to deduct VAT, must be made at the market value. Otherwise, a reassessment of the value up to the market value may be done by the Swedish tax agency.

C. Who is liable

A taxable person is an individual or business entity that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales for consideration while doing business in Sweden.

A VAT registration threshold of SEK80,000 applies in Sweden. If a taxable person exceeds transactions subject to VAT of SEK80,000 annually, it must notify the tax agency of its liability to register. Any taxable persons conducting business transactions that have not yet exceeded the threshold for the fiscal year are not liable to report and pay VAT for those transactions unless registered for VAT. Taxable persons whose annual turnover subject to VAT does not exceed the threshold may opt to register for and pay VAT.

Special rules apply to foreign or "non-established businesses."

Exemption from registration. Taxable persons that only make supplies that are exempt from VAT (i.e., supplies that are zero-rated) are not required to register for VAT.

Voluntary registration and small businesses. A taxable person that is not required to register for VAT as a result of its turnover being below SEK80,000 can still choose to voluntarily register for VAT. If a taxable person does choose to voluntarily register for VAT, it cannot change this decision until at least two years have passed since the end of the business year during which the taxable person was registered for VAT.

Group registration. Companies in the financial sector as well as companies in "an agency relationship" for income tax purposes may form a VAT group. If a VAT group is formed, the group is liable for VAT if it engages in business that accrues a VAT liability.

All members of a VAT group in Sweden are jointly and severally liable for VAT debts and penalties. If the VAT group does not fulfill its obligation of paying VAT or paying the correct amount of VAT, all members of the VAT group are jointly and severally liable for VAT debts and penalties.

Only entities with a fixed establishment in Sweden may be part of a Swedish VAT group. A VAT group consists of taxable persons that are closely connected to each other "financially, economically and organizationally." All three of these requirements must be satisfied. The following are the applicable rules:

- A "financial link" exists between two companies if one company holds more than 50% of the votes in the other
- An "economic link" exists if the companies continually exchange goods or services
- An "organizational link" exists if the group members have some joint administrative functions, such as joint management or joint marketing

There is no minimum duration that a VAT group must be in place for. Both the forming of and the cessation of a VAT group may, however, only happen following a formal decision by the Swedish tax agency.

Holding companies. In Sweden, a pure holding company cannot be a member of a VAT group. A pure holding company that conducts no other activities than passively holding shares in subsidiaries cannot be regarded as a taxable person. Such a pure holding company can therefore not be part of a VAT group according to the Swedish VAT Act.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in Sweden. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in Swedish VAT law).

Supplies of services by independent groups of physical or legal persons, who are carrying on an activity that is exempt from VAT or in relation to which they are not taxable persons, for the purpose of rendering their members the services directly necessary for the exercise of that activity, where the renumeration for the services corresponds to the person's cost for providing the services. The exemption only covers situations where applying the exemption does not distort the competition. In the Swedish tax agency's view, this shall be determined based on the nature/character of the services. The more specific the services are for the business, the less the risk for distortion is. The applicability of the exemption must be assessed on a case-by-case basis.

Fixed establishment. Sweden has not implemented any legal definition of fixed establishment. According to the Swedish tax agency, the following three should be considered when determining if a fixed establishment is at hand:
- Personnel resources
- Technical resources
- A sufficient degree of permanence

Such criteria are cumulative, meaning that all three criteria need to be met for the requirements for having a fixed establishment to be fulfilled.

Non-established businesses. A non-established business that makes supplies of goods or services in Sweden must register for VAT if it is liable to account for Swedish VAT on the supply or if it makes intra-Community supplies or acquisitions of goods.

The reverse charge applies to supplies made by non-established businesses to taxable persons in Sweden, i.e., a business-to-business (B2B) supply. Under this measure, the taxable person that receives the supply must account for the Swedish VAT due. If the reverse charge applies, the non-established business is not required to register for Swedish VAT. The reverse charge does not apply to the transport of persons, cultural services or supplies made to private persons or nontaxable legal persons.

Consequently, non-established businesses must register for Swedish VAT if they make any of the following supplies:
- Intra-Community supplies or acquisitions (*see the chapter on the EU*)
- Distance sales in excess of the threshold (*see the chapter on the EU*)
- Supplies of goods and services that are not subject to the domestic reverse charge

Tax representatives. Businesses that are established in the EU are not required to appoint a tax representative to register for VAT in Sweden. However, EU businesses may opt to appoint a tax representative. This measure also applies to businesses established in any non-EU country that has mutual assistance provisions with the EU or with Sweden.

Businesses that are established outside the EU must generally appoint a resident tax representative to register for Swedish VAT. A tax representative is not jointly liable for VAT debts with the business that it represents.

Reverse charge. The reverse charge applies to local supplies of goods or services relating to immovable property (other than supplies of construction services provided to companies within the construction industry) made by non-established businesses to taxable persons in Sweden. The reverse charge only applies if the foreign entrepreneur does not have a fixed establishment in Sweden (which intervenes in the supply) and has not opted to be liable for VAT on the supply.

Domestic reverse charge. The domestic reverse charge applies to the following:
- Supplies of construction and building services to other taxable persons selling construction and building services more than occasionally, trading with emission licenses, gold and other specific metals and scrap metal
- Trading with emission licenses
- Gold and other specific metals

- Scrap metal
- Mobile phones, laptops, tablets, game consoles and integrated circuit units (when the tax base in the invoice exceeds SEK100,000) and the seller and purchaser are or shall be registered for VAT in Sweden

Digital economy. Specific VAT rules apply to cross-border supplies of goods and services sold via the internet (e-commerce) in all EU Member States with effect from 1 July 2021. These new rules apply to all direct sales to nontaxable persons (in practice these are mostly private individuals), but we refer to these rules as e-commerce VAT rules because most of these transactions are conducted via the internet. In general, the place of supply is in the country of consumption, i.e., where the goods are shipped to or where the buyer of the goods or services resides, subject to any "use and enjoyment" provisions that may override this rule (see Section B, *Effective use and enjoyment* subsection above). Therefore:

- For supplies of services made by a nonresident supplier to a business customer (B2B), the business customer is responsible for accounting for the VAT due, using the reverse charge.
- For supplies of goods made by a nonresident supplier to a business customer (B2B), where the goods are transported from another EU Member State, the business purchasing the goods is responsible for accounting for the VAT due, as an intra-Community acquisition. If the goods come from outside the EU, the purchaser may have to report an importation of goods.
- For supplies of goods or services made by a nonresident supplier to a final consumer (B2C), the supplier is generally responsible for charging and accounting for the VAT due at the rate applicable in the customer's country (unless the supplier's sales fall beneath the distance selling threshold of EUR10,000 (approx. SEK99,680) effective 1 July 2021). This VAT can be reported using a single VAT registration, using a "One-Stop-Shop" mechanism.

For more details about intra-EU distance sales, see the chapter on the EU.

The sale or transfer of digital currencies is exempt from VAT, provided that the digital currency in question can be equated with legal tender. Digital currencies that are not equated with legal tender are usually considered vouchers but could in certain cases also be considered other type of assets. Hence, the VAT treatment of digital currencies should be reviewed on a case-by-case basis.

Effective 1 July 2021, an e-commerce supplier may have a choice of how to account for VAT on its B2C supplies.

Local VAT registration. A nonresident supplier may choose to register for VAT in each Member State and account for VAT on all supplies made and recover input tax in accordance with local rules (see the *Non-established businesses* subsection above). Non-EU businesses may be required to appoint a fiscal representative for accounting for the VAT due on these transactions.

In Sweden, the application for a local VAT-registration is made to the Swedish tax agency. The application process normally takes four to eight weeks from the filing of the form.

One-Stop Shop. Effective 1 July 2021, a supplier can choose to account for VAT due under the EU One-Stop Shop (OSS), which can be used for intra-EU cross-border supplies of goods and all cross-border supplies of services made to final consumers in the EU. Unlike the previous Mini One-Stop-Shop (MOSS) scheme that applied until 30 June 2021, the OSS is not limited to cross-border supplies of electronic services, telecommunication services and broadcasting services.

The OSS is an electronic portal that allows businesses to:

- Register for VAT electronically in a single Member State for all intra-EU distance sales of goods and for B2C supplies of services
- Declare and pay VAT due on all supplies of goods and services in a single electronic quarterly return

The OSS can be used by businesses established in the EU and outside the EU. If a supplier or a deemed supplier decides to register for the OSS, it must declare and pay VAT for all supplies (goods as well as services) that fall under the OSS.

In Sweden there are no additional specific local rules that apply.

For more details about the operation of the OSS, see the chapter on the EU.

Import One-Stop Shop. Effective 1 July 2021, the Import One-Stop-Shop (IOSS) scheme applies for B2C distance sales of goods from outside the EU.

Effective 1 July 2021, VAT is due on all commercial goods imported into the EU regardless of their value. The actual supply is subject to VAT in the country where the goods are imported (the country of destination). The IOSS facilitates the declaration and payment of VAT due on the sale of low-value goods (i.e., consignments valued at less than EUR150 per consignment). It allows suppliers selling low-value goods dispatched or transported from a non-EU country to customers in the EU to collect, declare and pay the VAT due. If the IOSS is used, the importation into the EU is exempt from VAT.

In Sweden there are no additional specific local rules that apply.

For more details about the IOSS, see the chapter on the EU.

The use of the IOSS special scheme is not mandatory. If VAT is not collected via the IOSS scheme, the importation of goods into the EU is subject to import VAT in the country of final destination and the Member State can decide who is liable to pay the import VAT, which could be the customer or the seller (or an electronic interface).

Postal Services and Couriers Scheme. If the IOSS is not used and the customer is liable for the import VAT due on the supply (and importation) of consignments with a small intrinsic value (i.e., less than EUR 150), the VAT can be collected using the special scheme for postal services and couriers.

In Sweden there are no additional specific local rules that apply.

For more details about the special scheme for postal services and couriers, see the chapter on the EU.

Online marketplaces and platforms. Under the new EU VAT e-commerce rules, effective 1 July 2021, taxable persons that "facilitate" certain B2C sales of goods are deemed to have purchased and then supplied those goods themselves. This means that the single supply from the "underlying" supplier to the final consumer is split into two deemed supplies:

- A supply from the supplier to the facilitator (deemed B2B supply)
- A supply from the facilitator to the final customer (deemed B2C supply). Any intermediation service provided by the facilitator is disregarded for VAT purposes

This provision does not cover all sales facilitated via the facilitator. It only covers distance sales of goods imported from non-EU jurisdictions in consignments with an intrinsic value not exceeding EUR 150. The jurisdiction of residence of the supplier using the facilitator is irrelevant. The supply to the facilitating platform is VAT exempt and the supplies made by that platform follow the e-commerce VAT rules as described above. In addition, the provision also covers sales within the EU, if the supplier is not established within the EU. This applies to both local shipments within one Member State, as well as intra-Community shipments. In both cases, the final customer must be a nontaxable person.

In Sweden there are no additional specific local rules that apply.

For more details about the rules for online marketplaces, see the chapter on the EU.

Vouchers. Sweden implemented the EU Directive on VAT treatment of vouchers into the Swedish VAT Act as of 1 January 2019. The Swedish VAT Act has specific rules that define a voucher, a single purpose voucher (SPV), a multi-purpose voucher (MPV) and when a taxable event takes place and at what value. A voucher may be described as an instrument that businesses are obliged to accept as full or part payment for goods or services. Vouchers may be physical or electronic.

An SPV is an instrument where it is already at the time for issuance possible to establish all facts that are needed to decide in what country VAT shall be paid and with what amount, i.e., which taxable country, what kind of taxable supply, at what tax rate and at what amount VAT should be calculated on. All vouchers that are not SPVs are deemed as MPVs.

VAT is due when an SPV is sold if the voucher refers to a taxable transaction within Sweden. A MPV, on the other hand, is not subject to VAT when sold at a time before it is used as means as payment for goods or services. The VAT is instead due at the time when the MPV is redeemed against goods and services.

Registration procedures. The most effective way to register is online at https://www.verksamt.se/en/web/international/home. A Swedish electronic identification is required to use the online service. Otherwise, fill out the application form SKV 4620 on paper and send it to the Swedish tax agency. Non-established taxable persons use form SKV 4632, application for foreign entrepreneurs. Foreign entrepreneurs need to append a registration certificate not older than six months to the application form.

The Swedish tax agency's website provides a how-to guide, application forms to fill out and other necessary information. The site is also available in English. See www.skatteverket.se. The how-to guide is under the "Employers, Businesses and Corporations" heading and more information is available under the "Tax Information" and "VAT Information" headings.

Normally, it takes four to eight weeks to register for VAT, but it can take longer, especially during summer, and if the Swedish tax agency has questions about the registration.

Deregistration. The most effective way to deregister from VAT in Sweden is to do it online at www.verksamt.se. A Swedish electronic identification is needed to gain access. If the taxable person does not have an electronic identification, it can use form SKV 4639 and send it to the address printed on the form or to send a letter to the Swedish tax authorities requesting a deregistration and explain the reason for deregistering. Non-established businesses must often use hard copies, since a Swedish personal identification number is needed in order to obtain the Swedish electronic identification.

Changes to VAT registration details. A notification of changes for the taxable person, such as change of activities or changes of other information that was provided when registering for VAT, should be submitted either online (www.verksamt.se.) or through the use of form SKV 4639. No time limits/penalties apply for this notification requirement.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 25%
- Reduced rates: 6%, 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

Examples of goods and services taxable at 0% (i.e., exempt supplies with credit)

- Exports of goods and related services
- Supplies of intangible services made to either another taxable person established in the EU or to any recipient outside the EU (*see the chapter on the EU*)

Examples of goods and services taxable at 6%

- Books and newspapers
- Copyrights and artistic rights
- Cultural services (apart from cinema services, which are taxed at the standard rate)
- Passenger transport
- Reparation of bicycles, shoes, leather goods, clothing and household textiles

Examples of goods and services taxable at 12%

- Foodstuffs
- Hotel accommodation
- Restaurant and catering services

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Immovable property
- Medical services
- Finance
- Insurance
- Pharmaceutical supplies (exempt with credit)

Option to tax for exempt supplies. Renting property or premises is an exempt service, but the supplier has the option to treat it as taxable when renting to taxable persons. Suppliers can, under certain circumstances, choose the option to tax by issuing an invoice with VAT.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed. If the consideration is paid in full or in part before the goods are delivered or the services provided, the actual tax point becomes the date on which payment is received (but the tax point only applies for the amount paid).

Deposits and prepayments. For deposits and prepayments, the time of supply is the date on which the advance payment is received.

Continuous supplies of services. There are no special time of supply rules in Sweden for supplies of continuous supplies of services. As such, the general tax point rules apply (as outlined above). However, for continuous cross-border supply of services for which the buyer is liable to report VAT in Sweden, the time of supply is deemed to be at the end of each calendar year if the services are provided over a period of more than one year and no payments are made during the period in question.

Goods sent on approval for sale or return. There are no special time of supply rules in Sweden for supplies of goods sent on approval for sale or return. As such the normal tax point rules apply (as outlined above).

Reverse-charge services. The time of supply for goods or services subject to the reverse charge is the earlier of the date of delivery or the date on which payment is received.

Leased assets. The time of supply for leased assets depends on if it is a prepayment or not (see above).

Imported goods. The time of supply for imported goods is when the import takes place.

Intra-Community acquisitions. The time of supply for intra-Community acquisitions of goods is the same as the time of supply for domestic supplies.

Intra-Community supplies. An invoice must be issued for an intra-Community supply at the latest on the 15th day of the month following the supply.

Distance sales. The time of supply for supplies of distance sales in Sweden is when the goods are delivered.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Sweden is six years. It is possible to recover input tax incurred in the six years prior to the current year by requesting a re-evaluation of the reporting period the VAT should have been recovered in.

Input tax includes VAT charged on goods and services supplied in Sweden, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services (*see the chapter on the EU*).

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

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

Examples of items for which input tax is nondeductible

- Purchases of cars
- Business entertainment (in excess of the allowable expense limits)
- Private expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, lease, maintenance and fuel for vans with a weight exceeding 3,500 kg and trucks
- Maintenance and fuel for cars and 50% lease of a car used for taxable business purposes (1,000 km a year)
- Conferences, seminars and training courses
- Advertising
- Business use of a mobile phone
- Hotel accommodation (excluding restaurant expenses)
- Restaurant expenses (SEK300 per person and occasionally alcohol included)
- Business entertainment (SEK180 exclusive of VAT)
- Business gifts (with a value of SEK180 or less exclusive of VAT and valued less than SEK225 inclusive of VAT)

Partial exemption. Input tax directly related to exempt supplies is not generally recoverable. If a Swedish taxable person makes both exempt and taxable supplies, it may not recover input tax in

full. This situation is referred to as "partial exemption." "Exempt-with-credit supplies" do not create any partial exemption, as these supplies are treated as taxable supplies for these purposes.

The amount of input tax that a partially exempt business may recover is generally calculated in the following two stages:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned based on the value of taxable supplies compared with total turnover, or it is apportioned by another reasonable method. If turnover is used to calculate the recoverable amount, the recovery percentage can in general be rounded up to the nearest whole number.

Approval from the Swedish tax agency is not required to use the partial exemption standard method in Sweden. However, if any special methods are used instead, it is common that disclosures are made, especially if the calculation deviates from the turnover allocation method, but this is not a requirement. As long as the special method is deemed reasonable and sufficiently accurate it should be accepted.

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

The capital goods adjustment applies to the following assets for the number of years indicated:

- Investments made on immovable property that cost more than SEK400,000 exclusive of VAT: adjusted for a period of 10 years
- Machinery and equipment that cost more than SEK200,000 exclusive of VAT: adjusted for a period of five years

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax (1/10 for immovable property and 1/5 for machinery and equipment). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired. In Sweden, the capital goods adjustment does not apply to any services. However, the cost for investments on immovable property typically includes construction services as well as goods. As such, the input tax incurred that is subject to the adjustment is attributable to services received for such costs.

Refunds. If the amount of input tax recoverable in a month exceeds the amount of output tax payable, the taxable person has an input tax credit. A refund of the credit is triggered automatically by the submission of the VAT return.

Pre-registration costs. Input tax on pre-registration costs give a right to deduction if connected to a business taxable for VAT. However, the taxable person has the burden of proof showing that the costs are related to the taxable business. The input tax on pre-registration costs is normally deducted in the first VAT return submitted by the company following registration. In cases of retroactive registration, however, it is possible to deduct the input tax in the period in which the right to deduction occurred (the service or good had been acquired and a proper VAT invoice was received) by including it in the retroactively submitted returns.

Bad debts. Businesses are entitled to adjust their output tax when a bad debt occurs. The reduction should be adjusted in the same period as the bad debt loss is confirmed. The bad debt loss is confirmed when the customer is bankrupt or when a debt collector has been engaged and has established that the customer does not have any assets. From a VAT perspective, it is not enough to just send reminders to the customer. The output tax should be reduced in the period in which the bad debt is confirmed, but there are no formal requirements in terms of the correction of VAT returns or additional information to be submitted to the Swedish tax agency.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Sweden.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Sweden is recoverable. The Swedish VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Sweden. Non-established businesses may claim Swedish VAT to the same extent as VAT-registered businesses.

EU businesses. For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9. The VAT refund procedure under the EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Sweden during the refund period (excluding supplies covered by the reverse charge). *For full details see the chapter on the EU.*

In Sweden there are no additional specific local rules that apply.

Non-EU businesses. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. *For full details see the chapter on the EU.*

Sweden does not exclude claimants from any non-EU country.

Find below specific rules for Sweden:

- The deadline for refund claims is 30 September of the year following the calendar year in which the tax is incurred.
- Application form SKV 5801 should be sent to the Swedish tax agency at the following address:

  Skatteverket
  Utlandsenheten
  SE-205 31 Malmö
  Sweden

- Claims may be submitted in Swedish, English, French or German.
- The minimum claim period is three months, and the maximum period is one calendar year. The minimum period of three months does not apply to a period ending at the end of a calendar year. The minimum claim for a period of less than a year but of at least three months is SEK4,000. The minimum amount for an annual claim or for the remainder of a calendar year is SEK500.
- The average handling period in Sweden is two to three months, and the time limit is six months.

Late payment interest. In case of late VAT payments to EU businesses, interest is paid when the refund is paid late from the Swedish tax agency. Payment shall be made at the latest 10 working days after the decision deadline. The decision deadline is four months from the date of the application or two months after a request for more information from the Swedish tax agency. In Sweden, interest is not paid on late refunds to non-EU non-established businesses.

H. Invoicing

VAT invoices. A taxable person must generally issue VAT invoices for all supplies made to other businesses or legal persons. Invoices are not required for retail transactions with private persons.

A VAT invoice containing the information required by the VAT act is necessary to support a claim for input tax deduction or a refund for foreign businesses (*see the chapter on the EU*).

Credit notes. Credit notes may be issued in the following circumstances:
- They may be used to correct genuine errors or overcharges
- They may be issued following the cancellation of a supply
- They may give effect to a bonus or discount
- They may be issued as a result of the renegotiation of consideration for a supply

A credit note must show an unambiguous reference to the original invoice and the reduction in value and VAT on the supply.

Electronic invoicing. Electronic invoicing is mandatory in Sweden for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Sweden. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Sweden. The requirements related to electronic invoicing are the same as those for paper invoicing.

For B2G supplies, electronic invoicing is mandatory. This is in line with EU Directive 2014/55/EU (*see the chapter on the EU*).

For B2B and B2C supplies, electronic invoicing is allowed in Sweden but not mandatory. This is in line with EU Directive 2010/45/EU (*see the chapter on the EU*).

Electronic invoices can only be used if the customer has approved the use of such invoices (except for B2G supplies, where no approval is needed).

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. Simplified invoices are permitted if one of the following criteria is met:
- The invoice amount does not exceed SEK4,000 (approx. EUR350)
- Commercial trade or administrative practices or technical limitations makes it difficult to follow the normal invoicing rules
- The invoice is a credit note that is to be treated as an invoice in accordance with the Swedish VAT Act

Self-billing. Self-billing is allowed in Sweden. For a buyer to be allowed to use self-billing, the following conditions must be met:
- There needs to be an agreement in place between the seller and the buyer before the use of self-billing is started
- There needs to be a system in place to facilitate the seller's possibility to confirm each and every self-billing invoice
- The invoice itself needs to contain the words "self-billing" or similar, clearly indicating that it is in fact an invoice issued by the buyer on behalf of the seller

Apart from the above, regular invoicing rules apply to self-billing invoices.

Proof of exports and intra-Community supplies. VAT is not chargeable on exported goods or intra-Community supplies of goods (*see the chapter on the EU*). However, to qualify as exports and intra-Community supplies, the export or supply must be supported by evidence confirming that the goods have left Sweden. Acceptable proof includes the following documentation:
- For an export, the stamped customs documentation and commercial documentation (such as bill of lading, copy of the invoice, delivery note and proof of payment)

- For an intra-Community supply, a copy of the invoice showing the customer's valid VAT identification number (issued by another EU Member State), plus a range of commercial documentation (such as bill of lading, transport documentation, proof of payment and proof of receipt)

The Swedish courts have ruled that the supplier of goods has the burden to prove that the goods have actually left Sweden. From 1 January 2020, Article 45a of Regulation 2018/1912 should be directly applicable in Sweden. As such, meeting the criteria set out in the Regulation should be deemed sufficient to prove the removal of goods from Sweden. See the subsection on the *Quick Fixes* above.

No special documentation applies in Sweden for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

Foreign currency invoices. Swedish taxable persons may maintain their accounts in either euros (EUR) or the domestic currency, which is the Swedish krona (SEK), depending on the place of supply rules. If a VAT invoice is issued in a different currency, the values for VAT purposes and the VAT amounts must be converted to EUR or SEK.

Supplies to nontaxable persons. Suppliers are generally not required to issue invoices to private consumers according to Swedish regulation. Suppliers of new means of transport, construction or development services, and distance sales made from another EU Member State to Swedish nontaxable persons, i.e., consumers, are obligated to issue an invoice.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In Sweden, examples of what records must be held for VAT purposes include invoices and other records for indirect tax (e.g., receipts, credit notes verifications).

In Sweden, VAT books and records can be kept outside of the country. This is provided that certain conditions are met, and the taxable person has notified the Swedish tax agency or Swedish Financial Supervisory Board. Should these conditions not be fulfilled, the business may apply for a special permit by the Swedish tax agency or the Swedish Financial Supervisory Board.

Record retention period. Records should be held as a minimum for seven years after the end of the calendar year in which the record was received or presented. For certain records for which the capital goods adjustment scheme applies, records need to be retained for seven years after the end of the adjustment period. For immovable property the adjustment period is 10 years, and for other capital goods the adjustment period is 5 years, meaning that the retention period for those records is 17 and 12 years, respectively.

Electronic archiving. Electronic archiving is allowed in Sweden. Records should be retained in the format in which the record was initially received or presented, meaning that, for example, electronic invoices should be retained electronically, whereas physical invoices should be retained physically. Under certain restrictions, records may be transferred from one format to another, however, records still need to be retained in the original format for at least three years following the end of the calendar year in which the record was received or presented.

I. Returns and payment

Periodic returns. Periodic VAT returns are submitted in Sweden for monthly, quarterly or yearly periods, depending on the taxable person's turnover.

VAT liabilities are normally reported on the same tax return form as payroll taxes and employee income tax amounts withheld by employers. Monthly VAT returns must be filed if the taxable person's turnover exceeds SEK40 million. Otherwise, quarterly reporting may apply. However, a

taxable person may opt to file monthly. A yearly reporting period applies for taxable persons whose turnover is less than SEK1 million per year. If yearly reporting is applicable, the VAT return should be submitted together with the income tax return. Note that the filing deadline for the income tax return can vary. Also, if a taxable person is registered according to any of the special regimes (MOSS or OSS) or are obliged to submit an EC-sales list, the reporting frequency will follow the rules for those regimes.

Monthly VAT returns generally must be submitted by the 26th day of the month after the end of the reporting period. Quarterly VAT returns must be submitted by the 12th day of the second month after the end of the reporting period. The same rules apply to taxable persons that have yearly turnover of less than SEK40 million and that apply for monthly VAT returns.

Periodic payments. VAT returns must be filed with full payment of VAT. Payment must be made by the same day as the deadline of submission of the VAT return (see above). VAT returns must be completed and return liabilities must be paid in SEK. The payment should be made to the Swedish tax account of the taxable person in accordance with the details as outlined on the filing receipt. Payment of VAT must be made via bank transfer (both local and international are acceptable).

Electronic filing. Electronic filing is allowed in Sweden, but not mandatory. Periodic VAT returns can be submitted electronically by using electronic identification. The electronic identification is personal and only available to someone with a Swedish personal identification number. The right to file electronically can be granted by the authorized signatories of the taxable person, either by using an e-service that requires the authorized signatory to already have obtained electronic identification themselves or by filing in a paper form (SKV 4809). The filing authorization granted applies to multiple filings such as VAT returns, CIT returns, PAYE, excise duty returns and grants reading access to the Swedish tax account of the taxable person.

Payments on account. Payments on account are not required in Sweden.

Special schemes. *Cash accounting.* Sweden operates a cash accounting scheme with a threshold of EUR350,000 (approximately SEK3.7 million).

Annual returns. Annual returns are not required in Sweden.

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

The threshold for Intrastat Arrivals in 2023 is SEK15 million. The threshold for Intrastat Dispatches in 2023 is SEK4.5 million. *At the time of preparing this chapter, the Intrastat thresholds for 2024 have not been announced.*

The Intrastat reporting period is monthly. The submission deadline is normally between the 10th and 15th day following the reporting period for paper returns and between the 13th and 18th day for electronic returns. Intrastat reports must be filed in SEK.

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

ESLs must be submitted monthly with respect to goods. An ESL regarding supplies of services must be submitted quarterly. However, if a business supplies both goods and services, the reporting must be in accordance with the rules regarding goods. Taxable persons may apply to make quarterly submissions if the total amount of supplies and transfers of goods does not exceed SEK1 million for the current quarter as well as for the preceding four quarters. The due date is

the 20th day of the month following the end of the ESL return period for paper ESLs and the 25th day for electronic ESLs.

ESL reports must be filed using amounts expressed in SEK.

Correcting errors in previous returns. A taxable person that submits its returns electronically can correct previous returns in the same way, i.e., electronically. In addition, corrections can always be filed on paper by using the return form for the reporting period in question. Further, it is possible to request that the Swedish tax agency correct previous returns via a request for reassessment.

Digital tax administration. There are no transactional reporting requirements in Sweden.

J. Penalties

Penalties for late registration. There is no specific penalty in Sweden for the late registration of VAT. However, interest is charged on any VAT paid late as a result of late registration (see below for details).

Penalties for late payment and filings. A penalty of SEK625 is imposed for late filing of a VAT return. The penalty is increased to SEK1,250 if the tax agency has ordered the VAT return to be submitted.

Late payment of VAT results in the imposition of an interest penalty. See the subsection *Interest* below for further details.

In principle, penalties may be imposed for late filing of Intrastat reports or for errors or omissions. However, penalties are rarely imposed. If a penalty is assessed, the courts take several factors into consideration (such as the size of the business and its turnover) in determining the amount owed.

A penalty of SEK1,250 is imposed for late, missing or inaccurate ESLs.

Penalties for errors. A tax penalty may be imposed by the Swedish tax agency for incorrect VAT reporting and VAT reporting accrual errors. The penalty is calculated as 20% of the incorrect reported VAT (i.e., as 20% of incorrectly reported input tax or 20% of such output tax that incorrectly has not been reported). In cases of VAT reporting accrual errors, the penalty is calculated as 2%-5% of the VAT reported in an incorrect VAT reporting period. The tax penalty may be subject to partly or full redemption depending on the matters at hand.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Interest. Late payment and errors of VAT results in the imposition of an interest penalty. This interest is calculated at two different levels, a higher and a lower, depending on the reason for the deficit. The lower interest equals the base interest. The base interest in Sweden is 5%, as of August 2023. The lower interest rate applies, for example, to deferred tax payments. The higher penalty interest rate equals the base interest plus 15 percentage points, i.e., 20%, as of August 2023. The higher interest rate applies to and is calculated on deficits, for example, due to a submitted tax return where no payment has been made by the due date.

Penalties for fraud. There are no specific penalties in Sweden for fraud. Other penalties outlined above should apply. Fraud, as well as incorrect VAT reporting, knowingly or by negligence, may, however, be subject to criminal penalties under the Swedish Tax Evasion Act.

Personal liability for company officers. A representative of a legal person can become personally liable for virtually all unpaid taxes and fees in the legal person's tax account. Representatives

normally include legal representative (e.g., CEO and board members). The responsibility may also include a representative that without being a legal representative, in fact has a controlling influence over the legal person.

Statute of limitations. The statute of limitations in Sweden is six years. It is possible to re-evaluate previously reported or non-reported VAT (both output and input tax) during the six years prior to the current year. This can be done on the request of the taxable person and by the Swedish tax agency as part of review.

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A. At a glance

Name of the tax	Value-added tax (VAT)

Local names	Mehrwertsteuer (MWST) Taxe sur la valeur ajoutée (TVA) Imposta sul valore aggiunto (IVA)
Date introduced	1 January 1995
Trading bloc membership	European Free Trade Association (EFTA)
Administered by	Swiss Federal Tax Administration (https://www.estv.admin.ch) (SFTA)
VAT rates	
Standard	8.1%
Reduced and special	2.6%, 3.8%
Other	Zero-rated (0%) and exempt
VAT number format	CHE-123.456.789 MWST
VAT return periods	Quarterly Biannually (if the taxable person has applied to use the net tax rate method) Monthly (optional if excess of input over output tax occurs regularly)
Thresholds	
Registration	
Established	CHF100,000 (EUR97,000)
Non-established	CHF1 (EUR1) if worldwide turnover exceeds CHF100,000
Distance selling	CHF100,000 (EUR97,000) of low-value goods
Intra-Community acquisitions	Not applicable
Electronically supplied services	CHF1 (EUR1) for B2C if worldwide turnover exceeds CHF100,000 (EUR97,000)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Switzerland for consideration by a taxable person. In this context, it should be noted that Swiss VAT regulation follows a rather broad definition of "supplies of goods" including, e.g., sale of energy (gas, oil, electricity), lease agreements, room cleaning, work performed on goods, even if the goods are not altered by the work but only tested, calibrated, regulated, programmed, checked for their function, etc. Non-established suppliers that are obliged to be VAT registered in Switzerland must account for Swiss VAT on all taxable supplies performed in Switzerland.
- The acquisition by any person in Switzerland of certain types of services or, in some cases, of work on immovable goods from non-established nor registered suppliers (services and work on immovable goods for which the recipient is liable for the VAT due). Services and work on immovable goods purchased by nontaxable persons are not subject to reverse charge if the value of the acquired supplies does not exceed CHF10,000 per calendar year.
- The importation of goods from outside Switzerland and the Principality of Liechtenstein, regardless of the status of the importer.

The Principality of Liechtenstein and DE-Büsingen are considered to be the domestic territory for Swiss VAT and Customs purposes. Likewise, Switzerland is considered to be part of the territory of the Principality of Liechtenstein for the purposes of VAT in the Principality of Liechtenstein (Swiss Customs Territory). However, Switzerland and the Principality of Liechtenstein have

their own authorities. The highest Court for the Swiss Customs Territory is the Swiss Supreme Court.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Switzerland, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Switzerland applies the concept of a transfer of going concern as found in several other jurisdictions. It is called the "notification procedure" and requests the transferor to transfer a business or partial business as a taxable, but zero-rated transaction, since the taxation is being notified to the Swiss Federal Tax Administration (SFTA) instead. Furthermore, the transferee assumes any residual values of capitalized input tax from the transferor. Effectively, the notification procedure is mandatory. In addition, a voluntary notification procedure is available upon request with the SFTA.

Transactions between related parties. In Switzerland, there is a mandatory obligation to apply arm's-length pricing to any transactions between related parties. Offsetting of supplies between related parties is forbidden for statutory accounting purposes, but also due to strict VAT rules. All supplies between related parties must be recognized on a gross level (this means that the supplies cannot be set off from each other and compensation must be gross) and with arm's-length pricing. The same applies for barter trades. Global profit split methods and cost sharing are not accepted for VAT purposes if they involve offsetting of supplies. However, the offsetting of cash balances is permissible.

C. Who is liable

A taxable person is any person (which includes legal entities, partnerships, natural persons, foundations, inheritance partnership, etc.) who, regardless of legal form, purpose or result, carries out a business in Switzerland. Carrying out a business involves the independent exercising of professional or commercial activities, together with the intention to execute regular transactions and acting externally in one's own name.

Exemption from registration. An exemption from liability to register for VAT applies to any person who:

- Generates a worldwide annual turnover from taxable supplies of less than CHF100,000
- Carries on a business based abroad that exclusively makes supplies in the Swiss territory that are VAT exempt with credit and/or supplies of services with its place of supply in Switzerland but subject to the reverse charge in Switzerland
- Provides supplies of electricity power in cables, natural gas via the natural gas distribution grid and district heat to a taxable recipient in Switzerland

Voluntary registration and small businesses. Any person who carries on a business and is exempt from the liability to register (tax liability) has the right to waive exemption from the tax liability, provided it has an establishment or a taxable activity in Switzerland. Exemption from tax liability must be waived for at least one tax period.

Group registration. Legal entities with their seat in Switzerland or commercial units in Switzerland can form a VAT group if they are related as a result of "joint supervision." The group may include Swiss branches of foreign entities, to the extent that the foreign entities are under the same "joint supervision" as the other VAT group members. Although the Principality of Liechtenstein is considered to be domestic territory for Swiss VAT purposes (and vice versa), it is not

possible to form a VAT group that includes both Swiss and the Principality of Liechtenstein entities as the Principality of Liechtenstein and Switzerland have independent tax authorities.

The tax group must appoint a tax representative who will deal with the VAT-related proceedings of the group. The minimum period for which the tax group can exist is one year.

VAT group members are treated as a single taxable person with a single VAT number. The VAT group submits a single, consolidated VAT return for all its members. VAT is not chargeable on transactions between group members.

All members of a VAT group in Switzerland are jointly and severally liable for VAT debts and penalties.

From a practical perspective, the creation, modification or liquidation of a Swiss VAT group is regulated by very specific conditions, both in terms of authorization and timeline.

Holding companies. Holding companies can be included in a VAT group in Switzerland, subject to the usual conditions of control (see above). In addition, any other person can be included in a VAT group, even if it is not VAT registered, as long as control is given.

Cost-sharing exemption. The VAT cost-sharing exemption has not been implemented in Switzerland.

Fixed establishment. A permanent establishment is defined in Switzerland as a fixed place of business through which the activity of the business is wholly or partly carried on.

Non-established businesses. A "non-established business" is a business that does not have a legal seat or fixed establishment in the territory of Switzerland. A non-established business that makes supplies of goods or services in Switzerland must register for VAT if it is liable to account for Swiss VAT on the supplies.

A non-established business making any local supply of goods or services in Switzerland that are not subject to reverse charge in Switzerland becomes liable for Swiss VAT if its global turnover exceeds the CHF100,000 threshold. This results in an obligation for any non-established business with a global turnover of more than CHF100,000 annually, to register for Swiss VAT from the first franc of taxable turnover generated in Switzerland (whereas a Swiss-established business is obliged to register for Swiss VAT only once the threshold of CHF100,000 is reached).

Non-established entities supplying low-value goods to Swiss customers for a total of CHF100,000 or more annually need to register for Swiss VAT, import the goods and charge Swiss VAT on the sale to Swiss customers.

Once a non-established business is registered for Swiss VAT purposes, it is liable to charge VAT on all taxable supplies that have a place of supply in Switzerland.

Tax representatives. A non-established business must appoint a Swiss established tax representative if it supplies goods or services subject to Swiss VAT. Swiss VAT registrations of non-established businesses are not possible otherwise. The tax representation relationship must be notified to the tax authorities via the filing of an ad hoc tax representation letter. The tax representative does not assume the VAT liability of represented taxable persons.

Reverse charge. The reverse-charge mechanism applies to the following situations:

- Services acquired by a Swiss recipient where the services are subject to the general place of supply rule, supplied by a supplier domiciled abroad who is not registered for Swiss VAT, and the place of supply is in the Swiss Customs Territory (place of supply in the customer country). Exceptions apply for telecommunication or electronic services to nontaxable recipients and services subject to special place of supply rules.

- Data carriers without market value imported into Switzerland, and certain services and rights are associated with these data carriers.
- Work on immovable goods located in Switzerland provided by a business established abroad and not registered for Swiss VAT purposes, in case the supply has not been subject to import VAT.

Any Swiss recipient is liable for the settlement of VAT under the reverse-charge mechanism if the recipient is a taxable person or if the value of the supplies received exceeds CHF10,000 per calendar year.

As an exception to the general reverse-charge rule, supplies of telecommunication and electronic services to persons who are not registered for VAT are subject to Swiss VAT and require the supplier to register for and charge VAT in Switzerland, if their worldwide turnover exceeds the annual threshold of CHF100,000.

For any other services that fall under the general place of supply rule, the reverse-charge mechanism applies regardless of whether or not the recipient of the services is registered for VAT.

If a non-established supplier becomes registered for Swiss VAT purposes, the reverse-charge mechanism no longer applies, however, and the supplier must charge VAT on all taxable services supplied to Swiss recipients.

The place of supply for most supplies of services is the customer's country (fallback rule). In the circumstances described above, the customer must account for VAT under the reverse-charge procedure. However, some exceptions exist. These exceptions, for which additional consideration regarding the place-of-supply rules needs to be made, include the following:

- Services that require the physical presence of the customer, who is a natural person (i.e., a private individual, and not a legal entity), at the place where the supplier is domiciled (e.g., beauty or curative therapies and treatments, family advisory and childcare), even if exceptionally supplied from a distance
- Services of travel agents and event organizers at the place of supplier. However, tour operators (i.e., those providing travel services) do not fall into this category

The following services are taxed at the place of activity or real estate:

- Services in the fields of culture, art, sport, science, education or entertainment and similar services, including the activities of organizers and related activities
- Restaurant services
- Passenger transport services
- Services related to immovable property (for example, intermediation, administration, valuation, services in connection with the preparation and coordination of construction works such as architectural, engineering and supervising services, land and building monitoring, and accommodation services)
- Services in the field of international development and humanitarian aid

Domestic reverse charge. The domestic reverse-charge mechanism applies to supplies of electricity in cables, natural gas via the natural gas distribution grid and district heat if the Swiss service recipient is a VAT-registered business.

The place of supply of electricity by cable or natural gas via the gas distribution network is based on where the recipient of the supply is established or in the absence of an establishment, where the electricity, gas or heating is consumed, despite the fact that these are supplies of goods and not services.

Digital economy. Nonresident providers of electronic or telecommunication services to non-VAT-registered persons domiciled in Switzerland (i.e., business-to-consumer (B2C) supplies) must register for VAT in Switzerland and charge Swiss VAT, if their worldwide turnover exceeds the

annual threshold of CHF100,000. Once VAT registered, the nonresident providers must declare all domestic supplies of goods and services in Switzerland, including services subject to the general place of supply rule regardless of whether the recipient is registered for VAT or not.

Nonresident providers of electronically supplied services to business-to-business (B2B) supplies are not required to register and account for VAT on supplies in Switzerland. Instead, the customer is required to self-account for VAT due via the reverse-charge mechanism (see *Reverse-charge* subsection above). There are no other special rules in Switzerland for e-commerce supplies.

At the time of preparing this chapter, it is expected that new rules will come into effect in Switzerland for the digital economy from 1 January 2025.

Online marketplaces and platforms. Contrary to the European Union (EU), Switzerland has not introduced marketplace taxation. For distance selling supplies, mail-order companies and online dealers that supply more than CHF100,000 per year of low-value goods to customers in Switzerland are obliged to register for Swiss VAT. Distance sellers are deemed to execute domestic sales for such goods and are regarded as the importer of record. Consequently, they must charge Swiss VAT to their customers, not only on their sales of low-value goods, but also on all goods for which the amount of import tax exceeds CHF5.

Low-value goods are defined as goods whose import tax amount do not exceed CHF5 (i.e., value of imported goods (including transportation costs), taxable at standard VAT rate of 8.1%, is inferior to CHF65). Low-value goods are exempt from import tax when crossing the border.

Vouchers. Swiss VAT law distinguishes between value vouchers and supply vouchers. A typical distinction is that with supply vouchers the economic risk of price changes resides with the issuer of the vouchers. Contrary to the value voucher, the inflation risk shifts to the voucher holder. Value vouchers have their tax point at the time of their redemption, whereas supply vouchers are to be taxed at their issuance. To reverse any turnover of supply vouchers, a tracking inventory of expirations of supply vouchers is crucial and must be evidenced by the issuer.

Registration procedures. Businesses that intend to register for Swiss VAT need to file an application with the SFTA. The application must be filed electronically via the SFTA's webpage, available in German, French and Italian. Both general and financial information must be provided to finalize the VAT registration process. On average, the application procedure takes about two weeks.

Deregistration. Taxable persons are required to notify the SFTA in writing within 30 days after ceasing their entrepreneurial activities in Switzerland or with concluding the liquidation procedure at the latest. For non-established businesses, the deregistration is due by the end of the tax period in which the last supply was performed in Switzerland.

Changes to VAT registration details. Any relevant changes to a taxable person's VAT registration details (e.g., name, address, business activity) must be announced in a timely manner. The Swiss VAT law does not provide any specific timeline or penalties in this regard.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to VAT at any rate.

The VAT rates are:
- Standard rate: 8.1% *(with effect from 1 January 2024, previously 7.7%)*
- Reduced rate: 2.6% *(with effect from 1 January 2024, previously 2.5%)*
- Special rate: 3.8% *(with effect from 1 January 2024, previously 3.7%)*
- Zero-rate: 0%

The standard VAT rate applies to all supplies of goods or services, unless a specific measure provides for a reduced rate or an exemption.

Examples of goods and services taxable at 0%
(i.e., tax-exempt with credit)

- Exports of goods and services
- Supplies of certain goods and services to airlines
- Services with a place of supply abroad
- Supplies of investment gold

Examples of goods and services taxable at 2.6%

- E-books, e-newspapers and e-magazines, as well as printed of the same kind
- Food and drinks (except when provided by hotels and restaurants), except for alcoholic drinks
- Drugs
- Tap water

Examples of goods and services taxable at 3.8%

- Hotel accommodation, including breakfast

The term "tax-exempt without credit" refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see *Section F*). Some supplies are classified as tax exempt with credit (zero-rated), which means that no VAT is chargeable, but the supplier may recover the related input tax.

Examples of exempt supplies of goods and services
(i.e., tax-exempt without credit)

- Health care (in certain cases)
- Financial services
- Insurance
- Education
- Real estate

Option to tax for exempt supplies. Certain supplies of goods and services may be voluntarily subjected to tax by openly charging VAT on the invoice (option), e.g., certain health care, educational and cultural services as well as renting or leasing of immovable commercial property. However, restrictions may apply and the right to opt should be reviewed on a case-by-case basis.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In Switzerland, taxable turnover must be reported in the quarter (or month, if monthly declarations are filed) in which the sales invoice for a supply is issued or in which payment is received (if no invoice is issued). If the declaration is made on a cash basis, the turnover must be declared for the quarter in which payment is collected. Exceptions apply in case of VAT rate changes and various other special events. The application of the method on payment collected requires a written application with SFTA.

Deposits and prepayments. The tax point for a deposit and prepayment is when the supplier receives the consideration or when the invoice is issued, whichever is earlier.

Continuous supplies of services. There are no special time of supply rules in Switzerland for continuous supplies of services. As such, the general time of supply rules apply (as outlined above). However, exceptions apply when the VAT rates change, and then specific transitional rules would apply.

Goods sent on approval for sale or return. There are no special time of supply rules in Switzerland for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The tax point for reverse-charge services for a taxable person is when the invoice is received or when the service fee is paid. In all other situations, including declarations made on a cash basis, the effective payment date is decisive.

Leased assets. There are no special time of supply rules in Switzerland for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is the official date of importation.

Distance sales. There are no special time of supply rules in Switzerland for supplies of distance sales. As such, the general time of supply rules apply (as outlined above). However, special rules for import VAT and customs duties are applicable.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax to the extent that the associated purchases of goods and services are business related and are not used for exempt supplies or for receiving public subsidies. By the time of the declaration of input tax, the input tax must have been paid or been declared as a reverse charge. A taxable person generally recovers input tax by deducting it from the output tax.

Input tax includes VAT charged on goods and services supplied in the Swiss Customs Territory, VAT paid on imports of goods and VAT self-assessed on reverse-charge supplies.

According to a recommendation from the SFTA, a valid tax invoice or customs document and proof that the input tax was paid should support a claim for input tax.

The time limit for a taxable person to reclaim input tax in Switzerland is five years.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are used for exempt supplies, or do not serve a business purpose (e.g., goods acquired for private use by an entrepreneur) or is related to a public subsidy.

Examples of items for which input tax is nondeductible

- Private expenditure

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire, lease, maintenance and fuel for cars, vans and trucks (output tax is due on the private use of company cars)
- Parking
- Conferences, seminars and training courses
- Books
- Business use of home telephone (output tax is due on the private element)
- Advertising
- Transport
- Hotel accommodation
- Business gifts (subject to restrictions; output tax may be due)

Partial exemption. Input tax directly related to making exempt supplies without credit is generally not recoverable. If a Swiss taxable person makes both tax-exempt supplies without credit and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

The amount of input tax that a partially exempt business can recover may be calculated using the following two-stage calculation:

- The first stage identifies the input tax that can be directly allocated to taxable or to exempt supplies without credit. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies without credit is not deductible. Exempt supplies with credit are treated as taxable supplies for these purposes.
- The next stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that can be partially recovered. The calculation of the recoverable portion can be performed using a general pro rata method based on the respective values of taxable and exempt without credit supplies made. In addition to the general pro rata method, other industry-specific methods are available, such as the lump-sum method for banks.

When applicable, it is recommended to get the partial exemption standard or special method validated up front by the tax authorities. Generally, this applies for special methods, but can vary on a case-by-case basis.

Capital goods. Input tax recovery is allowed on capital goods (i.e., capital assets) in Switzerland. However, the input tax recovery is subject to the capital goods being monitored and corrected in accordance with the actual use of the said capital goods. The useful life of capital goods is defined as 5 years (moveable and intangible goods) or 20 years (immovable goods) and corrections must be considered pursuant to this duration. Capital goods adjustments also apply to input tax incurred on services that represent a durable capitalized asset, such as IP, software invention, and several year licenses.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in the same period, the taxable person is entitled to a refund of the excess amount. A VAT repayment is paid automatically within 60 days after the return is received by the Swiss VAT authorities.

Pre-registration costs. Input tax incurred on pre-registration costs in Switzerland is generally not recoverable unless under certain circumstances such as retroactive registrations or via a tax succession by a business transfer.

Bad debts. Bad debt relief applies in Switzerland only once the debt has been written off in the accounts and accounted as a loss from a Swiss accounting perspective. Only then can the output tax due be corrected.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Switzerland.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Switzerland is recoverable. The Swiss VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Switzerland or the Principality of Liechtenstein and that have not made any supplies in Switzerland or the Principality of Liechtenstein. A non-established business may claim Swiss VAT to the same extent as VAT-registered businesses. However, restrictions apply to certain types of expenditure for claimants established in certain countries.

Switzerland applies the principle of reciprocity; meaning the country where the claimants is established must also provide VAT refunds to Swiss businesses. Swiss VAT can only be refunded on the condition of reciprocity to taxable persons established in the following countries:

Australia	Greece	Poland
Austria	Hong Kong	Portugal
Bahrain, Kingdom of	Hungary	Romania
Belgium	Ireland, Republic of	Saudi Arabia

Bermuda
Bulgaria
Canada
Croatia
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Israel
Italy
Japan
Latvia
Lithuania
Luxembourg
Macedonia
Malta
Monaco
Netherlands
Norway
Serbia, Republic of
Slovak Republic
Slovenia
Spain
Sweden
Taiwan
Türkiye
United Arab Emirates
United Kingdom
United States

Deadline for refund claims is 30 June following the calendar year in which the supply received was invoiced. This deadline is strictly enforced.

Claims may be submitted in French, German or Italian. The claimant must appoint a representative who is a natural person or a legal entity whose domicile or registered office is in Switzerland.

The claim period is one year. The minimum claim amount is CHF500. Erroneously paid VAT on supplies that are not subject to VAT or exempted from VAT with credit will not be refunded.

The following documentation must accompany the claim:
- Completed VAT refund claim (Forms 1222 and 1223). Form 1222 identifies the Swiss tax representative that needs to be appointed to apply for the refund.
- Original VAT invoices.
- Proof of payment (if requested by the Swiss tax authorities).
- A Certificate of Taxable Status for the claimant, which is issued by the competent tax authorities in the country where the claimant is established, to prove the business status of the claimant.
- Applications for refunds of Swiss VAT may be sent to the following address:

  Eidgenoessische Steuerverwaltung
  Hauptabteilung Mehrwertsteuer
  Schwarztorstrasse 50
  CH-3003 Bern
  Switzerland

- Refunds are generally made within six months after the date of application.

Late payment interest. The SFTA may pay interest on refunds made after the refund period of six months after the date of refund application if reciprocity rules are observed. Late payment interest is paid at a rate of 4% per annum.

H. Invoicing

VAT invoices. A Swiss taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a refund under the VAT refund scheme for non-established businesses.

Credit notes. A VAT credit or debit note may be used to correct the VAT charged and reclaimed on a supply of goods or services. These documents must be cross-referenced to the original VAT invoice. If sent electronically the receival of the credit note should be tracked.

Electronic invoicing. Electronic invoicing is allowed in Switzerland, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Switzerland. There is no threshold beyond which

taxable persons are required to adopt electronic invoicing in Switzerland. Requirements related to electronic invoicing are the same as those for paper invoicing.

Data and information transmitted and stored electronically that are relevant for claiming input tax, or levying or collecting tax, must meet the following requirements in order to be of the same evidential value as data and information readable without auxiliary means:
• Proof of origin
• Proof of integrity
• Dispatch not contested

These requirements can be met by applying an advanced electronic signature.

Simplified VAT invoices. Invoices issued by automatic cash register systems (receipts), do not need to include information on the recipient of the supply, provided that the consideration disclosed on the receipt does not exceed the amount of CHF400.

Self-billing. Self-billing is allowed in Switzerland. No formal additional requirements other than the general invoicing requirements apply to self-billing. However, parties are required to agree on processes, i.e., containing a receival tracking and proxy for the self-billing entity, which entitles the use of the supplier's name and invoicing data.

Proof of exports. Swiss VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence that the goods have left Switzerland. Acceptable proof includes the officially validated customs documentation.

Foreign currency invoices. If a Swiss VAT invoice is issued in a currency other than the domestic currency, which is the Swiss franc (CHF), no conversion rate or CHF amount must be stated on the invoice. The amounts must be converted into CHF in the VAT report only, using the appropriate exchange rates published by the federal tax administration, which are available on its website (monthly or daily rates are available). If no clear tax advantage is gained, the use of a group exchange rate may be allowed.

Supplies to nontaxable persons. Swiss VAT law does not, in general, distinguish between B2B or B2C supplies. The only exception is in the context of supplies of telecommunications and electronic services and the application of the reverse-charge mechanism to those services. As such, there are no special rules for invoices issued to private consumers, and therefore full VAT invoices must be issued for all supplies.

Records. In Switzerland, examples of what records must be kept for VAT purposes include VAT returns, agreements, general accounting, invoices, booking vouchers documenting each booking record, etc.

In Switzerland, VAT books and records can be held outside of the country. Records that must be archived must completely comply with the Swiss archive and bookkeeping requirements and need to be accessible and readable with immediate effect without delay. In principle, records must be kept in the Swiss territory but may also be retained outside, provided Swiss bookkeeping and archiving rules are strictly complied with.

Record retention period. VAT books and records must be held for 16 years (26 years for documents related to immovable property). This takes into account the 10 years of absolute statute of limitations in Switzerland and the 6 additional years specifically for VAT.

Electronic archiving. Electronic archiving is allowed in Switzerland, but electronically stored documents must meet specific criteria of authenticity, origin and integrity, among other criteria.

I. Returns and payment

Periodic returns. Swiss VAT returns are usually submitted for quarterly periods. If the taxable person has applied to be taxed under the net tax rate method (that is, the tax due is calculated by multiplying the gross total taxable turnover by the balance tax rate authorized by the Swiss tax authorities), VAT returns must be submitted on a half-yearly basis. Taxable persons with a regular excess of input over output tax may apply to submit monthly returns. VAT liabilities must be paid in CHF.

VAT returns are due 60 days after the end of the VAT settlement period.

Periodic payments. The VAT amount due must be paid (by bank transfer only) 60 days after the end of the VAT settlement period.

Electronic filing. Electronic filing is mandatory in Switzerland for all taxable persons. This is with effect from 1 January 2021. However, filing electronically does not prevent a non-established business from appointing a tax representative.

Data and information that are relevant for claiming input tax or levying or collecting tax can be transmitted and archived electronically or in a similar manner. They have the same evidential value as data and information that are readable without auxiliary means, provided the following requirements are met:
- Proof of origin
- Proof of integrity
- Dispatch not contested

Special legal provisions require the transmission or storage of the data and information mentioned in a particular form.

Payments on account. Payments on account are not required in Switzerland.

Special schemes. *Net tax rate scheme.* If a taxable person does not generate more than CHF5.020 million turnover from taxable supplies annually and in the same period does not have to pay more than CHF109,000 in VAT, calculated at the net tax rate that applies to it, it may report VAT under the net tax rate method. When using the net tax rate method, the VAT due is determined by multiplying the total of the taxable considerations, including tax, generated in the reporting period in Switzerland by the net tax rate approved by the Swiss federal tax authorities. The net tax rates take into account the input tax amounts usual in the relevant sector of the industry. They are fixed by the Swiss federal tax authorities after consultation with the industry association concerned. Authorization to report under the net tax rate method must be requested from the Swiss federal tax authorities and the method must be used for at least one tax period.

Flat tax rate scheme. In principle, the flat tax rate method is similar to the net tax rate method but may be applied only by public authorities and related institutions, in particular private hospitals and schools or licensed transport undertakings and associations and foundations.

Margin scheme. A VAT margin scheme is applicable to supplies of works of art, antiquities and collector's items. In general, if the taxable person has acquired collectibles such as works of art, antiques and the like, it may deduct the purchase price from the sales price in order to calculate the tax, provided that it has not deducted any input tax on the purchase price (margin tax). If the purchase price is higher than the selling price, the loss can be offset by subtracting the difference from the taxable turnover. If such collector's items are imported by the reseller, the paid import tax may be added to the buying-in price.

Notional input tax deduction. A taxable person may deduct notional input tax if it acquires an individualizable movable good in the course of a business activity entitling it to input tax deductions; and the VAT on the acquisition of the good has not been openly passed on to the business.

Annual returns. Annual returns are not required in Switzerland.

Supplementary filings. *Annual turnover and input tax reconciliation.* The preparation of an annual turnover and input tax reconciliation is a mandatory requirement in Switzerland. This document, however, does not, have to be filed as such to the SFTA. In case discrepancies are revealed further to the filing of a VAT return, a finalization form (or corrective returns) must be filed.

Correcting errors in previous returns. If a taxable person discovers errors in their tax returns in the course of drawing up their annual accounts, it must correct them at the latest in the so-called finalization return to be filed online (as of 1 January 2021) within 180 days (plus 60 days) after the end of the relevant business year.

Digital tax administration. There are no transactional reporting requirements in Switzerland.

J. Penalties

Penalties for late registration. Taxable persons should be registered with the federal tax administration in writing within 30 days after the commencement of their tax liability or 60 days for persons who become taxable solely because of the acquisition tax. A penalty may be levied for late VAT registration. In the case of tax evasion, fines of up to CHF800,000 may be charged. The amount of the fine varies depending on the circumstances.

Penalties for late payment and filings. Late payment interest at a rate of 4% per annum may be assessed for the late payment of VAT. For one-off cases with no recurring intentions, a maximum penalty of CHF10,000 may be charged per incompliance.

Penalties for errors. Any person who willfully or negligently reduces the tax claim to the detriment of the state by wrongly stating output or input tax must be liable to a fine not exceeding CHF400,000.

In addition, if the tax evaded is transferred in a form that entitles the taxable person to make an input tax deduction, the fine must not exceed CHF800,000.

However, any person who reduces the tax due to the state by truthfully declaring relevant tax factors, but by willfully qualifying them incorrectly for tax purposes must be liable to a fine of up to CHF200,000. If the offense is committed through negligence, the fine is up to CHF20,000.

There are no specific penalties associated with the late notification or failure to notify changes to a taxable person's VAT registration details. However, it cannot be excluded that such failure may eventually indirectly entail situations leading to the levy of penalties. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any person who willfully or negligently reduces the tax claim to the detriment of the state by not declaring in a tax period all receipts; declaring receipts from supplies exempt from the tax that are too high; not declaring all supplies subject to reverse charge; declaring expenses entitling to an input tax deduction that are too high; obtaining an incorrect refund; or obtaining an unjustified tax abatement can be liable for a fine of up to CHF800,000. If the tax advantage obtained by the act is greater than the threatened penalty and the offense was committed willfully, the fine may be increased to a maximum of two times the tax advantage.

Personal liability for company officers. The Swiss VAT law foresees that such responsible private individuals (i.e., board of directors, CFOs, finance directors) are personally liable for penalties exceeding CHF100,000.

Statute of limitations. The statute of limitations in Switzerland is five years. The statute of limitation is, however, interrupted in the event of a written request to establish or correct a tax claim, a ruling, a decision or the commencement of an audit. If the statute of limitation is interrupted by the tax administration, it begins to run again for two years. If the statute of limitation is interrupted by the taxable person, it begins to run again for five years. The absolute statute of limitation is, however, limited to 10 years from the end of the tax period in which the tax claim arose.

Taiwan

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A. At a glance

Name of the tax	Value-added tax (VAT) and gross business receipts tax (GBRT)
Local name	Value-added and non-value-added business tax
Date introduced	13 June 1931 (revised June 2017)
Trading bloc membership	Asia-Pacific Economic Cooperation (APEC)
Administered by	Taiwan Ministry of Finance (MOF) (https://www.etax.nat.gov.tw/)
Rates	
VAT	5%, zero-rated (0%) and exempt
GBRT	0.1% to 25%
VAT number format	10001111 (eight digits)
VAT return periods	Bimonthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the taxes

Taiwan imposes business tax, which consists of VAT and GBRT.

Business tax applies to the following:

- Sale of goods in Taiwan. A transaction involving goods is a transfer of ownership of goods to others for consideration. This is not limited to goods exchanged for money. The exchange of goods for other goods is also included.
- Sale of services in Taiwan. A transaction involving services is the rendering of services to others or supplying goods for the use of others for consideration.
- Import of goods into Taiwan by individuals or businesses.

Taxable persons may be subject to both VAT and GBRT. For example, a bank may be subject to VAT on its rental sales and GBRT on its interest income.

In general, both VAT and GBRT liabilities are based on the sales amount, which includes all of the consideration received from sales of goods and services and expense reimbursements.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons.

In Taiwan, while the use and enjoyment rules are not codified in the VAT law, except for foreign e-commerce operators, similar concepts are applied for sales of services. Specifically, a sale of service in Taiwan refers to the service that is supplied or utilized in Taiwan. In practice, if the ultimate service recipient or ultimate beneficial owner of such service is located in Taiwan, such sale of service is subject to VAT.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Taiwan, a TOGC is treated as outside the scope of VAT where a company conducts a spin-off or an acquisition of assets or shares pursuant to the Business Mergers and Acquisitions Act, with the shares entitled with voting rights as consideration to pay the company while such shares are at a value not less than 65% of the total consideration, or a company is carrying on the merger/consolidation according to the Business Mergers and Acquisitions Act. Then such commodities or labor service transferred is deemed as not falling within the scope of imposition of VAT.

Transactions between related parties. In Taiwan, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. Generally, an arm's-length principle on transactions between related parties is regulated under Taiwan Transfer Pricing Guidelines. According to VAT rules, in principle, the transaction value should be based on the fair market value.

C. Who is liable

The following persons are considered taxable persons for business tax purposes:
- Taxable persons that supply goods or services
- Consignees or holders of imported goods
- Purchasers of services supplied by non-established businesses that have no fixed place of business in Taiwan. However, if a taxable person purchasing services is solely engaged in the operation of goods or services that are subject to VAT in Taiwan (i.e., a fully taxable business and is entitled to fully recover input tax), the taxable person is not subject to business tax on its purchases of services supplied by a non-established business.
- Foreign taxable persons with no fixed place of business in Taiwan, that meet the threshold of annual sales of digital services to individual buyers in Taiwan (business-to-consumer (B2C) supply of digital services)

Exemption from registration. Taxable persons engaged solely in the business of the sale of exempt goods or services (as outlined below) and government entities of all levels may be exempted from applying for taxation registration.

The following goods or services may be exempted from applying for taxation registration:
- The water supplied to farmland for irrigation
- The medical services, medicine, ward lodging and meals provided by hospitals, clinics and sanitariums

- The social welfare services provided by social welfare organizations or institutions or labor organizations, duly established with permission of the competent authority and social welfare services consigned by the government
- The education services offered by schools, kindergartens and other educational and cultural institutions, including cultural services offered under government's consignment
- The goods or services sold by student-run shops of vocational schools that do not serve outsiders
- The proceeds from goods sold in tenders, charity sales and charity shows held by charity and relief institutions organized according to the law, provided that the total proceeds are solely used by said institutions after deducting the necessary expenditures for the tenders, charity sales and charity shows
- The goods or services sold by employee welfare organizations of government bodies, state enterprises and social organizations that are organized and operated under relevant laws and are not open to the public
- The goods or services sold by prison workshops and their finished goods stores
- Services rendered by post and telecommunication offices in accordance with the law; and business consigned under government mandate
- The service of consigned sale of stamp tax tickets and postage stamps
- The goods or services sold by peddlers or hawkers
- Feed and unprocessed raw agricultural, forestry, fishing and livestock products and by-products; the agricultural, forestry, fishing and livestock products, and by-products of farmers' and fishermen's harvests sold by farmers and fishermen
- The fish caught and sold by fishermen
- The research services supplied by scientific or technological institutions that are established under the approval of the government
- The government at all levels

Voluntary registration and small businesses. The VAT law in Taiwan does not contain any provision for voluntary registration, nor special VAT registration rules for small businesses.

Group registration. Group VAT registration is not allowed in Taiwan.

Fixed establishment. The Enforcement Rules of VAT and the GBRT Act provide the VAT concept of fixed establishment by a definition of "fixed place of business." The term "fixed place of business" means a fixed place for operating business of selling goods or services, including the head office, administrative office, branch, limited partnership branch, business office, factory, maintenance shop, workshop, machine shop, warehouse, mining field, construction site, show room, liaison office, operating office, service station, operating division, branch store, sales outlet, auction house and other similar places.

Non-established businesses. A "non-established business" is a business that does not have a fixed place of business in Taiwan. A non-established business must register for VAT only if it sells cross-border electronic services to Taiwan domestic individuals and its annual sales exceeds NTD480,000. This kind of non-established business is called a "foreign e-commerce operator" (FECO). FECOs can only register for VAT via the eTax portal, which is an electronic platform established by the Ministry of Finance, and either by itself or by an appointed tax agent (see the subsections *Digital economy* and *Registration procedures* below for further details)**.** Business tax also applies to the following taxable supplies made by nonresidents:

- Taxable sales of goods in which non-established businesses consign goods to Taiwanese entities, that sell the consigned goods on behalf of the foreign non-established businesses. A consignment agreement shall be in place in order to carry out the consignment of goods
- Taxable sales of services by foreign entities that have no fixed place of business in Taiwan to Taiwanese entities described in the third bullet in Taxable persons
- Taxable sales of digital services by foreign entities with no fixed place of business in Taiwan to Taiwanese individual buyers

The business tax rate is 2% for the purchase of core business-related services from foreign financial institutions that do not have a fixed place of business in Taiwan. For purchases of other services, the business tax rate is the standard rate of 5%.

However, public and private schools at any level or educational or research institutions that purchased services provided by foreign enterprises, institutions, groups or organizations that have no fixed place of business within the territory of Taiwan, for educational, research or experimental purposes are not required to pay business tax.

Tax representatives. Tax representatives are not required in Taiwan. However, filing agents or tax agents are allowed. A filing agent can file the tax returns on behalf of the appointor. Whereas a tax agent can file the tax return and pay the tax on behalf of the appointor; in practice, only filing agents are allowed.

Reverse charge. A non-established business is not required to register for VAT in Taiwan, except for the non-established businesses that import goods into Taiwan. In this regard, for the importation of goods, the VAT will be borne by the importer, generally the domestic purchaser (i.e., via the reverse-charge mechanism).

For the purchase of services supplied by non-established businesses that have no fixed place of business in Taiwan (i.e., for business-to-business [B2B] supplies), they will be subject to reverse-charge mechanism. However, if a taxable person purchasing services is solely engaged in the operation of goods or services that are subject to VAT in Taiwan (i.e., a fully taxable business and is entitled to fully recover input tax), the business entity is not subject to business tax on its purchases of services supplied by a foreign entity.

In addition, for non-established businesses making e-commerce supplies who have no fixed place of business in Taiwan and sell e-commerce services to Taiwanese individuals, they may need to register for the VAT purpose in Taiwan (refer to the *Digital economy* subsection below).

Domestic reverse charge. There are no domestic reverse charges in Taiwan.

Digital economy. Non-established businesses providing e-commerce services (i.e., FECOs) to Taiwanese individual purchasers (B2C) and that have annual sales that exceed TWD480,000 must register for business (meaning business purpose, as non-established businesses are required to register for this), issue eGUIs, and pay VAT directly or indirectly through appointment of a tax-filing agent. For further detail, see the subsection *Non-established businesses* above.

Where a non-established business sells physical goods to a Taiwanese customer via a digital platform or the internet, the non-established business is not required to register for business, and the VAT on digital supplies of goods would be imposed on the importer of record upon importation via the reverse-charge mechanism. For further detail, see the subsection *Reverse charge* above.

Online marketplaces and platforms. If a non-established business e-commerce operator renders digital platform services to local individuals, the non-established business e-commerce operator may need to register for VAT in Taiwan (see the *Digital economy* subsection above).

Registration procedures. Applications for business tax registration must be filed to the tax authority in paper or online after the completion of company registration but before commencement of operation in Taiwan. The following documentation must be submitted together with the application:

- A photocopy of the Taiwan ID card, a photocopy of household registry or any other valid evidentiary documentation for the responsible person
- When the entity is a company, the company's articles of incorporation
- When the entity is a partnership, a copy of the partnership agreement; if any of the partners is a minor, a document evidencing the approval of the minor's legal agent shall also be submitted, but it is not required for a married minor

- When the entity is a limited partnership, a limited partnership agreement and the written consent of general partners for the elected representative; if any of the partners is a minor, a document evidencing the approval of the minor's legal agent shall also be submitted, but it is not required for a married minor
- In the case of other incorporations, a photocopy of the license for the incorporation's establishment issued by the competent authority and the articles of incorporation
- When the responsible person at a branch unit is different from that of the head office, the letter of authorization shall also be submitted
- In the case of the selling of goods or services via automatic vending machines, the detailed information of the serial numbers of the automatic vending machines, the place of location and the total number of machines shall also be submitted

From 1 January 2023, taxable persons (established businesses only) engaged in supplying goods and/or services via electronic means should submit additional information, such as web domain name and website address for business tax registration. Additionally, the taxable person should disclose its business name and tax identification number.

In principle, the business tax registration process is done automatically by a local tax administration office of the Taiwan tax authority as soon as it receives the approved and filed basic information related to the company's registration from the competent authority in charge of company registration. However, the company may need to submit additional documents if formally requested by a local tax administration office of the Taiwan tax authority.

Foreign enterprises, institutions, groups or organizations, without a fixed place of establishment, providing e-commerce services to Taiwanese individuals are now required to register with Taiwan's tax authority. Foreign e-commerce operators will be assigned a taxable person ID number that should be used when filing bimonthly VAT returns. The registration and VAT return filing obligations are required if the annual e-commerce sales revenue exceeds TWD480,000 (approx. USD16,000). If the sales revenues are in currencies other than TWD, the amount should be converted to TWD at a buying exchange rate announced by the Bank of Taiwan on the last date of the bimonthly VAT filing.

The foreign e-commerce operator should apply for tax registration via the eTax portal (https://www.etax.nat.gov.tw/etwmain/front/ETW118W/VIEW/1063?site=en) by itself or by an appointed agent.

A foreign e-commerce operator that applies for tax registration must submit the following documentation:
- Qualification documents evidencing that the foreign enterprise, institution, group or organization has been approved for registration or establishment by the competent authority for the relevant industry of its home jurisdiction
- Notarization documents for the qualification documents listed above authenticating its taxation/trade registration or establishment provided by a local government agency/court in its home jurisdiction, or by the Taiwan embassy or representative office in its home jurisdiction
- When appointing a tax agent for VAT registration, the power of attorney should be provided
- All documents written in any kind of language other than Chinese shall be accompanied by the Chinese translation

Deregistration. If there is cessation of a business entity, an application for cancellation of registration must be filed with the competent tax authority within 15 days after the occurrence of such an event. An application by a taxable person, for cancellation of registration, may only take effect upon the payment in full of taxes or upon the provision of security.

Changes to VAT registration details. If there is any change to the details of a taxable person, such as name of company, address, type of business, legal representative, etc., an application for an amendment to registration must be filed with the competent tax authority within 15 days after

the occurrence of such an event. An application by a taxable person for amendment to registration may only take effect upon the payment in full of taxes or upon the provision of security provided. However, this requirement shall not apply in the case of application for amendment due to merger, consolidation, increase of capital or a change in business address or scope of business.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero-rate or an exemption. Exempt supplies apply to both VAT and GBRT. Zero-rated supplies apply only to VAT.

The following are the GBRT rates:
- 0.1% for traders in the agricultural wholesale market and small businesses supplying agricultural products
- 1% for small businesses and other taxable persons that are excluded by the MOF from reporting their transactions
- 1% for reinsurance premiums of insurance enterprises (5% for operations other than authorized core businesses)
- 2% or 5% on the sale of services by local financial institutions (for banking and insurance companies: generally, 5%, except for certain transaction types; for the other financial institutions: 2% on their core business revenue and 5% on their noncore business revenue)
- 2% or 5% on the purchase of services from foreign financial institutions
- 15% for nightclubs or restaurants providing entertainment
- 25% for saloons or tearooms, coffee shops and bars offering companionship (in nightclubs, customers can ask wait staff to sit aside, serve drinks, chat and sing karaoke)

Examples of goods and services taxable at 0%

- Export of goods
- Services related to exports
- Services rendered in Taiwan but used outside Taiwan
- Sales of goods or services to taxable persons in bonded areas for the buyers' operations

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Certain essential and unprocessed foods
- Sale of lands
- Certain bonds and securities
- Sales of fixed assets that are not regularly traded by certain taxable persons subject to GBRT

Option to tax for exempt supplies. Taxable persons may opt to treat the above examples of exempt supplies of goods and services as taxable. A taxable person can apply to the Ministry of Finance to opt to treat an exempt supply as taxable. An application should be filled out with the Sales Analysis Table attached.

E. Time of supply

The following are the rules for the timing of VAT liabilities:
- Goods: at the earlier of the delivery of goods or payment of the proceeds

- Services: in general, on payment of the remuneration or when service is delivered
- Continuous supplies of services: in general, on payment of the remuneration
- For imported goods: on customs declaration

In general, liability for GBRT arises on receipt of payments.

Deposits and prepayments. There are no special time of supply rules in Taiwan for deposits and prepayments. As such, the general time of supply rules apply (as outlined above).

Continuous supplies of services. There are no special time of supply rules in Taiwan for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. For supplies of goods sent on approval for sale or return, the tax is due when the goods are sold. If the goods are returned to the seller, the seller should obtain the qualified documents (e.g., certificate of sales/purchases returns or allowances on merchandise sold) to reverse the entry and adjust the amount of tax payable.

Reverse-charge services. Except for digital services for B2C transactions, the reverse-charge mechanism applies to services rendered by a non-established business that does not have a fixed place of business in Taiwan. However, if a taxable person purchasing services is solely engaged in the operation of goods or services that are subject to VAT in Taiwan (i.e., a fully taxable business and is entitled to fully recover input tax), the taxable person is not subject to business tax on its purchases of services supplied by a non-established business.

The purchaser of such services shall, prior to the 15th day of the period following the period in which the payment is made, compute and pay the tax due on the supply.

In addition, VAT on such goods shall be levied by Customs at the time of importation.

Leased assets. There are no special time of supply rules in Taiwan for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. For the supply of imported goods, the time of supply is the holder of imported goods is liable to pay the 5% VAT at customs, i.e., at the time of importation.

F. Recovery of VAT by taxable persons

Input tax is deductible only with respect to VAT and not recoverable for GBRT.

Input tax is deductible in the current and next filing periods. If a taxable person reports the input tax after the next filing period, the taxable person must provide the reasons in an attachment to the tax return.

The time limit for a taxable person to reclaim input tax in Taiwan is 10 years.

Nondeductible input tax. Input tax is not deductible if supporting documents with respect to purchased goods or services are not obtained or maintained.

Examples of items for which input tax is nondeductible

- Goods or services that are not used in the principal or ancillary business operations of the purchaser. However, input tax on purchases made for Taiwan defense construction, troop morale and contributions to the government is deductible
- Goods or services for social relations purposes
- Goods or services provided to individual employees
- Passenger cars for personal use

Examples of items for which input tax is deductible (if related to a taxable business use)

- Any input tax derived from the goods or services that are used in the principal or ancillary business operations of the purchaser shall be deductible, except for the abovementioned nondeductible input tax

Partial exemption. If a taxable person incurring VAT engages on a concurrent basis in the business of tax-exempt goods or services or in the business applying GBRT, the taxable person is prohibited from deducting a certain part of the input tax from the output tax. The taxable person must classify its purchases and importation of goods and services into for use specifically in its taxable business and for use in its tax-exempt business or for common overhead use. Depending on whether or not the taxable person could clearly identify the purchase and importation of goods and services for use, the taxable person may choose to employ the proportional deduction method or the direct deduction method to calculate its VAT recovery percentage. Once the taxable person has decided to adopt the direct deduction method, this cannot be changed within three years following the date of adoption. The nondeductible ratio is subject to be computed according to the prescribed formula as below.

The nondeductible ratio is the following:
The net sales amount of exempt sales + the net sales amount subject to business as financial industries (e.g., banking enterprise), small business (e.g., vendor), and special food and beverage services enterprises (e.g., night clubs) /the total net sales amount for each period.

The net sales amount must be the balance of the total sales amount deducting sales returns and discounts.

Approval from the tax authorities is not required to use the partial exemption standard method in Taiwan. The only methods allowed in Taiwan are the proportional deduction method or the direct deduction method.

Capital goods. In Taiwan, there are no special input tax recovery rules for capital goods. The normal rules outlined above apply. The business tax overpaid on fixed assets obtained could be refunded after verification by the competent tax authority.

Refunds. In general, overpaid tax may be offset against future business tax payable, and the excess input tax not credited against the output tax in the current VAT return shall be carried over to the next period. The competent tax authority shall assess the VAT return and the application for VAT overpaid refund within six months, starting the next day of the filing deadline.

Overpaid VAT (i.e., the input tax remaining after deducting it against the output tax) is refundable after verification by the relevant tax office if any of the following conditions are satisfied:

- The overpaid amount of VAT resulting from zero-rated sales
- The overpaid amount of VAT resulting from the acquisition of fixed assets
- The overpaid amount of VAT resulting from the cancellation of registration through a merger or consolidation, transfer of ownership, dissolution or cessation of business
- Other special circumstances approved by the MOF exist

Pre-registration costs. Input tax incurred on pre-registration costs in Taiwan is recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Taiwan.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Taiwan.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Taiwan is not recoverable. However, a non-established business may qualify for a refund of VAT incurred on the purchases of goods and services with respect to its participation in an exhibition or its engagement in "temporary commercial events" in Taiwan if the following conditions are met:
- The input tax reaches a minimum of TWD5,000 in a year
- Reciprocal treatment is given by the other foreign jurisdiction under the same circumstances

For purposes of the above rule, "temporary commercial events" refer to activities including traveling, training, inspection, market research, procurement, organizing or attending international conferences, tender invitations, information exchanges, marketing seminars and other business activities approved by the MOF that are relevant to the core or ancillary business operations of the companies.

H. Invoicing

VAT invoices. Taxable persons selling goods or services must issue Government Uniform Invoices (GUIs) to purchasers.

GUIs are generally printed and sold by the government. However, qualified taxable persons can apply to print their own invoices. The MOF prescribes the forms, items to be recorded and the uses for the invoices.

The tax authority has regulated a new format of GUIs in the cloud (eGUIs), which are defined as electronic GUIs and issued by taxable persons to purchasers via the vehicles (i.e., email address) approved by the tax authority.

Credit notes. In Taiwan, in the case where the sales amount for the GUIs has been declared to reduce the output tax incurred from the sales return or allowances, a certificate of sales returns/allowances issued by the purchaser is required; such a case, however, shall be limited to instances where the original GUI contains the name and uniform serial number of the purchaser.

Electronic invoicing. Electronic invoicing is mandatory in Taiwan, for certain taxable persons.

Scope of electronic invoicing. For B2C supplies, electronic invoicing is mandatory for certain taxable persons in Taiwan. This applies to FECOs who are VAT registered and make B2C supplies. For B2B, business-to-government (B2G) and all other B2C supplies, electronic invoicing is allowed but not mandatory in Taiwan.

For FECOs conducting B2C sales in Taiwan with sales revenue exceeding NTD480,000 per year, VAT registration is mandatory, and they are required to issue a cloud Government Uniform Invoice (GUI), which is a type of eGUI, to the consumers for B2C transactions. The FECOs are not required to issue eGUIs for B2B or B2G transactions, as they are covered by the reverse-charge mechanism. For further detail, see the subsections *Reverse charge* and *Non-established businesses* above.

For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Taiwan. The requirements related to electronic invoicing are the same as those for paper invoicing. A taxable person is qualified to issue electronic uniform invoices once its business registration has been approved by the local competent tax authority. For taxable persons issuing e-invoices, the sales, discounts and returns certificates can also be issued electronically.

The Taiwanese government has been promoting the use of electronic invoicing since 2010. For a taxable person to issue e-invoices (i.e., GUIs), they are required to register for an account (to

access the official e-invoice platform) using the electronic certification or signature obtained via the e-invoice service platform or a value-added service center.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Taiwan. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Taiwan. It is only allowed for goods that are produced, imported or purchased by a taxable person, and are used by the taxable person itself or supplied for no consideration. These scenarios are only where the taxable person can issue GUIs to themselves in their own name.

Proof of exports. The following are examples of documentation that may be used to substantiate exports:
- Goods exported: a copy of the international parcel receipt issued by the postal service, except for goods exported through customs that are exempt from such documentation requirement
- For services rendered with respect to exports or services rendered in Taiwan but used outside of Taiwan: a copy of the foreign currency receipt
- For goods sold to entities located in bonded areas: document issued by customs proving that such sale is an export or a copy of the GUI certified by the bonded purchaser

A taxable person applying for a zero-business tax rate on goods or services, for services relating to export or services provided in Taiwan but used overseas must submit the following evidence:
- If the foreign exchange obtained has been settled for sale to or deposited into a bank designated by the Taiwan government, the documentary evidence of the foreign exchange sale or deposit issued by the designated foreign exchange bank
- If the foreign exchange obtained has not been sold and settled or deposited into a bank designated by the Taiwan government, a photocopy of the original receipt of the foreign exchange with the amount specified therein

Foreign currency invoices. GUIs must be issued in the domestic currency, the New Taiwan dollar (TWD), with the exception of non-established e-commerce businesses. The foreign currency can be noted as a remark on the GUIs and there is no need to convert the sales amount in foreign currency to TWD on the GUIs.

Supplies to nontaxable persons. A GUI is generally required for all sales of goods and/or services. However, there are special invoicing rules for non-established businesses providing e-commerce services to Taiwanese individuals (B2C).

The foreign e-commerce operators (FECOs) are required to issue eGUIs aforesaid. The tax authority announced that there will be no penalties (up to TWD1 million) imposed for FECOs not issuing cloud GUIs from 1 January 2019 to 31 December 2019. However, there may be penalties for not issuing eGUIs for the period on or after 2020. See the *Penalties for errors* subsection below for further details.

When issuing eGUIs, foreign e-commerce operators can use the business' native language. The transaction date on the eGUI should be recorded in AD (i.e., Anno Domini, e.g., 1 January 2018). This is different for Taiwanese taxable persons, as they list the transaction date in local description method (i.e., 1 January 2018 would be listed as 1 January 107, which is the description method for the Taiwanese year) on the GUI. The unit price, the price and the total amount can be listed using the currency native to the business, but the business should indicate the currency used.

Records. In Taiwan, examples of what records must be held for VAT purposes includes following:
- Any original transaction receipt, such as GUIs and commercial invoices, issued to the customers or itself and received from the suppliers
- Debit and credit notes

- General ledger
- General journal
- When the business is in merchandising sector, an inventory account book is required
- When the business is in manufacturing sector, a raw material account book, a work-in-process account book, a finished good account book and daily production report are required
- When the business is in construction sector, a construction-in-progress account book and construction daily report are required
- When the business is in service sector, the service volume record, e.g., the traveler registered book, the daily list of carriage, etc., is required

In Taiwan, the VAT books and records can be held outside of the jurisdiction. However, if the tax authority asks the taxable person to provide the records, it must provide the records in a timely and integral manner. Therefore, the tax authority would recommend holding the records at the place of business. Meanwhile, certain taxable persons can hold the records electronically after receiving approval from the tax authorities.

Record retention period. All the accounting documents, except for those that must be permanently preserved or those related to unsettled accounting transactions, must be kept for at least five years after the completion of annual closing procedures.

There is no clear definition on "permanently preserved documents" in Taiwan. In practice, the accounting documentation that the taxable person must preserve permanently is based on the taxable person's own business considerations.

All the accounting books, except for those related to unsettled accounting transactions, must be kept for at least 10 years after the completion of annual closing procedures.

Electronic archiving. Electronic archiving is allowed in Taiwan. A taxable person is allowed to maintain its accounting documents, accounting books and financial statements of taxable persons digitally. All abovementioned accounting records can be held electronically or stored via a data storage medium. The record retention period for accounting records via electronic archiving shall be the same as traditional paper archiving as described above. Pre-approval from the tax authority is required for certain industries.

I. Returns and payment

Periodic returns. VAT returns must be filed for two-month periods by the 15th day following the end of the period. It is possible to apply for monthly VAT filings if a taxable person is eligible for zero-rated VAT. VAT returns must be accompanied with all relevant documentation, and excess output tax must be paid to the tax authorities before the returns are filed.

Periodic payments. VAT taxable persons must declare and pay VAT by the 15th day following the end of the period, the same as the return deadline. Taxable persons can submit payment via deposit accounts, credit cards or in person at financial institutions and convenient stores. Payments must be made in TWD.

Electronic filing. Electronic filing is allowed in Taiwan, but not mandatory. However, it has been widely adopted by most taxable persons. Electronic filing is completed via software released by the Ministry of Finance. The software carries out the validation of the input and output tax and subsequently generates the VAT return. The VAT return is then submitted to the Ministry of Finance via the same software.

Payments on account. Payments on account are not required in Taiwan.

Special schemes. *Small businesses.* If a taxable person is qualified as the definition of "small business," the VAT of the taxable person shall be assessed by the tax authority every three months and the VAT return is not required to be submitted to the tax authority.

The term "small business" refers to taxable persons whose monthly average sales amount is TWD200,000 or less. The "small business" category also includes consignees of the agricultural wholesale markets, small business entities selling agricultural products and massage enterprises run by visually impaired persons.

Annual returns. Annual returns are not required in Taiwan.

Supplementary filings. No supplementary filings are required in Taiwan. However, if a taxable person wants to disclose other information outside of the VAT return, it may attach such information along with its VAT return.

Correcting errors in previous returns. The correction of previous returns must be made by submitting necessary documentation to the supervisory tax authority in paper. If there is VAT payable in excess of the previous calculated VAT payable after correction, the VAT payable in excess of the previous amount must be paid along with interests before submitting the correction to the supervisory tax authority.

The documentation below must be provided to the supervisory tax authority for correcting previous returns if the taxable person found errors in previous returns:
- The previous returns before correction
- The previous returns after correction
- The explanation for difference between the previous and the correct return, as well as the calculation form
- Transaction document evidencing the correction made (e.g., commercial invoice, payment receipt, etc.)
- The VAT payment receipt for the VAT amount in excess of the previous amount (if any)

Digital tax administration. There are no transactional reporting requirements in Taiwan.

J. Penalties

Penalties for late registration. Taxable persons registering late for VAT are subject to the greater of the following penalties:
- Penalty of no less than TWD3,000 and no more than TWD30,000, which may be imposed repeatedly if the registration is not filed within the period prescribed by the tax authority
- Penalty of up to five times the amount of tax evaded

For deregistration, taxable persons failing to notify the supervisory tax authority about the cessation of their business would be subject to a penalty for no less than TWD1,500 and no more than TWD15,000. Failure to comply with the rules within the time limit may result in continuous punishment for each violation until compliance is met.

Penalties for late payment and filings. A taxable person that fails to file the sales amount or the detailed list of GUIs used within the prescribed time limit, may be liable to the following penalties:
- If the filing is less than 30 days past due, a surcharge for late filing equal to 1% of the tax payable may be imposed for every two days overdue. The surcharge may not be less than TWD1,200 and not more than TWD12,000.
- If the filing is more than 30 days past due, a surcharge for non-filing equal to 30% of the assessed tax payable may be imposed. The amount of this surcharge may not be less than TWD3,000 and not more than TWD30,000.
- If there is no tax payable, the surcharge for late filing or non-filing shall be TWD1,200 and TWD3,000, respectively.
- If the payment is past due for less than 30 days, a surcharge for late payment equal to 1% of the tax payable may be imposed for every three days overdue up to 10% of the VAT payable. If the payment is past due in excess of 30 days, the case should be referred for compulsory execution with some exceptions.

Penalties for errors. Under the Taiwan tax regime, there is a gray area between errors and fraud. Generally, whether or not a taxable person is intentional or unintentional to avoid its tax obligation is subject to the tax authorities' discretion.

Whether the issue is deemed as an error or fraud is up to the tax authority's discretion. Most penalties are categorized as fraud and not errors.

Whereas a taxable person voluntarily files a supplementary tax return and pays to cover the tax amount failed to pay in the original tax return before any informant's reports or the tax authorities' assessments, the punishments imposed on such tax evasion could be exempted.

If a taxable person were found to have failed to issue GUIs or understated sales amount on GUIs before the statutory period for filing a tax return, in addition to paying the tax calculated on the basis of the understated or omitted sales amount at the prescribed tax rate, the taxable person shall be fined no more than five times the amount of the tax evaded. But the fines shall not exceed TWD1 million.

Moreover, if a profit-seeking entity fails to provide or obtain GUIs to or from others or to keep GUIs as required by the law, upon the verification of the tax authority, a fine equivalent to 5% of the total amount of the relevant GUIs shall be imposed on such entity. But the fines shall not exceed TWD1 million.

Foreign e-commerce operators (FECOs) are required to issue eGUIs. The tax authority announced that there will be no penalties imposed for FECOs not issuing cloud GUIs from 1 January 2019 to 31 December 2019. However, there may be penalties for not issuing eGUIs for the period on or after 2020. If FECOs had not issued eGUIs accordingly, pursuant to the Tax Collection Act, the FECO would be subject to a penalty of 5% on the total amount of relevant GUI. The penalty is limited to TWD1 million. Moreover, if the FECO omits to issue eGUIs (for a transaction or several transactions), according to the VAT Act, in addition to the VAT payable on the omitted revenue, the FECO would be subject to a penalty of up to five times of the tax evaded. The penalty is limited to TWD1 million. For further details, see the subsection *Supplies to nontaxable persons* above.

Where an event simultaneously violates the penalty for behavior sanction and the penalty for VAT shortfall, the heavier penalty between the two shall be imposed.

Late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details would result in a penalty of no less than TWD1,500 and no more than TWD15,000. Failure in compliance with the rules within the time limit may result in continuous punishment for each violation until compliance is met. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A taxable person may be subject to a fine for tax evasion ranging up to five times of the amount of tax evaded and the closure of the business if any of the following circumstances exist:

- A business is conducted without an application for business registration being filed
- The sales amount or detailed list of GUIs used is not submitted and the amount of business tax due is not paid within 30 days after the prescribed deadline
- The sales amount is not reported or is underreported
- The business is conducted after applying for deregistration or after suspension of business by the relevant collection authority
- The amount of input tax is falsely reported
- Business tax is not paid for the purchase of services provided by foreign entities within 30 days after the prescribed deadline
- Tax is evaded in another manner

Generally, a taxable person who evades tax payments by fraud or other unrighteous means shall be sentenced to imprisonment for no more than five years, and is imposed with a fine of no more than TWD10 million. Moreover, if the amount of the evaded tax payments is greater than TWD50 million, the sentence to imprisonment is aggravated for not less than one year but no more than seven years and is imposed with a fine of more than TWD10 million but not more than TWD100 million. Additionally, a person who assists or instigates another person to evade tax payments shall be sentenced to imprisonment for no more than three years and is imposed with a fine of no more than TWD1 million. Whereas a tax official, an attorney, a certified public accountant or any other authorized agent commits an offense by assisting or instigating the taxable person to evade tax payments by fraud or other unrighteous means, the penalty to be imposed on the above enumerated persons shall be increased by up to one half.

Personal liability for company officers. Where a legal representative of a taxable person evades VAT with illegal strategies or by fraud, this representative could be sentenced to imprisonment for no more than five years, detention or in lieu thereof or in addition thereto, be imposed with a fine of no more than TWD60,000.

Statute of limitations. The statute of limitations in Taiwan is five years. However, this can be extended to seven years in cases of fraud, failing to file the returns within the prescribed time frame or tax evasion.

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This chapter refers to mainland Tanzania throughout, not Tanzania Zanzibar.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 July 2015 (effective date of VAT Act, 2014; VAT introduced on 1 July 1998)
Trading bloc membership	Southern African Customs Union (SADC) East African Community (EAC) African Continental Free Trade Area (AfCFTA)
Administered by	Tanzania Revenue Authority (TRA) (www.tra.go.tz)
VAT rates	
Standard	18%
Other	Zero-rated (0%) and exempt
VAT number format	00-111111-A
VAT return periods	Monthly
Thresholds	
Registration	TZS200 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services in Tanzania by a taxable person
- Reverse-charge services received by a taxable person in Tanzania
- The importation of goods from outside Tanzania

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Tanzania, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Tanzania. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Tanzania, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A person that makes supplies of taxable goods and services in Tanzania in the course of furtherance of economic activity is liable for VAT.

VAT registration is required on the attainment of annual turnover of TZS200 million from the supply of taxable goods and services. A taxable person must notify the Tanzania Revenue Authority of its liability to register for VAT within 30 days of becoming liable.

If the business activities of a taxable person change, the taxable person must notify the Commissioner within 14 days after the date of the change.

Exemption from registration. Businesses whose supplies mainly consist of exempt supplies (such as supplying specified agricultural, fisheries, beekeeping and dairy implements, and specific unprocessed agricultural products) are not required to register for VAT, since their turnover will not generally meet the registration threshold. However, a person supplying zero-rate supplies is required to be registered for VAT if the registration threshold is met. Tanzania does not have any provision to exempt such suppliers from registration.

Voluntary registration and small businesses. The VAT law in Tanzania provides for voluntary registration for intending traders who expect to reach the registration threshold in a period of 12 months or half of the registration threshold in a period of six months. Also, irrespective of whether the registration threshold is met, suppliers of professional services are required to be registered for VAT.

Group registration. Group VAT registration is not allowed in Tanzania. All subsidiaries of a group are assessed separately. However, a taxable person with more than one place of business (i.e., branches)/ is able to have a single VAT registration that covers all economic activities undertaken by that taxable person. There is no minimum time period required for the duration of a single VAT registration for branches. There is no joint and several liability for branch registration. A taxable person with branches has a single tax identification number (TIN) and VAT registration. Hence, branches are not treated separately for tax purposes.

Fixed establishment. In Tanzania there is no legal definition of a fixed establishment for VAT purposes. However, the term "fixed place" is mainly used though not defined to establish a place of supply for VAT purposes.

Non-established businesses. A "non-established business" is a business that does not have a fixed place of business in Tanzania. The law requires a person without a fixed place of business to appoint a resident person in Tanzania to act on its behalf in matters relating to VAT (see the *Tax representatives* subsection below). A permanent establishment or branch of a foreign business

must register for VAT if it makes taxable supplies of goods or services. A person importing goods or services from a nonresident must pay the Tanzanian VAT due.

As per the 2022 VAT regulations, a nonresident taxable person who supplies electronic services to an unregistered person (i.e., business-to-consumer [B2C] supplies) in Tanzania who does not appoint a tax representative, regardless of the registration threshold, shall be required to apply for VAT registration as a taxable person to the Commissioner General. The regulations further provide that a person registered under the regulations shall not claim input tax.

Tax representatives. Where a nonresident carries on economic activities in Tanzania without having a fixed place making taxable supplies, the nonresident is required to appoint a resident VAT representative in Tanzania to act on its behalf in matters relating to VAT. Upon acceptance of the VAT representative appointed by the Commissioner, the VAT representative will perform on behalf of the taxable person all activities required under the VAT act 2014, including the following:

- Applying for registration, canceling registration and fulfilling other obligations in relation to registration
- Paying any VAT or fine, penalty or interest imposed on the nonresident

The non-established business must notify the commissioner, in writing, that a VAT representative has been appointed. A resident person who is a VAT representative of more than one non-established business must register separately for VAT with respect to each non-established business.

Reverse charge. The reverse charge is applicable for imported services for supplies made by non-established businesses-to-business (B2B) customers in Tanzania (i.e., the customer is VAT registered in Tanzania). The customer (i.e., the recipient of the service) will be assumed to be the service supplier, and so the input tax will be the same as the output tax for the service imported. The obligation to account for VAT on imported services lies with the person whose taxable supplies are less than 90% of its total supplies.

Domestic reverse charge. There are no domestic charges in Tanzania.

Digital economy. Nonresident providers of electronically supplied services for B2C i.e., private individuals and non-VAT-registered businesses, are required to register and account for VAT in Tanzania. The nonresident provider who does not have a fixed place of business in Tanzania must opt to register as a taxable person or appoint a VAT representative. The VAT registration is done online through a simplified registration procedure accessible at https://taxpayerportal.tra.go.tz/. After a successful registration, a nonresident will be required to file monthly VAT returns through the same portal.

A supply of electronic services by a nonresident person to an unregistered person (B2C) shall be treated as a supply made in Tanzania when the payment proxy includes credit or debit card information and bank account details of the recipient of the electronic services is in Tanzania; or the resident proxy, including the billing or home address or access proxy including internet address, mobile country code of the SIM card of the recipient is in Tanzania.

The definition of "electronic services" has been extended to include online intermediation and online advertisement services.

Nonresident providers of electronically supplied services for B2B are not required to register and account for VAT in Tanzania. The customer is liable to self-account for the VAT via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in Tanzania.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Tanzania.

Registration procedures. If a taxable person's taxable turnover equals or exceeds TZS200 million, a taxable person is obliged to apply for the VAT registration within 30 days of becoming liable to make such an application. A taxable person or anyone that the company appoints can submit the application. The application should be accompanied by the following documents: copies of Memorandum and Article of Association, Certificate of Incorporation, business license, TIN certificate, lease agreement and two passport-size photographs for one of the directors. Complete VAT Application Form No. ITX245.02.E together with a letter demonstrating that registration requirements have been met and submit either the hard copy or electronically within 30 days. Online registration is available at www.tra.go.tz. In practice, however, the registration process is still done manually and the same can be completed within 14 working days, if all the required documents are available.

Deregistration. A taxable person who ceases to be liable for registration must notify the Commissioner in writing within 14 days after ceasing to become liable. If the Commissioner is satisfied with the notice and if the payment of all VAT due is made, the commissioner cancels the registration, effective from the date of the notification.

The Commissioner will cancel the registration if satisfied that the following conditions exist:
- The taxable person is not carrying on an economic activity
- The taxable person has ceased to produce taxable supplies
- The taxable person's taxable turnover falls below the registration threshold

The cancellation of registration shall be effective from the date set out in the notice of cancellation/deregistration.

A taxable person whose registration is canceled must file a final VAT return and pay all taxes due within 30 days after the date of cancellation of registration.

Changes to VAT registration details. A taxable person is required to notify the Commissioner in writing within 14 days of any changes in its VAT registration details. Such changes may include but are not limited to changes on the taxable person's name, business/trading name, address, contact details, places through which the taxable person carries on an economic activity, nature of the economic activities carried on by the taxable person, as well as registration status of the taxable person.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The term "taxable supplies" also refers to imported services, whereby the receiver of the services makes taxable supplies that are less than 90% of its total supplies.

The VAT rates are:
- Standard rate: 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods
- Supplies of goods and supplies of immovable property to an address outside Tanzania
- Exports of taxable services to an address outside Tanzania

- Supplies of goods to a tourist or visitor by a licensed duty-free vendor who holds documentary evidence that the goods have been removed from Tanzania
- Supply of ancillary transport services for goods in transit through mainland Tanzania, where the service is an integral part of the international transport service and in respect of goods stored at the port, airport or a declared customs area for not more than 30 days while awaiting onward transport

A special relief remains in place for taxable persons who entered into a binding agreement relating to exploration and prospecting of minerals, gas or oil with the government of Tanzania before 1 July 2015, the effective date of the VAT Act, 2014.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Agricultural, horticultural or forestry machinery for soil preparation or cultivation, except lawn mower or sports ground rollers and parts
- Agriculture implements (e.g., liquid and powder sprayers, spades, shovels, mattocks, picks, hoes, forks, tractor trailers)
- Agriculture inputs (e.g., fertilizers, pesticides, fungicides, herbicides, rodenticides, fungicides)
- Fishery implements (e.g., nets, vessels, factory ships and other vessels for processing or preserving fishery products)
- Beekeeping implements (e.g., beehives, honey strainers, beehive smokers)
- Crop agricultural insurance
- Dairy equipment (e.g., milking machines, cream separators, milking machines)
- Medicine or pharmaceutical products including food supplements or vitamins supplied to the government entities
- Articles designed for people with special needs (e.g., spectacle lenses, sunscreen for use by albinos)
- Educational materials (e.g., dictionaries, encyclopedias, other printed books, instructional chats, diagrams)
- Health care services (e.g., medical, dental, nursing, convalescent, rehabilitation) provided by an institution approved to provide such services, under the supervision or control of a person who is registered as being qualified to perform the services under Tanzania laws or whose qualifications to perform the services are recognized in Tanzania
- Transportation of persons by any means of conveyance other than taxicab, rental car or boat
- Petroleum products and equipment for natural gas (e.g., petrol, diesel, kerosene, compressed natural gas (CNG) plants equipment, natural gas pipes, transportation and distribution pipes)
- Intermediary services (e.g., financial services supplied free of charge, insurance premiums for aircraft)
- Import of goods by a registered and licensed explorer or prospector for exclusive use in oil, gas or mineral exploration or prospection activities, if also relieved from customs duties
- Educational services
- Immovable property (e.g., sale of vacant land)
- Tobacco not stemmed or stripped
- Preparations of a kind used in animal feeding
- Fertilized eggs for incubation
- A motor vehicle designed for use by persons with disability
- Importation of an ambulance by a registered health facility other than a pharmacy, health laboratory or diagnostic center
- Financial services for which no consideration is charged
- Raw materials (benzalkonium chloride and Glutaraldehyde) of HS code 2916.32.00 for the manufacture of insecticides and acaricides that have been approved by the relevant Minister
- A house sold by a real estate developer at a value not exceeding TZS50 million

- Precious metals, gemstones and other precious stones at refineries, buying stations or mineral and gem houses designated by the mining commission
- Double refined edible oil from locally grown seeds by a local manufacturer until 30 June 2024
- Automobile accessories used to convert a motor vehicle fuel system to natural gas or electricity system to persons engaged in the conversion of such motor vehicles
- Moulds imported by a local manufacturer of pharmaceuticals for exclusive use in manufacturing pharmaceutical products in mainland Tanzania
- Aircraft, aircraft engines, aircraft parts and aircraft maintenance to a local operator of air transportation

In addition to the above list, certain VAT exemptions may be available upon application to the tax authority on the following supplies:

- Importation of raw materials to be used solely in manufacture of long-lasting mosquito nets
- Importation by or supply to a government entity of goods or services to be used solely for implementation of a project funded by the government; or funded by a concessional loan, a non-oncessional loan or a grant through an agreement between the government of Tanzania and another government, donor or lender of a concessional loan or a non-concessional loan; or funded by a grant agreement duly approved by the Minister for Finance entered between a local government authority and a donor, provided such agreement provides for VAT exemption on goods or services
- Importation or supply of goods or services for the relief of natural calamity or disaster
- Importation by or supply of goods or services to an entity having an agreement with the government of Tanzania for the purpose of operating or executing a strategic project, provided such agreement provides for VAT exemption on goods or services
- Importation by or supply of goods by a nongovernmental organization having an agreement with the government of Tanzania solely for a project implemented by the respective nongovernmental organization, provided such agreement provides for VAT exemption on goods or services
- An entity having an agreement with the government of Tanzania for the purpose of operating or executing a strategic project.

Local manufacturers of packaging materials of pharmaceutical products or engaged in poultry farming in mainland Tanzania and have performance agreements with the government may also apply for a VAT exemption on the following:

- Raw materials of polymers of propylene or of other olefins, in primary forms (HS code 39.02) and polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins, polyallyl esters and other polyesters, in primary forms (HS code 39.07) to be used solely in the manufacturing of packaging materials for pharmaceutical products
- Prefabricated structures or supply of locally manufactured prefabricated structures (HS code 9406.20.90) to be used solely in poultry farming

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Tanzania.

E. Time of supply

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

- The time when the invoice for the supply is issued by the supplier
- The time when the consideration for the supply is received in whole or in part
- The time of supply, which is one of the following:
  - The time at which the goods are delivered or made available.
  - The time at which the services are rendered, provided or performed.
  - The time at which the immovable property is "created, transferred, assigned, granted, supplied to the customer" or "delivered or made available," whichever is earliest.

Deposits and prepayments. There are no special time of supply rules in Tanzania for deposits and prepayments. As such, the general time of supply rules apply (as outlined above). However, VAT on a taxable supply for which a deposit or prepayment has been made becomes payable when the deposit or prepayment is made.

Continuous supplies of services. For supplies of continuous supplies of services each periodic or progressive supply is treated as a separate supply for determination of the VAT amount.

Goods sent on approval for sale or return. For supplies of goods sent on approval for sale or return, goods are considered to be supplied at the time when they are delivered or made available.

Reverse-charge services. The time of supply for services is the time when the services are rendered, provided or performed.

Leased assets. The time of supply for supply of leased assets is the earlier of when the property is transferred or made available to the customer.

Imported goods. VAT on imported goods is charged and payable when the custom duty, tax or levy is payable in accordance with the customs law. VAT on imports of capital goods may be deferred.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Tanzania is six months. Taxable persons must claim input tax within six months from the date of the fiscal receipt.

Input tax credit is only available where the goods or services in which the input tax was incurred, were acquired or imported into mainland Tanzania by a person in the course of economic activity and for the purpose of making taxable supplies.

Input tax includes VAT charged on goods and services purchased in Tanzania and VAT paid on imports of goods and services for which input tax is deductible.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by a taxable person). In addition, input tax may not be recovered with respect to certain business expenses.

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

Examples of items for which input tax is nondeductible

- Purchase of a passenger vehicle or of spare parts, repair services or maintenance services for a passenger vehicle, unless the person's economic activity involves hiring out or providing transport services in passenger vehicles (with seating capacity of more than 16 persons) and the vehicle was hired for that purpose
- Business entertainment unless involved in the ordinary course of the person's economic activity
- Membership or right of entry for any person in a club, association or society of a sporting, social or recreational nature

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchases of goods for furtherance of economic activity
- Payments for services, such as audit fees

- Advertising
- Consultancy fees
- Accommodation

Partial exemption. A supplier of both taxable and exempt supplies is required to apportion input tax incurred in respect of supplies made by them. A taxable person may claim the whole of input tax directly attributable to taxable supplies but is not allowed to claim input tax directly attributable to exempt supplies.

VAT directly related to making exempt supplies is not recoverable. A taxable person that makes both exempt and taxable supplies cannot recover input tax in full. This situation is referred to as "partial exemption."

Under the Tanzanian VAT law, there is only one method for calculating the amount of credit recoverable for input tax purposes if a taxable person supplies both taxable and exempt goods, services or immovable property.

The following are the bases of recovery of input tax:
- If taxable supplies are greater than 90% of total supplies, credit is allowed for all the input tax
- If taxable supplies are less than 10% of total supplies, credit is not allowed for any of the input tax
- In all other cases, there will be partial recovery of the input tax

Approval from the tax authorities is not required to use the partial exemption standard method in Tanzania. Special methods are not allowed in Tanzania.

Capital goods. Capital goods are defined in Tanzania to mean goods classifiable under Chapters 84, 85 and 90 of Annex 1 to the protocol on the establishment of the East African Community Customs Union provided they are not imported for the purpose of resale in the ordinary course of carrying on the person's economic activity.

Input tax credit for capital goods is only allowed where a person incurs input tax on capital goods for purposes of making taxable supplies only. Input tax incurred for purposes of making exempt supplies is not recoverable.

Where a person incurs input tax on capital goods partly for the purpose of making taxable supplies (that is input tax incurred for the purpose of making both taxable and exempt supplies), a person will be required to apportion the part of the input tax that relates to taxable supplies in accordance with the formula provided under the law and claim the credit thereof. The claim for input tax credit is available within six months from the date of the fiscal receipt.

Where capital goods are imported or locally produced, a taxable person may apply for VAT deferment, provided that the VAT payable on each unit of the capital goods should be at least TZS10 million. Once the application is approved, VAT on imported capital goods will not be payable. Unless revoked, the deferment lasts for the period of 10 years from the date of approval. Capital goods for which the VAT deferment may be applied are goods classifiable under Chapters 84, 85 and 90 of Annex 1 to the Protocol on the Establishment of the East African Community Customs Union. VAT deferment on imported capital goods shall cease to apply from 30 June 2026.

The basis for input tax calculation for local supplies shall be the cost of the supply while for imports the base is the sum of costs, insurance, freight, import duty and other duties charged on importation (such as railway development levy and customs processing fee).

Refunds. A taxable person may claim a refund where the excess of input tax over output tax has been carried forward for more than six months and is no less than TZS100,000. The Commissioner-General of the Tanzania Revenue Authority must make a written refund decision within 90 days after the filing of a VAT refund claim. The refund decision shall state the amount of

refund allowed and the period during which the refund shall be made. If excess credits arise in successive periods, the taxable person may apply to the commissioner for refunds to be made monthly.

Each VAT refund claim filed with the commissioner must be approved and supported by a certificate of genuineness issued by an auditor registered with the National Board of Accountants and Auditors (NBAA).

Repayments are made if the taxable person qualifies for a refund and has filed all VAT returns. The filing of VAT refund claims can be made within a period of three years after the VAT return is submitted.

Nonprofit organizations are no longer eligible to obtain a refund of input tax credit incurred on the acquisition or importation of taxable goods and services.

Pre-registration costs. A decreasing adjustment is allowed for input tax incurred on goods possessed by a taxable person that were purchased or imported within six months before registration. The goods must have been acquired in the course of economic activity and for the purpose of resale.

The Commissioner must be notified in writing about the adjustment and the taxable person must make the decreasing adjustment in any of the first three tax periods after registration.

Bad debts. Where all or part of the amount payable to the supplier for a taxable supply has been overdue for more than 18 months and the supplier has, in its books of account, written off the amount unpaid as a bad debt, the supplier shall be allowed a decreasing adjustment equal to the amount that remains unpaid after the tax period.

For a decreasing adjustment to be applicable, both conditions must be met that the amount unpaid must be overdue for more than 18 months and the supplier must have written off the amount from the books of account.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Tanzania.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Tanzania is not recoverable.

H. Invoicing

VAT invoices. A supplier of taxable goods and services must issue a fiscal receipt to the purchaser at the time of supply.

A fiscal receipt (i.e., issued through an electronic fiscal device purchased from a supplier designated by the Commissioner), must indicate the date, details of the supplier [i.e., name, address, taxable person identification number (TIN), VAT registration number (VRN)], description of services or goods supplied, consideration payable, and it must include the details of the buyer (i.e., name, address, TIN and VRN). It must also contain features (barcodes) that will enable automatic verification by the electronic financial data management system.

Periodic statements. Financial service providers are required to issue periodic statements to their customers for supplies made each month. The periodic statement must be issued within 10 days following the end of the month to which the tax period relates. The periodic statements are treated as tax invoices.

A periodic statement that is short of the requirements must not be used to support a claim for input tax or any refund claim.

Credit notes. Credit notes and adjustment notes may be used to reduce the VAT charged on supplies of goods or services. Adjustment notes must show the same information as fiscal receipts and the nature of or reason for the adjustment.

Electronic invoicing. Electronic invoicing is mandatory in Tanzania for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory in Tanzania. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Tanzania.

There are no specified rules with regards to electronic invoicing or managing digital copies of invoices. All VAT-registered taxable persons are required to issue fiscal receipts generated by an electronic fiscal device for the supply made. In substance, fiscal receipts are considered as electronic invoicing. Invoices are automatically verified by the tax authority through the electronic financial data management system. Suppliers are obliged to use fiscal machines that are capable of issuing invoices that can be automatically verified by the TRA system.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Tanzania. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Tanzania.

Proof of exports. Goods exported from Tanzania are zero-rated. However, to qualify for zero rating, exports must be supported by evidence that proves the goods left Tanzania. Suitable evidence includes the following documents:
- A sales invoice
- A bill of lading, road manifest or airway bill
- Export permit
- In addition to the above, any other evidence requested by the commissioner

Foreign currency invoices. Foreign currency invoices are treated in the same manner as invoices in the domestic currency, which is the Tanzanian shilling (TZS). The tax authorities do not require the use of a standard exchange rate to convert the value of foreign invoices into TZS. In practice, the tax authorities accept the rate used by the taxable person if the rate is within the range of prevailing market exchange rates or if the exchange rate is provided by the Central Bank of Tanzania.

Supplies to nontaxable persons. It is a mandatory obligation for suppliers to use an electronic fiscal device to issue invoices (i.e., fiscal receipts) for all supplies made irrespective of whether the customer is a taxable person or not. Noncompliance with the requirement to issue invoices through an electronic fiscal device is subject to penalties.

Records. In Tanzania, examples of what records must be held for VAT purposes include records of all accounts, documents, tax returns, as well as other records that are required to be maintained under other tax laws, including but not limited to:
- Tax invoices and adjustment notes issued and received by the person
- Customs documentation relating to imports and exports of goods by the person
- Records relating to supplies of imported services to the person, whether or not those supplies were taxable supplies
- A VAT account that records, for each tax period, all the output tax payable by the person in that period, or the input tax credit the person is allowed in that period, and all the increasing and decreasing adjustments that the person is required or entitled to make in that period
- Records showing the deposit of amounts paid to the Commissioner General under the VAT Act

In Tanzania, VAT books and records can be held outside the country. There are no restrictions as to the location where a taxable person can keep and maintain records. Documents can be main-

tained outside or inside Tanzania, provided they can easily be accessible once requested by the TRA. However, the Finance Act 2021 outlined that every taxable or liable person that maintains documents in electronic form must maintain a primary data server in Tanzania. A "primary data server" is defined to mean a physical, virtual or any other server that stores data created or collected by a taxable or liable person in the ordinary course of business. The abovementioned server must be accessible by the Commissioner General for the purpose of tax administration in the manner and time prescribed under the Tax Administration Act 2015. This requirement is due to take effect from 1 January 2024.

Record retention period. A taxable person is required to maintain documents for a period of at least five years from the end of the tax period to which they relate; or until a later date on which the final decision is made in any audit, recovery proceedings, dispute, prosecution or other proceedings under the VAT Act relating to that tax period.

Electronic archiving. Electronic archiving is allowed in Tanzania. The records can be archived in whichever method that is convenient to the business, either electronically or paper. There is no limitation on the methods of document retention.

I. Returns and payment

Periodic returns. The VAT period is one month. Returns must be filed by the 20th day of the month following the end of the tax period. If the 20th day falls on a public holiday or a weekend, the VAT return must be submitted on the next working day after that day.

A nil return must be filed regardless of whether there is VAT payable or not.

An electronic document is considered filed by a person and received by the commissioner when a document registration number is created using the person's authentication code.

Periodic payments. Payment of VAT is due in full on the same date as the submission, i.e., by the 20th day of the month following the end of the tax period. Payments are made online through a TRA taxpayer portal.

Electronic filing. Electronic filing is mandatory in Tanzania for all taxable persons. Taxable persons are required to file monthly VAT returns by using the TRA taxpayer portal. Daily reports (z-reports) are filed electronically to record all transactions.

There is a VAT e-filing system in place that simplifies the VAT filing process. The system among others, allows amendments of minor errors during filing and it also accommodates for input tax apportionment for taxable persons making both exempt and taxable supplies.

Payments on account. Payments on account are not required in Tanzania.

Special schemes. No special schemes are available in Tanzania.

Annual returns. Annual returns are not required in Tanzania.

Supplementary filings. No supplementary filings are required in Tanzania. However, a supplier of financial services is required to issue periodic statements to customers that shall be deemed to be tax invoices. The periodic statement must be issued within 10 days following the end of the month to which the tax period relates.

Correcting errors in previous returns. A taxable person may apply to the Commissioner to correct genuine omissions or incorrect declarations made in VAT returns. The application must be made within three years after the end of the relevant tax period. Correction of minor errors where the VAT amount does not exceed TZS1 million is through making an increasing or decreasing adjustment in the VAT return for the tax period in which the error is discovered.

Digital tax administration. *Daily reports.* Daily reports (z-reports) issued by an electronic fiscal device) are submitted electronically to the TRA to record all transactions. The are no exemptions as to issuance of daily z-reports. All taxable persons with an electronic machine for issuance of tax invoices are required to issue daily z-reports to capture all sales made during a particular day. The reports are to be issued even on days where no sales are made, except for weekends and public holidays. In addition, the reports are electronically submitted to TRA using the electronic machine by keying certain functions on the machine.

J. Penalties

Penalties for late registration. Traders that meet the registration threshold but do not register are liable for a fine of from 100 to 200 currency points (one currency point equals TZS15,000) where failure is made knowingly or recklessly, and a fine of from 50 to 100 currency points in any other case.

Notwithstanding any penalties imposed for late registration, a person is liable to pay interest on the VAT due. In addition, serious failures may lead to criminal proceedings that could result in a custodial sentence.

A taxable person who ceases to be liable for registration must notify the Commissioner in writing within 14 days after ceasing to become liable. Failure to make such notification, where such failure is made knowingly and recklessly punishable by a fine of 100 to 200 currency points.

Penalties for late payment and filings. The late filing of a VAT return or failure to pay tax by the due date is subject to a penalty of 2.5% of the amount of tax assessable with respect to the tax return less tax paid by the start of the period or 15 currency points, whichever is higher. The penalty is payable for each month or partial month for which the failure continues.

Penalties for errors. A person is liable for penalty upon making a false or misleading statement. The penalty is where the statement or omission is made without reasonable excuse, 50% of the tax shortfall or where the statement or omission is made knowingly or recklessly, 75% of the tax shortfall.

In case of second or subsequent errors or omission, the penalty will be increased by 10%. Where a taxable person makes a voluntary disclosure, a penalty will be reduced by 10%.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may attract a penalty. Where such failure is made knowingly and recklessly, the same is punishable by a fine of 100 to 200 currency points. In any other case, the penalty ranges from 50 to 100 currency points. Serious failures may lead to criminal proceedings that could result in a custodial sentence. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. The penalties for fraud are the same as those for penalties for errors, as outlined above.

Personal liability for company officers. A manager of an entity or a person who was a manager of an entity at the time an entity fails to pay tax due, shall only be jointly and severally liable with the entity in instances of fraud as proven in a court of law. Previously, a manager was not liable if they exercised a degree of care, diligence and skill to prevent the failure to pay the tax due.

A manager includes a director, persons who participate in senior management decisions of the entity, partner, trustee, as well as any other person whose directions and instructions affects an entity.

Statute of limitations. The statute of limitations in Tanzania is five years. The time limit for the tax authority to review a taxable person's information and issue a tax assessment is five years

from the due date of filing the tax return. However, the law allows the tax authority to go beyond the five-year limit in cases of fraud, neglect or omission by the taxable person. A taxable person may, no later than three years after the end of the calendar month to which a return relates, request the Commissioner General to amend the return for purposes of correcting any genuine omissions, errors or incorrect declarations made in the return.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	ภาษีมูลค่าเพิ่ม
Date introduced	1 January 1992
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	Thai Revenue Department (http://www.rd.go.th)
VAT rates	
Standard	7%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (TIN)
VAT return periods	Monthly
Thresholds	
Registration	THB1.8 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services consumed in Thailand by a taxable person
- The importation of goods or services into Thailand
- The export of goods or services out of Thailand

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Thailand, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Thailand. As such, VAT applies to all sales of a business or part of a business capable of separate operation, including assets. However, the transfer of business in Thailand could be exempted from VAT, provided that such transfer of business is qualified for the entire business transfer scheme (EBT) or partial business transfer scheme (PBT).

Transactions between related parties. For both related parties' and non-related parties' sale and service transactions, the value of the goods or the services must not be lower than the market price or without consideration unless there is a justifiable ground for such value. Otherwise, the tax authorities are empowered to uplift the selling/service price to be at the market value as of the transaction date.

C. Who is liable

A taxable person is any entity or person that falls into any of the following categories:
- A seller of goods in the course of a business or profession in Thailand
- A provider of services in the course of a business or profession in Thailand
- An importer of goods and services
- Any person deemed by the law to be a trader, such as a local agent of an overseas corporation that sells goods or provides services in Thailand

Exemption from registration. A small business operator can be exempted from VAT registration if its taxable revenue per annum does not meet the VAT registration threshold.

Voluntary registration and small businesses. A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold (annual revenue of THB1.8 million). A business may also register for VAT voluntarily in advance of making taxable supplies.

Group registration. Group VAT registration is not allowed in Thailand.

Fixed establishment. In Thailand, there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. To register for VAT in Thailand, the non-established business must be engaged in VAT taxable activities in Thailand via a local agent or representative and have a fixed place of business in Thailand.

A non-established business cannot register for VAT simply to claim input tax if it does not have any activities that generate income in Thailand.

Tax representatives. Tax representatives are not required in Thailand.

Reverse charge. If an overseas service provider or supplier of goods temporarily carries on a business in Thailand but is not registered for VAT in Thailand or if such person provides services overseas for use in Thailand to a payer of service fees in Thailand, the customer for the goods or services in Thailand must self-assess the VAT due and remit it to the tax authorities. Payment must be made by the seventh day of the month following the month of the payment of the income. If the customer for the goods or services is registered for VAT in Thailand, it may recover the VAT paid by crediting it against the output tax.

Domestic reverse charge. There are no domestic reverse charges in Thailand.

Digital economy. For local business operators in Thailand, the VAT operator who provides the digital services in Thailand is liable to charge VAT on the chargeable services fee. It is considered as a general provision of services where the VAT liability will be triggered upon the receipt of the fee payment unless the tax invoice is issued earlier.

For e-commerce business, the sale of goods via an online platform by the VAT operator is considered as a general sale of goods, where the VAT liability is triggered upon the delivery of goods, receipt of payment, transfer of ownership or issuance of tax invoice, whichever happens earlier.

For nonresident providers of electronically supplied services for business-to-business (B2B) supplies, the business customer in Thailand would be expected to self-assess for VAT for purchases of digital services provided by an overseas business (by way of the reverse-charge mechanism). The customer will need to lodge a separate self-assessment return together with the remittance of the VAT payable by the seventh day for paper filing or the 15th day for e-filing of the following month that the payment is made. The customer (who is VAT registered) is entitled to include the self-assessed VAT remitted as its input tax in computing VAT. The customer is entitled to treat it as input tax in the tax month that the VAT remittance form was filed with receipt obtained from the revenue department, provided that the service payments are related to the taxable business and not prohibited under Thai tax law.

For nonresident providers of electronically supplied services for business-to-consumer (B2C) supplies, the VAT rules are as follows:

- Nonresident e-business operators that provide electronic services to non-VAT operators in Thailand are required to register with the tax authorities to pay Thai VAT and to file VAT returns
- In cases where nonresident e-business operators provide electronic services via an electronic platform operated by another party delivering a continuous service process, from offering the service to payment and to delivery, the platform operator is obliged to pay the VAT on behalf of the foreign e-business operators that use the platform, assuming the duties and responsibilities of the foreign e-business operators
- "Electronic services" are defined as services, including intangible assets, that are automatically transmitted via the internet or other electronic network and that could not be rendered without such technology (e.g., digital music, software programs.), while "electronic platform" is defined as any channel used by numerous operators to provide electronic services to their service recipients. Examples of "electronic services" covered by the new rules include online games, mobile application services and online advertising services
- The VAT registration threshold for foreign e-business operators is the same as for local operators, i.e., THB1.8 million (approx. USD55,000) per annum
- For VAT computation purposes, foreign e-business operators are not allowed to claim any input tax
- Nonresident suppliers may apply for VAT registration via the tax authorities' website (http://www.rd.go.th)

Imported goods are considered as the physical goods that could be delivered to the customer without the usage of the electronic network. Thus, the above rules regarding e-services do not apply to imported goods.

There are no other specific e-commerce rules for imported goods in Thailand.

Online marketplaces and platforms. As outlined above, foreign businesses who provide electronic services to non-VAT registrants in Thailand, for use of the services in Thailand, will be required to register and pay VAT to the tax authorities, if annual service income from non-VAT-registered customers exceeds THB1.8 million (approx. USD55,000).

Non-Thai e-platform operators who act as intermediaries for multiple non-Thai e-service providers are also required to register for Thai VAT, but only if they:

- Offer a complete suite of e-services, from presentation to delivery to payment collection
- Receive payment for e-services
- Deliver the e-services on behalf of nonresident e-service providers

If any of these three criteria are not met, an e-platform operator is not required to register as such for VAT purposes. This means that, for example, some online gaming platforms do not need to register, as they may either not collect payment nor deliver services to the end users and therefore do not meet criteria (ii) or (iii), respectively. However, digital platform operators who do not meet all these criteria still need to consider whether they should register as non-Thai e-service providers.

Not every nonresident e-service provider and e-platform operator will be affected. Some e-services are excluded, including telecommunications or live teaching services and sales of e-books or e-magazines. The examples given by the tax authorities are not exhaustive, however, and certain online service providers will need to seek specific advice to ensure they are excluded.

Moreover, only those with income of more than THB1.8 million annually (approx. USD55,000) from providing e-services to non-VAT registrant customers in Thailand will be required to register for VAT, file monthly VAT returns and pay VAT. And unlike Thai-based operators, nonresident operators are neither required to issue a tax invoice to Thai customers nor keep an input tax report.

Registration procedures. VAT registration must be made within 30 days after revenue exceeds THB1.8 million or before the commencement of business. An overseas trader is eligible to register for VAT only if it will do business in Thailand for at least one year or at least three months if engaged in a government project funded by a foreign loan or foreign aid.

The application for VAT registration can be submitted in hard copy to the respective area revenue office or online via the tax authorities' website. The application package must include the corporation documents, office rental agreement, etc.

For a hard copy submission, the registration application and required supporting documents must be submitted to the area revenue office where the business is located. In the case where the taxable person has several branches, the registration application must be submitted to the revenue office where the head office is located. If all required documents are fully submitted, the VAT registration should be approved on the same day.

For an online VAT registration, the applicant, which already has a tax identification number, can submit its application via the tax authorities' website (www.rd.go.th) 24 hours a day. The supporting documents are not required to be uploaded via the website at the time of registration, but the tax official will visit the applicant's registered office to inspect all supporting documents prior to approving the VAT registration. The result of the registration application will be sent by email to the applicant within 15 days of the submission date.

Deregistration. A business that ceases operations must cancel its VAT registration by deregistering with the tax authorities within 15 days after the date of ceasing operations. Failure to do so subjects the taxable person to a fine not exceeding THB5,000.

Changes to VAT registration details. The changes to VAT registration (such as increase or decrease of branch, relocation, transfer or acquire of business, etc.) are required to be notified to the tax authorities within 15 days before or after such a change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 7%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero-rate or an exemption.

At the time of preparing this chapter, the 7% VAT rate will be applied for sales of goods, provisions of services and imports of goods until 30 September 2024, unless an extension is announced.

Examples of goods and services taxable at 0%

- Export of goods to foreign countries and customs free zone in Thailand
- Export of services, i.e., services performed in Thailand must be used in a foreign country, such as R&D that results in services used in foreign country. If the services are partially used in Thailand, the part of the services used in Thailand (if can be segregated) is subject to VAT at a rate of 7%
- International transport services by aircraft or seagoing vessels
- Sale of goods and provision of services to United Nations Organization, an embassy, legation, consulate-general or consulate
- Sale of goods and provision of service between bonded warehouse and the other bonded warehouse between the supplier who carries on the business in free zone

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Sale of agriculture products, animals and animal products (except canned foods)
- Sales of fertilizers, drugs or chemicals for caring for plants or animals and insecticides or pesticides for plants or animals
- Sales of ground fishmeal and animal feeds
- Sales of newspapers, periodicals and textbooks
- Rendering of services in the fields of medicine, auditing or litigation
- Hospital services
- Domestic transportation of all types and international transportation by land
- Leasing of immovable property
- Business subject to specific business tax (SBT)

Option to tax for exempt supplies. Operators of the following VAT exempted businesses are entitled to register for VAT:

- Sale of goods not for export or provision of services as follows:
  - Sale of agricultural products
  - Sale of animals
  - Sale fertilizers
  - Sale of fish meals, animal feeds
  - Sale of drugs and chemical products for plants and animals
  - Sale of newspapers, magazines or textbooks
- Provision of domestic transport by aircraft
- Export of goods as the trader in the export processing zone under the laws governing industrial estate of Thailand
- Provision of the service of transporting fuel oils through pipes in Thailand
- Business with the value of tax base not exceeding the value of the tax base for a small business fixed by Royal Decree

E. Time of supply

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

The tax point for the supply of goods is the time of delivery unless one of the following events occurs earlier:
- Ownership transfer
- Receipt of the payment
- Issuance of the tax invoice

The tax point for the supply of services is the receipt of the payment unless one of the following events occurs earlier:
- Issuance of the tax invoice
- In the case of services provided without charge, the use of the services by the service provider or the other recipient persons

Deposits and prepayments. The time of supply rule for deposits and prepayments (for both goods and services) is the time of receipt of the payment.

Continuous supplies of services. There are no special time of supply rules in Thailand for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. There are no special time of supply rules in Thailand for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. The tax point for supplies of reverse-charge services is by the seventh day of the following month that the payment is made. If the customer for the goods or services is registered for VAT in Thailand, it may recover the VAT paid by crediting it against the output tax.

Leased assets. The tax point for the supply of leased assets will be triggered upon receipt of rental fee or issuance of tax invoice, whichever happens earlier.

Imported goods. For the importation of goods from a seller located outside of Thailand or customs-free zone area, the importer must pay the VAT due to the customs authority, which collects the VAT on behalf of the tax authority at the time of importation.

The tax point for the import of goods is the time of importation, which is the time of customs clearance.

The tax point for the export of goods is the time of payment of export duty or, if the goods are exempt from customs, the date on which the goods clear customs.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Thailand, VAT paid on imports of goods into Thailand and VAT self-assessed on reverse-charge services.

Input tax should be recovered within the month it was incurred. However, if the input tax is not recovered in the month it was incurred, it can be recovered via the monthly VAT returns within six months following the month it was incurred. In addition, the cash refund can be requested within three years as from the date of the issuance of the tax invoice.

For the input tax to be recoverable within a period of six months, the taxable person is allowed to claim and use such input tax as a tax credit in the VAT computation within six months as from the following month that the tax invoice was issued.

However, if such input tax is not recovered within six months, the taxable person is not entitled to use such input tax as the tax credit for VAT computation. However, the taxable person is still able to request for the VAT cash refund within three years after the tax invoice was issued.

Note that the time the invoice is issued and the time the VAT was incurred is the same date. This is because under Thai VAT rules, when the tax liability for the sale of goods/provision of services is triggered (e.g., the delivery of goods, receipt of payment, issuance of the tax invoice, etc.), the taxable person is required to issue the tax invoice to the customer immediately when the tax liability is triggered. However, the input tax from such transaction will be incurred at the issuance date of the tax invoice. Hence, the two scenarios are the same scenario.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure as prescribed under the Thai VAT law.

Examples of items for which input tax is nondeductible

- Entertainment expenses or similar expenses
- Passenger cars (except for car sales or rental business)
- Goods or services relating to passenger cars such as gasoline and repairs (except for car sales or rental business)
- Construction of buildings sold or used for a non-VAT business within three years after completion

In addition, the following input tax is not recoverable:

- Input tax arising from certain types of business activities that are not subject to VAT
- Input tax shown on an abbreviated tax invoice or a tax invoice that bears signs of correction or alteration of the particulars required by law
- Input tax not substantiated by a tax invoice
- Input tax recorded in an incomplete tax invoice
- Input tax shown on a tax invoice issued by a person not authorized to do so

Examples of items for which input tax is deductible (if related to a taxable business use)

Generally, input tax that is attributable on expenses related to the taxable business activities is deductible for VAT computation:

- Input tax on purchase of raw materials
- Input tax on purchase of capital assets
- Input tax on purchase of goods for resale
- Input tax on royalty payment
- Input tax on sale and marketing expenses
- Import VAT paid to customs department for import of goods into Thailand
- Self-assessed VAT paid to the tax authorities via the reverse-charge mechanism

Partial exemption. A taxable person who carries on both taxable and nontaxable activities is required to apportion the input tax attributable on common expenses (i.e., expenses incurred for the benefit of both taxable and nontaxable activities) in accordance with the proportion of the revenues of each category of business.

The apportionment basis must comply with the rules, procedure and conditions as prescribed under Thai VAT laws.

Approval from the tax authorities is not required to use the partial exemption standard method in Thailand. Special methods are not allowed in Thailand.

Capital goods. Input tax on the purchase of the capital goods that are used in taxable business activities, can be fully claimed. Normal input tax rules apply.

Refunds. The VAT refund can be made within three years from the last day of filing date. The request for a VAT refund shall be filed in the form prescribed by the tax authorities at the area revenue office where the place of the business is located. In case the taxable person has several places of business, the request of the VAT refund must be filed at each place of business, unless the taxable person has approval for joint filing from the tax authorities.

Pre-registration costs. Input tax incurred on pre-registration costs in Thailand is not recoverable.

Bad debts. The taxable person carrying on the business of selling goods or provision of services who has issued a tax invoice and has included an output tax in the VAT computation is entitled to deduct the output tax computing from a portion of bad debts from an output tax in the tax month that the bad debts were written off, if it meets the following conditions:

- Debt must arise from the sale of goods or the provision of service to nontaxable person
- The full tax invoice for such sale of goods or provision of service is issued
- The legal prescription of the bad debt is not expired and there is substantial evidence to file a lawsuit
- The legal procedure prescribed under Thai VAT laws has been complied

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Thailand.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Thailand is not recoverable.

H. Invoicing

VAT invoices. A Thai taxable person is required to issue a tax invoice for all taxable supplies made, including exports. A tax invoice is necessary to support a claim for input tax deduction or a refund.

Credit notes. A tax credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect the reasons for its issuance as allowed by the VAT law. The credit note must be cross-referenced to the original tax invoice and must contain the required information as prescribed under the Thai VAT law.

Electronic invoicing. Electronic invoicing is allowed in Thailand, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Thailand. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Thailand. The requirements related to electronic invoicing are the same as those for paper invoicing.

Upon the approval of the tax authorities, an authorized taxable person can issue such electronic tax invoices to all sale and service transactions including B2G, B2B and B2C. A normal taxable person can only issue electronic tax invoices if it is approved by the tax authorities. Basically, the taxable person must have a good internal control system and reliable process to prove that the electronic tax invoices will contain the same accurate details when they are created and have the electronic certificate from the registered service provider and one digital signature.

The electronic tax invoice could be maintained in an electronic copy for the inspection of the tax authorities. Without the approval to issue electronic tax invoices, the taxable person is liable to issue the tax invoice in hard copy and deliver such tax invoice to its customers when the VAT is triggered and maintain the copy of the tax invoice in hard copy for the inspection of the tax authorities.

Electronic tax invoices should include the same information/particulars as traditional paper tax invoices required by Thai VAT laws, and the electronic signature (under the electronic certificate issued by the certification authority) must be affixed in such tax invoices each time before sending to the customer. Importantly, the electronic certificate used for generating such electronic signature must still be valid and cannot be expired at the time of creation such electronic signature.

Similar to hard-copied tax invoices, the electronic tax invoices must be issued at the time when the VAT liability for the sale of goods or the provision of services is triggered (as outlined above under *Section E. Time of supply*).

In addition, a taxable person can appoint a registered service provider to issue electronic tax invoices on behalf of a taxable person, provided that the name, address, tax identification number and electronic signature of such agent/registered service provider is specified in the electronic tax invoices.

The taxable person, authorized agent or registered service provider is required to submit the electronic tax invoices information to the tax authorities via the tax authorities' electronic system by the 15th of the following month.

At the time of preparing this chapter, the tax authorities in mid-2023 outlined their vision to encourage the "Thailand Digital Tax Ecosystem" and aim to have 100% electronic tax invoices in place for all taxable persons by 2028. No further updates have been released.

Simplified VAT invoices. A taxable person who carries on a retail business is entitled to issue simplified tax invoices if such business meets the following conditions:
- The sale is made directly to customer without intention of resale
- The service is provided in small transaction to a large number of persons

Self-billing. Self-billing is not allowed in Thailand.

Proof of exports. An export of goods may be eligible for the zero rate of VAT if the goods are physically exported and if the export is supported by evidence confirming the departure of the goods from Thailand. The evidence required includes the following documents:
- Customs documentation
- Original invoice

Foreign currency invoices. Tax invoices must be issued in local Thai currency, Thai baht (THB). However, tax invoices can be issued in a foreign currency if approval has been obtained from the tax authorities. The exchange rate applied must be presented on the tax invoice.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable person in Thailand. As such, full VAT invoices are required.

Records. In Thailand, examples of what records must be held for VAT purposes include VAT reports, tax invoices, evidence for payments and receipts, and the supporting documents.

In Thailand, VAT books and records can be held outside of the jurisdiction. However, this is only allowed subject to the approval of the tax authorities. In general, records must be held at the place of business in Thailand.

Record retention period. All records must be kept for at least five years.

Electronic archiving. Electronic archiving is allowed in Thailand with the approval from the tax authority prior to the electronic storage of VAT documents. However, the original documents must be still provided to the tax authority for inspection if requested.

I. Returns and payment

Periodic returns. VAT returns (PP30 Form) are submitted monthly and can be filed in hard copy through the respective area revenue office (deadline by the 15th day of the following month) or online via the tax authorities' website (deadline by the 23rd day of the following month).

Periodic payments. A supplier of goods and services must collect VAT from the purchaser of the goods or the recipient of a service and remit it to the tax authorities by the 15th day for paper filing or the 23rd day for e-filing of the month following the event that the tax point is triggered (for example, the time of delivery, receipt of payment or issuance of an invoice; see *Section E*). The VAT can be paid to the tax authorities in a form of cash or check for paper filing and online payment for e-filing.

Electronic filing. Electronic filing is allowed in Thailand, but not mandatory. Taxable persons can file their electronically monthly VAT returns via the website of the tax authorities with online tax payment, provided it obtains the approval from the tax authorities. An additional eight days of deadline can apply. The VAT can be paid to the tax authorities via electronic banking.

Payments on account. Payments on account are not required in Thailand.

Special schemes. No special schemes are available in Thailand.

Annual returns. Annual returns are not required in Thailand.

Supplementary filings. *Reverse-charge services filing.* A separate return is required to report VAT on reverse-charge services. So, where a Thai service recipient accounts for VAT via the reverse-charge mechanism, it is required to remit a filing summarizing such supplies, to the tax authority by the seventh day of the month following the month in which the payment is made.

E-tax invoices filing. Taxable persons who issue electronic tax invoices are required to electronically submit the information of the e-tax invoices within 15 days of the following month.

Correcting errors in previous returns. If the declaration in the submitted VAT returns is incorrect, the taxable person can voluntarily submit the supplement VAT return to correct the previous declaration to the revenue office. The tax shortfall, penalty (at reduced rate) and monthly surcharge might apply.

Digital tax administration. There are no transactional reporting requirements in Thailand.

J. Penalties

Penalties for late registration. Penalties are imposed for failure to register for VAT. The penalty is 200% of the VAT payable each month during the period of the failure to register for VAT.

Penalties for late payment and filings. A penalty of 100% of the tax shortfall is assessed for the late payment of VAT, plus a monthly surcharge of 1.5% of the tax shortfall (capped at 100% of the tax shortfall). However, if a taxable person does not receive a notice of call for examination, the penalty may be reduced to the following:

- 2% if the payment is made within 15 days after the due date
- 5% if the payment is made after 15 days but not later than 30 days after the due date
- 10% if the payment is made after 30 days but not later than 60 days after the due date
- 20% if the payment is made more than 60 days from the due date

Penalties for errors. A taxable person who issues a tax invoice, a simplified tax invoice, a debit note, or a credit note containing incomplete particulars shall be subject to the fine not exceeding THB2,000.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details by the prescribed deadlines is subject to a fine not exceeding THB2,000 to THB5,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A penalty is imposed for the use of a false tax invoice in computing tax. The penalty is 200% of the VAT payable under the original tax invoice.

In addition, a VAT registrant who intentionally makes use of a false tax invoice for the purpose for tax crediting shall be liable for a fine from THB2,000 to THB200,000 and three months to seven years imprisonment.

Personal liability for company officers. The managing director, director or person acting in a representative capacity of such juristic person shall be liable to the penalty as prescribed for such false action, except where they can prove that they have no consent or no part in such wrongdoing of the juristic person.

Statute of limitations. The statute of limitations in Thailand is two to five years. The tax authorities can make an assessment for two years as from the last day of the period for VAT return filing, which could be extended to five years. Nevertheless, for some certain noncompliance cases for which the assessment periods have not been prescribed in the Revenue Code, the assessment period could be extended to 10 years.

The period of the assessment could be extended to five years in cases where it appears to the tax authority that the taxable person might have incorrectly remitted the VAT or not completely filed tax returns. In addition, in case of non-filing the VAT returns [either PP30 or reverse-charge-mechanism (PP36)], the statute of limitations is 10 years starting from the due date of filing.

A taxable person can voluntarily make the declaration of the noncompliance at any time before receiving the assessment letter issued by the tax authority.

Trinidad and Tobago

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 1990
Trading bloc membership	Caribbean Community (CARICOM)
Administered by	Board of Inland Revenue (BIR) Value-Added Tax Administration Center (VAT Center) (www.ird.gov.tt)
VAT rates	
Standard	12.5%
Other	Zero-rated (0%) and exempt
VAT number format	999999 (6 digits)
VAT return periods	Bimonthly or otherwise determined
Thresholds	
Registration	TTD600,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is charged on the entry of goods imported into Trinidad and Tobago and on the commercial supply of goods or prescribed services by a registered person. In Trinidad and Tobago, taxable supplies are referred to as "commercial supplies."

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Trinidad and Tobago, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally. the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Trinidad and Tobago, for the sale, transfer or other disposition, whether for consideration or not, of a business as a going concern, only the sale, transfer or other disposition of any stock in trade held for the purposes of the business shall be regarded as being a commercial supply (i.e., subject to VAT). The sale, transfer or other disposition of any other assets held by the business shall not be considered to be a commercial supply for the purposes of VAT.

Transactions between related parties. In Trinidad and Tobago, for a transaction between related parties, the value for VAT purposes is calculated at the open market value. Where the consideration for the supply of goods or services is payable by a person standing in such a relationship as affects the amount of the consideration, i.e., by a related party, the value of the supply shall be deemed to be the open market value. This is defined as the consideration, not including VAT, expected to be payable by a person standing in no such relationship as would affect that consideration.

C. Who is liable

The Trinidad and Tobago VAT law imposes a registration requirement on any person that makes commercial supplies in Trinidad and Tobago greater than TTD600,000 in a 12-month period.

A person that intends to make commercial supplies may apply for registration. However, the application must be supported by additional information indicating that the value of the person's commercial supplies will exceed TTD600,000 in a 12-month period. Suitable evidence includes incorporation documents, contracts showing evidence of commencement of business, bank statements and invoices issued.

Exemption from registration. VAT is due on the importation of goods and the commercial supply of goods and prescribed services. Prescribed services are any services that are not exempt. Hence, if a business is supplying exempt services, there is no requirement to register for VAT in Trinidad and Tobago. Also, if a business makes taxable supplies during a 12-month period and is not expected to exceed TTD600,000, then that business will not be required to register for VAT.

Voluntary registration. Voluntary registration is not allowed in Trinidad and Tobago.

Group registration. Group VAT registration is not allowed in Trinidad and Tobago.

Divisional registration is allowed in Trinidad and Tobago. All members of a divisional registration group in Trinidad and Tobago are jointly and severally liable for VAT debts and penalties. There is no minimum time period required for the duration of a divisional group.

However, on request, the Board of Inland Revenue (BIR) may approve the separate registration of the divisions of a company, and in such cases, supplies between divisions would be subject to tax.

Fixed establishment. In Trinidad and Tobago there is no legal definition of a fixed establishment for VAT purposes. However, generally, a place for the carrying on of a trade or business in Trinidad and Tobago would be considered to be a fixed establishment. There are no permanent establishment rules in the domestic tax legislation. The direct tax rule is that a nonresident carrying on a trade or business in Trinidad and Tobago is taxable on income derived therein.

Non-established businesses. A branch of a non-established business is registered in the same manner as a resident taxable person. A "non-established business" is a business that does not

have a fixed establishment, i.e., a place for the carrying on of a trade or business in Trinidad and Tobago. A non-established business that makes commercial supplies in Trinidad and Tobago must register for VAT if it meets the registration requirements. However, to register for VAT, a non-established business must set up an external company or branch in Trinidad and Tobago. This is based on the current practice of the BIR.

A non-established business that must register for VAT may need to appoint an agent or manager who is resident to assume the responsibilities of principal relating to compliance under the VAT Act.

If a non-established business wishes to supply goods or services solely to a VAT-registered person in Trinidad and Tobago, for the purpose of the taxable person making commercial supplies in Trinidad and Tobago, the non-established business' supply is regarded as not taking place in Trinidad and Tobago, unless the supplier and recipient agree that the supply is to be regarded as taking place in Trinidad and Tobago. The non-established business is not required to register for VAT if the supply is treated as taking place outside of Trinidad and Tobago, provided the supplier is not required to be registered due to making other supplies.

Tax representatives. A non-established business that registers for VAT in Trinidad and Tobago is not required to appoint a tax representative; however, the business can choose to appoint one. Any person who carries on a business, in Trinidad and Tobago on behalf of a principal may perform the functions under the VAT Act.

In the absence of the appointment of a tax representative, the BIR may deem a person who carries on business on behalf of a non-established business to be its agent for the purpose of compliance and accountability.

Reverse charge. No reverse-charge mechanism applies in Trinidad and Tobago. In Trinidad and Tobago, the responsibility to account for VAT charged on goods and services is with the supplier of the goods or services and not the recipient. VAT incurred on services purchased from abroad is not required to be reported in Trinidad and Tobago and cannot be claimed by the Trinidad and Tobago recipient in its VAT return.

Domestic reverse charge. There are no domestic reverse charges in Trinidad and Tobago.

Digital economy. Nonresident providers of electronically supplied services for both business-to-business (B2B) and business-to-consumer (B2C) supplies are not required to register and account for VAT in Trinidad and Tobago. As such, no VAT is accounted for on the supplies. This is because the services provided are regarded as taking place outside of Trinidad and Tobago.

Note that in a prior budget, the BIR outlined its intention to review the taxation of the digital economy in more detail. *However, at the time of preparing this chapter no action has been taken.*

There are no other specific e-commerce rules for imported goods in Trinidad and Tobago.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Trinidad and Tobago.

Registration procedures. A written hard copy application for registration must be submitted on the prescribed form. The application must be supported by evidence to show that the value of the person's commercial supplies will exceed TTD600,000 in a 12-month period. Such evidence may include incorporation documents, contracts entered into, bank statements and invoices issued. An applicant will be registered within one to two weeks after the receipt of the application provided that all the relevant documentation has been provided. Currently, VAT registration applications may also be submitted via the e-Tax platform, provided by the BIR.

In the case of a non-established business, the VAT registration application form must be signed by the directors, notarized and apostilled. Also copies of the passports of the company directors must be notarized and apostilled.

Deregistration. A taxable person who is not required and will not be required under the VAT Act to be registered may apply to the BIR to have their registration canceled. The BIR may refuse to cancel the registration on the grounds that the person has, within the last two years, made supplies requiring them to be registered.

Changes to VAT registration details. As per section 28 (1) of the VAT law, a taxable person must, within 21 days, give the BIR notice in writing of any of the following changes:
- Any change affecting the accuracy of the particulars provided by their application to be registered for VAT
- The business for which the person is registered is closing down
- Any other matter of which they are required by the regulations to give the BIR notice

If a taxable person dies; becomes bankrupt, goes into liquidation or receivership or becomes a party to an amalgamation, the taxable person or the person responsible for the affairs of the taxable person must, within 21 days, give the BIR notice in writing thereof.

D. Rates

The term "commercial supplies" refers to supplies of goods and prescribed services that are made liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 12.5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exported goods
- Medicines
- Water and sewerage services supplied by a public authority

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services
- Medical services
- Residential property rentals
- Real estate brokerage
- Public postal services
- Prescribed bus and taxi services
- Betting and gaming

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Trinidad and Tobago.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In general, the tax point for goods and services supplied by a taxable person is the earliest of the following events:
- The date of issuance of the invoice by the supplier

- The date of receipt of payment for the supply
- The date on which the goods are made available to the recipient, or the services are performed

A taxable person must account for VAT in the VAT period in which the tax point occurs, regardless of whether payment is received. A taxable person may recover input tax indicated on the tax invoices received.

Deposits and prepayments. For deposits and prepayments, a supply of goods or services takes place when payment is made for the supply. The rule does not vary for refundable or nonrefundable amounts or if the supply does not take place.

Continuous supplies of services. Where a supply of services is continuous (e.g., electricity and telecommunications), the supply takes place when an invoice for the supply is issued by the supplier, but only to the extent of the supply to which the invoice relates.

Where services are supplied under an agreement (e.g., property rental) that expressly provides for the consideration to be paid in periodic payments, whether or not the services are provided periodically, the services are regarded as being successively supplied at the times when the periodic payments are made or become due, whichever is earlier, to the extent that an invoice for the services is not issued by the supplier.

Where goods are supplied progressively or periodically under an agreement that provides for the consideration for the supply to be paid from time to time upon the supplier issuing invoices, the goods are regarded as being supplied at the time when:

- An invoice for the supply of the goods is issued by the supplier
- Payment for the supply of the goods is made
  Or
- Payment for the supply of the goods becomes due

Goods sent on approval for sale or return. Where goods are supplied to a person under an agreement whereby the recipient has an option to return the goods to the supplier, the supply takes place when the goods are made available to the recipient.

Reverse-charge services. In Trinidad and Tobago, the reverse charge for services does not apply. As such, there are no special time of supply rules.

Leased assets. Where goods are supplied under an agreement for hire purchase or lease with an option to purchase, the supply takes place when the goods are made available to the recipient.

Imported goods. VAT on the entry of imported goods becomes due and payable at the time when the goods have entered. The importer is liable to account for the tax and must pay it.

F. Recovery of VAT by taxable persons

The VAT paid on goods and services that are acquired for the purpose of making taxable supplies is deductible as input tax. Input tax is offset against output tax, which is the tax charged on the making of commercial supplies. Input tax is deductible when the goods and services are acquired.

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

- Their supply or resupply as a taxable supply
- Their consumption or use (whether directly or indirectly or wholly or partly) in producing goods or services for supply as a taxable supply
- Their consumption or use (whether directly or indirectly or wholly or partly) with respect to a commercial enterprise

The time limit for a taxable person to reclaim input tax in Trinidad and Tobago is six years. Once the taxable person can prove that the claim was not made in a prior period, the claim is generally allowed by the BIR. However, the period of six years from the end of the tax period should not elapse before such a claim is made and even in this circumstance the BIR may deny the claim.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business or where the person only makes exempt supplies.

Examples of items for which input tax is nondeductible

- Input tax is not deductible where invoices do not meet VAT invoicing requirements as set out in the law

Examples of items for which input tax is deductible (if related to a taxable business use)

- Rental of premises used in the business
- Inventory used to make finished goods
- Vehicles and equipment used in the business
- Professional and other services provided to the business

Partial exemption. The Trinidad and Tobago VAT law provides that if all the supplies made by a taxable person during a tax period are commercial supplies (i.e., standard-rated and zero-rated supplies), the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are commercial supplies, a partial recovery calculation is required. The following are the rules for the calculation of allowable input tax:

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

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

Approval from the tax authorities is not required to use the partial exemption standard method in Trinidad and Tobago. Special methods are not allowed in Trinidad and Tobago.

Capital goods. There are no specific rules for capital goods and there is no definition in the VAT law for capital goods. The same general rules for input tax recovery apply to capital goods.

Refunds. If the amount of input tax recoverable in a VAT period exceeds the amount of output tax payable for that VAT period, the excess may be refunded. VAT returns must be submitted within 25 days after the end of the VAT period. If this deadline is met and if the refund is unpaid after six months, the legislation provides for the tax authorities to pay interest on the outstanding balance, at the rate of 1% per month or part of a month, chargeable from the day after the expiration of the period until the date on which the outstanding amount is satisfied.

VAT bonds. The Ministry of Finance announced that taxable persons with outstanding refunds greater than TTD250,000 can now apply for VAT bonds in settlement of such refunds. Application forms can be accessed through the BIR's website. The forms must be completed online and then downloaded to be signed and then scanned and emailed to VAT-Bonds@ird.gov.tt.

The VAT bonds refund applies to VAT periods prior to 2023. A bond is transferable to any financial institution, The Unit Trust Corporation, The National Insurance Board, any insurance company, any entity dealing in mutual funds, any Credit Union registered under the Co-operative Societies Act. Bonds shall mature three years from the date of issue.

Bonds cannot be cashed before the date of maturity and payment on matured bonds shall be in the currency of TTD. Bonds shall bear interest at the rate of 3.15% per annum from the date of issue of the bond until the date of maturity. Interest accrued on the bonds shall be paid biannually, on 30 June and 30 September, in each of three consecutive years from the date of issue and continuing to the date of maturity.

Pre-registration costs. Input tax may be claimed in respect of any stock in trade that is on hand at the time of registration. Evidence showing that the inventory on hand was audited by a chartered accountant must be produced at the time of registration.

Bad debts. Customers can claim relief for VAT paid on goods/services provided, which were not settled by the customers. The claim for VAT on bad debts is made by deducting the VAT on bad debts from the total output tax due for the period. However, for the claim to be made, the debt must be outstanding for at least 12 months, reasonable efforts should have been made to collect the debt and the amount outstanding has been written off as a bad debt.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Trinidad and Tobago.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Trinidad and Tobago is not recoverable.

H. Invoicing

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

Credit notes. A credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note generally mentions the same information as a VAT invoice.

Electronic invoicing. Electronic invoicing is allowed in Trinidad and Tobago, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Trinidad and Tobago. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Trinidad and Tobago. The requirements related to electronic invoicing are the same as those for paper invoicing.

There is no provision in the law on electronic invoicing, but in practice, all taxable persons may issue electronic invoices covering any supply.

Simplified VAT invoices. A taxable person making a commercial supply exceeding the sum of TTD20 is required to provide the recipient a simplified invoice containing the name, address and registration number of the supplier, the date of the invoice and the consideration inclusive of VAT. The supplier is, however, required to issue a full tax invoice if it is requested to do so by the recipient. A simplified tax invoice cannot be used in support of a claim for input tax. Fast-food outlets, gas stations and cinemas are exempted from the requirement to issue a tax invoice, unless one is requested by the recipient of the supply.

Self-billing. Self-billing is not allowed in Trinidad and Tobago.

Proof of exports. VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that the goods have left Trinidad and Tobago. Such evidence includes:
- The commercial invoice, which includes a description of the goods exported, quantum and price
- A CARICOM invoice
- Seaway bill/airway bill as applicable
- Completed Customs Declaration Form (C82 Form), signed and stamped by Customs and Excise

Foreign currency invoices. If a supply is made to a person outside of Trinidad and Tobago, the invoice may be issued in a foreign currency. However, in accounting for the tax payable, the taxable person must account for the tax in the domestic currency, which is the Trinidad and Tobago dollar (TTD). In converting the invoice, the exchange rate must be the rate at which the Central Bank of Trinidad and Tobago would have purchased that currency in the form of notes at the time of the supply.

Supplies to nontaxable persons. Fast-food outlets, gas stations and cinemas are exempted from the requirement to issue a tax invoice, unless one is requested by the recipient of the supply.

Records. In Trinidad and Tobago, examples of what records must be held for VAT purposes include tax invoices, proforma invoices and certificates of waiver given to them and copies of tax invoices and proforma invoices given by them. Every taxable person must keep at its principal place of business in Trinidad and Tobago, or such other place as the board may approve, such books and records, expressed in the English language and the currency of Trinidad and Tobago, as are appropriate to enable the board to ascertain the liability of that taxable person to tax.

In Trinidad and Tobago, VAT books and records can be held outside of the country. Records may be held outside of Trinidad and Tobago, as long as such records can be provided in a timely manner to the BIR upon request and the records of approval are granted by the BIR.

Record retention period. Books and records are to be kept for six years from the end of the VAT period, except where the person ceases to exist, and the affairs of the person have been wound up.

Electronic archiving. Electronic archiving is not allowed in Trinidad and Tobago. Archiving must be made in paper form only.

I. Returns and payment

Periodic returns. The tax year is divided for taxable suppliers into two-month tax periods, and suppliers are required to submit a VAT return covering all taxable transactions up to and including the last day of each tax period. For administrative convenience, the total number of registrants is divided into two basic categories and an ad hoc category, whose tax periods are as follows:
- Category A: Two-month periods ending with the last day of January, March, May, July, September and November
- Category B: Two-month periods ending with the last day of February, April, June, August, October and December
- Category C: Tax periods as determined by the Board of Inland Revenue

Every registrant is required to submit a VAT return on the prescribed form to the Board of Inland Revenue by the 25th day of the month following each tax period.

Periodic payments. Every taxable person is required to pay the amount of VAT due to the Board of Inland Revenue by the 25th day of the month following each tax period. Payment of VAT must be done by bank transfer or check. In 2021, electronic payment was introduced. The BIR accepts payment of taxes via "TransACH" for transactions between TTD100,000 and TTD499,999 and "safe-tt" for transactions TTD500,000 and over through the Central Bank of Trinidad and Tobago.

Electronic filing. Electronic filing is mandatory in Trinidad and Tobago for all taxable persons. This change took place with effect from February 2020. Such filing should be done through the e-Tax system. The website address to access the e-Tax system is etax.ird.gov.tt. Taxable persons can file VAT returns online using the logged-in services or non-logged-in service. However, to access logged-in services (which offer more services) the taxable person must register to obtain a TTConnect ID. To obtain a TTConnect ID, the taxable person must have two forms of Trinidad and Tobago national identification.

Payments on account. Payments on account are not required in Trinidad and Tobago.

Special schemes. No special schemes are available in Trinidad and Tobago.

Annual returns. Annual returns are not required in Trinidad and Tobago.

Supplementary filings. No supplementary filings are required in Trinidad and Tobago.

Correcting errors in previous returns. Where a taxable person has filed a VAT return and wishes to make amendments to the return, the taxable person is required to write to the BIR requesting the amendments to the return.

Digital tax administration. There are no transactional reporting requirements in Trinidad and Tobago.

J. Penalties

Penalties for late registration. A penalty of TTD6,000 is imposed for a failure to notify the tax authorities of changes relating to the registration.

Penalties for late payment and filings. Penalties are assessed for errors and omissions with respect to VAT accounting. A fine of TTD1,000 is imposed for the late submission of a VAT return on summary conviction. In addition, a penalty of 8% and interest at the rate of 2% per month or part of a month is charged on late payments of VAT.

Penalties for errors. There are no specific penalties in Trinidad and Tobago for errors. The penalties for late payment and filings above apply.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of TTD6,000. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Where a person who makes a supply and:
- Falsely represents that tax is charged on that supply
- Falsely represents the amount of tax charged on that supply

  Or
- Recovers or seeks to recover an amount represented to be in respect of tax, the board may assess that person as being liable to pay an amount of tax on the basis of so much of the amount that it appears to the board was represented to be charged as tax, or was recovered or sought to be recovered in respect of tax, as exceeds the amount, if any, that he is authorized by the VAT law, to recover in respect of the supply and, where the person is not registered, the assessment shall be made as if that person were registered and its tax period had been such period as the board may determine

Where an assessment of the tax payable by a person is made or amended under this section wholly or in part as a result of any act or omission of that person that constitutes an offense against the VAT Act, the assessment may include such additional amount by way of penal tax as the board sees fit, but so that the additional amount does not exceed three times the amount of

tax (other than penal tax) that is included in the assessment or amendment as a result of the act or omission that constitutes the offense.

Personal liability for company officers. The VAT law provides that where a company commits an offense, every director or other officer concerned in the management of the company is guilty of the offense unless they prove that the offense was committed without their consent or connivance and that they exercised all such diligence to prevent the commission of the offense.

Statute of limitations. The statute of limitations in Trinidad and Tobago is three to six years. An assessment by the BIR cannot be made, amended or vacated after six years from the end of the tax period to which the assessment relates or three years from the date of filing of the return to which the assessment relates, whichever is later.

Tunisia

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la Valeur Ajoutée (TVA)
Date introduced	2 June 1988
Trading bloc membership	None
Administered by	Tunisia Ministry of Finance (http://www.portail.finances.gov.tn)
VAT rates	
Standard	19%
Reduced	7%, 13%
Other	Exempt
VAT number format	Tax ID Number/VAT Code A, B, P, D or N/number of establishments
VAT return period	Monthly
Thresholds	
Registration	TND100,000 (retailers)/None (other businesses)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is applicable mainly to the following transactions:
- Supplies of goods and services made in Tunisia
- Imports of goods and services
- Industrial activities are generally subject to VAT except for the production of agricultural and fish products (these are outside the scope of VAT)
- Other activities subject to VAT include professional services, wholesale trade (excluding foodstuffs) and retail trade (for traders that make an annual turnover of TND100,000 or more), excluding foods, medicine, pharmaceuticals and products subject to administrative approval tariffs

VAT suspension. VAT may also be suspended. A special authorization from the tax administration is required to obtain a suspension of VAT on purchases. A VAT suspension is available to entities engaged in exporting to financial institutions working mainly with nonresidents, to entities governed by the Hydrocarbons Code, and service provision companies and international commerce companies that are no longer eligible to the VAT suspension regime, even if they are wholly engaged in exportations.

The 2022 Finance Act abolished certain rules applicable to the VAT suspension regime, and therefore the following companies are no longer eligible for the VAT suspension regime:
- Service companies and international trade companies whose turnover from exports or tax-suspended sales exceeds 50% of their total turnover
- Fully exporting service companies and international trade companies
- Service companies and international trade companies that carry out local import and acquisition of materials, products and services necessary for the realization of export operations

Entities subject to VAT may be entitled to VAT suspensions on their local purchases of raw materials and equipment to be used in their projects realized abroad exceeding TND3 million.

Other regimes suspend VAT as well, such as the regime for air transport companies in respect of domestic and international transport, the regime for companies responsible for the implementation of social housing, the regime for Tunisian citizens resident abroad who realize projects in Tunisia, the regime for donations as part of an international cooperation, etc.

VAT suspension may be obtained by requesting a VAT suspension certificate from the tax administration. This certificate may be issued annually or for certain transactions. A copy of the certificate and a copy of the original purchase order certified by the tax authorities are presented to the seller to ensure that the seller does not add VAT to the invoice. The tax administration approval is based on whether the company has the right to be eligible for such "incentive" regime and on whether the company's tax return filings for the different tax heads are up to date.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Tunisia, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Tunisia, a TOGC is treated as outside the scope of VAT. However, the VAT law in Tunisia does not contain any specific provision for the transfer of a going concern.

Transactions between related parties. In Tunisia, for a transaction between related parties, the value for VAT purposes is calculated as follows:
- When a company is placed under the dependence of a company whose head office is located outside Tunisia, the VAT is assessed as in the domestic regime. In this regard, it must be outlined that, domestically, the taxable turnover includes the price of the goods, works or services; all costs, duties and taxes included; as well as the value of the objects given in payment, excluding VAT, operating subsidies and conjunctural and compensation levies. The amounts collected for the deposit and non-return of returnable packaging are not included in the tax base.

- When a selling company and a nontaxable buying company are dependent on each other, the VAT due by the first is based not on the value of the deliveries it makes to the second but on the selling price practiced by the latter. However, this provision does not apply with regard to products delivered in large and usual quantities to third parties at the same price as that agreed between them by dependent companies. These provisions are also applicable, even in the absence of a link of dependence, when the taxable person does not provide proof that he acted in the interest of his business.

C. Who is liable

A taxable person is an individual or legal entity that is registered for VAT in Tunisia and any other entity that engages independently in taxable transactions other than import sales.

In addition, a person (individual or legal entity) that supplies goods or services for consideration as part of that person's business activities, but who is not required to register for VAT, may opt for a VAT registration if any of the following conditions are satisfied:
- It carries out operations that are not within the scope of VAT.
- It carries out export activities that are exempt from VAT.
- It supplies products or services that are exempt from VAT to persons subject to VAT.

Exemption from registration. The VAT law in Tunisia does not contain any provision for exemption from registration.

Voluntary registration and small businesses. If a Tunisian customer is required to apply the reverse charge to VAT on cross-border payments, a non-established and nonresident supplier may opt for registering for VAT purposes if the supplier incurs input tax on the purchases that are necessary for the services rendered in Tunisia, and if the input tax generates a VAT-credit position or a VAT-receivable position for that supplier. The input tax credit may be refunded upon request.

Group registration. Group VAT registration is not allowed in Tunisia.

Fixed establishment. In Tunisia, there is no legal definition of a fixed establishment for VAT purposes. However, the direct taxation rules for a permanent establishment (PE) may apply for VAT purposes. There is no definition of a PE in the Tunisian direct tax law. In practice, the Tunisian tax authorities refer to the definitions given by double taxation treaties. However, given that the majority of treaties have not defined the concept of PE for all other services, and that the tax legislation in force in Tunisia has not also addressed this concept and in recognition of the administrative doctrine and the comments of the Organisation for Economic Co-operation and Development (OECD) model of double taxation treaties, the other services are considered rendered within the framework of a PE in Tunisia when they meet the following conditions:
- They are continuous in time (their duration exceeds six months).
- They are multiple and dependent on each other.
- They form a complete business cycle.
- They require a fixed place of business such as oil well drilling operations, except in the case of drilling operations carried out in Tunisia by a company resident in the United States of America, which are considered carried out within the framework of a PE when their duration exceeds 183 days per period of 365 days.

On the other hand, the products and services supplied and purchased by the PE remain subject to VAT in accordance with the Tunisian tax legislation in force.

Non-established businesses. Nonresident companies that do not have a PE in Tunisia but carry out taxable transactions are subject to VAT. Accordingly Tunisian customers must withhold the entire VAT charge on payments for services supplied by nonresident entities. The nonresident must add Tunisian VAT to its invoice. The customer withholds the VAT amount, remits it to the

Tunisian tax administration and pays the amount due for the services, exclusive of VAT, to the foreign provider.

The customer should also obtain a "discharge certificate" in support of the VAT remittance and provide it to the bank transferring the amount due. Failing to be provided with such discharge, the bank performing the transfer could incur penalties of up to 20% of the amount of taxable revenues. However, Tunisian customers that are nonresident, from an exchange regulation standpoint, are exempt from the requirement to obtain such a discharge certificate.

Non-established companies may register for VAT with the Tunisian tax administration. In such case, the VAT withholding procedure is not required.

Tax representatives. Tax representatives are not required in Tunisia. Nevertheless, where non-established businesses that are not VAT-registered in Tunisia provide supplies to a Tunisian customer, the latter shall fully withhold the VAT due in Tunisia. Alternatively, those businesses may opt to report the VAT withheld directly and deduct the VAT paid on the purchases of goods and services necessary to perform the transactions subject to VAT. To do so, they must:
- Submit a declaration of tax existence by filing a prescribed form with the relevant tax office
- File a VAT return

Reverse charge. The reverse charge applies when services or goods are used/consumed in Tunisia and supplied by nonresident entities. The VAT that has been declared as output tax under the reverse charge may be refundable as if it qualifies as input tax.

Domestic reverse charge. The reverse charge is in general not applicable on domestic transactions. According to Tunisian tax rules, it applies only on payments to nonresident and non-established suppliers when the payment corresponds to a taxable operation in Tunisia, other than an importation of goods. VAT is collected on domestic payments by the supplier who remains liable for the VAT due.

However, the reverse charge is partially applicable on local payments when payment is processed by State Services, local authorities, public companies and establishments. When payments are processed by these bodies, a withholding tax on the VAT amount should be processed at the rate of 25%.

Digital economy. There are no VAT rules specifically applicable to the digital economy.

Nonresident providers of electronically supplied services for business-to-business (B2B) or business-to-consumer (B2C) supplies are not required to register or account for VAT due on supplies in Tunisia. For B2B supplies, the customer is required to self-account for the VAT due by way of the reverse-charge mechanism (see the *Reverse charge* subsection above). For B2C supplies, the Tunisian regulations do not provide a particular rule for the collection of VAT (neither through VAT registration nor the reverse charge), and as such no VAT is collected.

For imported goods, there is no requirement for the nonresident supplier to collect the Tunisian VAT (neither by direct payment nor through the reverse charge). In practice, the VAT is paid by the Tunisian importer when the goods are cleared at customs.

Nonresident businesses in Tunisia that are selling computer software and internet-based services are subject to a royalty of 3% on the turnover earned with resident individuals and corporate entities. Note, however, that this royalty is not qualified as VAT. The nonresident companies concerned shall proceed with the filing of their abovementioned turnover on a quarterly basis. Reporting and payment procedures will be established by a governmental decree. *At the time of preparing this chapter, further details have not been published.*

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Tunisia.

Registration procedures. Each individual who would practice an industrial, commercial or non-commercial profession, and every legal entity must, before the initiation of the activity, file in person, at the territorially competent tax control office, a declaration of existence according to the preset model required by the tax authorities. Online registration is not allowed.
- A copy of the Articles of Association for the legal entities
- A copy of the agreement or the administrative authorization, if the activity or the place where the activity is performed are subject to a prior authorization

After filing a declaration of existence, the taxable person obtains a tax identification card, which includes the tax identification number.

The application for registration must be submitted by the taxable person itself or its legal representative or by any other person with a power of attorney to register.

Deregistration. In the case of termination of activity, the taxable person submits a termination application, with the tax identification card and declaration of existence, to the territorially competent tax control office.

In case of a deregistration following an optional VAT registration by a person or legal entity not subject to VAT (because its economic activities), the deregistration, or the renunciation of the status of a taxable person, would be made after 31 December of the fourth year that follows the year of the optional registration. The deregistration in this case leads to the regularization of the VAT that has been deducted on the purchased inventories and assets during the period of the optional registration.

Changes to VAT registration details. A taxable person must notify the tax authorities with any changes to its VAT registration details when these changes concern the following:
- Corporate name
- Corporate purpose
- Address
- Tax regime
- Share capital amount

In this regard, the taxable person must submit an application to the tax authorities to update the tax registration documents with the changes and provide the tax authorities with the documents that reflect these changes.

The time limit to notify the tax authorities for changes to a taxable person's VAT registration details is 30 days, starting from the date of the decision of such changes.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT.

The VAT rates are:
- Standard rate: 19%
- Reduced rates: 7%, 13%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a reduced rate, a suspension or an exemption.

At the time of preparing this chapter, the reduced rate of 13% that applies for real estate transactions only, will increase to 19% effective 1 January 2025. For further details, see the subsection Examples of goods and services taxable at 13%.

Examples of goods and services taxable at 7%

- Transport of goods

- Activities carried out by doctors and analytical laboratories (excluding aesthetic medicine and surgery)
- Materials and supplies for pharmaceutical products
- Tourism activities
- Charging equipment for electric motor vehicles, under customs classification #85044055003 and #853710
- Motor vehicles equipped only with electric motors for propulsion (covered by customs tariff Nos. Ex 87.02, Ex 87.03 and Ex 87.04), bicycles (covered by customs tariff No. Ex 87.12) and motorcycles of different types equipped only of electric motors for propulsion (covered by customs tariff No. Ex 87.11)

Examples of goods and services taxable at 13%

- Sales of low-voltage electricity intended for domestic consumption and the sale of medium- and low-voltage electricity used from the functioning of water pumping equipment for agricultural irrigation.
- Sales of buildings constructed for the exclusive use of housing by real estate developers for the profit of private persons or by public real estate developers *(the rate of 13% will increase to 19% effective 1 January 2025)*. Supplies of buildings constructed for the exclusive use of housing by real estate are allowed to deduct the VAT charged on the stock held on 31 December 2017. The deduction of the VAT does not give rise to the possibility of refund of the non-attributed VAT credit.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies

- Banking interest
- Maritime air transport (except import or output VAT, on motors intended to be incorporated into boats and fishing vessels)
- Food products (e.g., milk and flour)
- Commission on electronic payments via terminal, internet or mobile phone from VAT
- Margin made by distributors of electronic top-up phones and airtime recharge cards

Option to tax for exempt supplies. According to the tax legislation in force, there is a possibility to opt for the VAT regime regarding services, goods and activities exempt for VAT or positioned out of the scope of VAT.

E. Time of supply

The time when the taxable event is considered to have taken place and VAT becomes due is called the "time of supply" or "tax point."

The time of supply for the sale of goods is when the goods are delivered to the customer.

The time of supply for services is when the service is rendered or when the payment is made (fully or partially) if the settlement is made before the completion of the service.

Deposits and prepayments. For the importation of goods: the VAT is due (paid to customs) by the customs clearance.

For the domestic supply of goods: the tax is due when the goods are supplied. The taxable event is not linked to deposits and advanced payments. The VAT is generally due by the delivery of goods.

For the provision of services: deposits and advanced payments are considered as the time of supply if the settlement is made before the completion of the service. The VAT is generally due by

the completion production of the service or by the collection of the price or the advances in case they occur before the provision of the service.

Continuous supplies of services. There are no special time of supply rules in Tunisia for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. The tax law does not explicitly refer to goods delivered for approval; the delivery is when the supply is considered to be made. In practice, the VAT is due when the goods are received. If the goods are returned, they should be subject to a credit note on which the amount of the returned goods is mentioned with VAT.

Reverse-charge services. The reverse charge is due when the payment is processed. In fact, the VAT must be withheld by taxable persons registered in Tunisia for tax purposes in one of the following circumstances:

- When the taxable person is the State or local authorities, or businesses and public institutions, 25% of the due VAT should be withheld when the payment is processed.
- When the VAT is due on cross-border payments, 100% of the due VAT should be withheld when the payment is processed.

Leased assets. The tax law does not explicitly indicate the time of supply rules for leased assets. However, according to point three of Article 5 of the VAT code, VAT is collected on services, when the service is rendered or when the overall price or advances are collected before the service is rendered. The same rule applicable for services is applicable to leasing operations.

Imported goods. The time of importation for imported goods is when the goods are cleared at customs.

F. Recovery of VAT by taxable persons

A taxable person may recover VAT with respect to purchases of goods and services that are used for business activities and contribute effectively to the realization of taxable transactions. The VAT deduction is made on the basis of a valid invoice, customs document or withholding VAT certificate.

There is no set time limit for a taxable person to reclaim input tax in Tunisia. However, the VAT receivable/credit position can only be refunded where it is less than three years (see the *Refunds* subsection below).

Companies partially subject to VAT deduct VAT based on the following rules:

- Full deduction is allowed for VAT on purchases used exclusively in a business activity that is subject to VAT.
- No deduction of VAT is allowed for purchases used exclusively in a business activity that is not subject to VAT.
- Deduction on a proportionate basis is allowed for purchases used in both a business activity subject to VAT and a business activity not subject to VAT.

A withholding tax regarding VAT is due at the rate of 25% on amounts equal to or exceeding TND1,000 (including VAT) and must be paid by the state, local authorities, enterprises and public institutions in return of their acquisitions of goods, equipment, services, buildings and businesses.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes and that are considered to be nondeductible expenses for corporate tax purposes (e.g., goods acquired for private use by an entrepreneur).

Examples of items for which input tax is nondeductible

- Passenger vehicles used for the transport of persons (other than those representing the purpose of the business such as taxi and car rental companies), cars used by hotels for tourist trips, the rental of passenger vehicles and any other expenses incurred in order to ensure their operation and their maintenance.
- Purchases made from individuals or legal entities that are outside the scope of VAT but that have invoiced VAT incorrectly.
- Goods, properties and services fully paid in cash in amounts equal to or exceeding TND5,000 (excluding VAT).
- VAT on goods and services acquired from residents in territories with privileged tax regime.

According to Tunisian rules, input tax that can be deductible is not limited. In fact, any input tax charged on the acquisition of goods or services that are necessary for the operation and so related to a taxable business use can be deductible. However, according to Article 10 of the VAT code, the deduction of VAT cannot be accepted on the items listed below.

Examples of items for which input tax is deductible (if related to a taxable business use)

- Passenger cars used for the transport of persons other than those that are the object of operation, as well as the rental of passenger cars and all costs incurred to ensure their operation and maintenance.
- Products delivered and the services rendered by the persons who are not subject to the VAT (not liable to collect the VAT).
- Commodities, goods and services equal to or greater than TND5,000, excluive of taxes and paid in cash.
- Amounts paid to persons resident of established in low tax jurisdictions.

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover its input tax in full. This situation is referred to as "partial exemption."

A Tunisian taxable person that makes both taxable and exempt supplies may calculate the amount of input tax it may recover in several ways. The standard partial exemption calculation method consists of the following two-stage calculation:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as taxable supplies for these purposes.
- The second stage identifies the amount of the remaining input tax (e.g., input tax on general business overhead) that may be allocated to taxable supplies and recovered. The amount of recoverable VAT is determined by making a pro rata calculation based on the respective values of taxable and exempt supplies made.

When taxable persons make both taxable and exempt supplies, the VAT partial regime is directly indicated within the tax identification card based on a prior application to the tax authorities at the time of registration for tax purposes. As such, approval from the tax authorities is not required to use the partial exemption standard method in Tunisia. Special methods are allowed in Tunisia.

Capital goods. VAT on investments of all types required for operation (except passenger cars intended for the carriage of passengers and not constituting an object of exploitation) is deductible. This includes capital goods.

However, in case of transfer, contribution, change of use of these assets and in the event of cessation or abandonment of the taxable person's regime, a payment must be operated equal to the amount of the deducted VAT or which should have been paid or reimbursed, reduced by one-fifth

for each calendar year or fraction of a calendar year of detention in the case of capital goods or equipment, and one-tenth by calendar year or fraction of calendar year of detention in the case of a building.

If capital goods are used for both taxable and exempt activities, the amount of the deductible tax that should be operated is calculated according to a percentage resulting from the ratio between the following elements achieved during the previous financial year:

- Income subject to VAT plus those resulting from the exportation of taxable goods or services or deliveries made in suspension of such tax and incomes from international air transport operations, including due VAT or VAT of which payment is not required.
- The sums referred to in the above paragraph plus income from exempted business or business situated outside the scope of VAT.

Refunds. VAT liability (i.e., output tax) is computed by multiplying all taxable sales by the applicable VAT rate. The enterprise subtracts the total VAT paid on purchases of goods (i.e., input tax) from output tax and pays the net amount to the tax administration. If the input tax exceeds the output tax, the resulting amount is refunded with a restitution claim made to the tax administration and, in most of the cases, after a tax audit has been completed by the tax administration. The VAT receivable/credit position can be refunded where it is less than three years.

The regime of VAT credit refunds varies according to the source of the credit and the local tax authority.

The common regime, under which the VAT credit is fully refundable, applies in the following circumstances:

- The VAT credit will be refundable without a tax audit if the credit is due to:
  - Exports (refund in 7 days)
  - Withholding tax on VAT
  - Sales with the suspension of the VAT
  - Operations (90 days)
  - Direct investment programs, as defined in Article 3 of Investment Law, performed by companies other than those operating in financial industry energy, mining, real estate development, consumption on premises, trading and telecom operators (refund in 21 days)
  - Investment plans related to upgrade programs approved by the steering committee of the upgrading programme (21 days); this is effective from 1 January 2023 for input tax credit refund applications submitted after this date, or VAT credit confirmed by tax authority

If the VAT credit is due to:

- The normal course of business (for example, the VAT on purchases exceeds the VAT on sales), then the VAT credit is refundable, if it persists on six consecutive tax returns, as part of one of two processes:
  - For businesses that have the legal obligation to designate a legal auditor, if the financial statements are certified with an audit report that requires no modification that has an impact on the tax basis, an advance of 50% of the VAT credit is provided before a tax audit, and the remaining amount is refundable after a tax audit (refund in 60 days).
  - For other cases, an advance of 15% of the VAT credit is provided before a tax audit, and the remaining amount is refundable after a tax audit (refund in 120 days).

- For companies under the control of the Directorate of Large Business (DGE), the VAT credit is fully refundable before a tax audit, in seven days, under the following conditions:
  - The report of the legal auditor does not contain an amendment affecting the tax basis.
  - The legal auditor certifies in a separate audit report that the VAT credit to be refunded is accurate.

If, after a tax audit, the tax authorities confirm the validity of a VAT credit, it is fully refundable notwithstanding the appeals procedures that may follow.

Pre-registration costs. Input tax incurred on pre-registration costs in Tunisia is not recoverable. The input tax on pre-registration costs appearing on invoices prior to the tax registration cannot be recovered by a future taxable person before having the status (under incorporation) since the deductibility of input tax needs the issuing of an invoice that includes mandatory mentions pertaining to the payer and that cannot be provided during the incorporation stage (such as tax ID).

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Tunisia.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Tunisia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Tunisia is not recoverable.

H. Invoicing

VAT invoices. Tunisian taxable persons must provide VAT invoices for all taxable supplies and services, including exports, made to other taxable persons. Recipients of supplies must retain copies of invoices.

Credit notes. A VAT credit note as such may not be used to reduce VAT charged and reclaimed on a supply of goods or services. Instead, the initial transaction must be voided, and a new VAT invoice must be issued for the correction of genuine mistakes.

Electronic invoicing. Electronic invoicing is mandatory in Tunisia, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Tunisia.

For B2G supplies, electronic invoicing is mandatory for companies that fall under the Division for Large Enterprises.

For B2B and B2C supplies, electronic invoicing is allowed but not mandatory in Tunisia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Tunisia for B2B and B2C supplies.

The requirements related to electronic invoicing are the same as those for paper invoicing. Taxable persons using electronic invoices must submit a declaration to the competent tax authorities together with a certificate provided by the authorized entity's automated management system for electronic invoices processing. Electronic invoicing users are not obliged to maintain digital copies of invoices, the authorized invoicing entity assumes the responsibility of keeping the digital invoices and may issue to the sender or the receiver a digital copy if requested.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Tunisia. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Tunisia.

Proof of exports. VAT is not chargeable on supplies of exported goods in Tunisia. However, to qualify as VAT-free, the exported goods must be documented by a customs declaration proving that the goods have left Tunisia. In addition, persons subject to VAT that are primarily or exclusively engaged in activities relating to exports may benefit from suspended VAT on their purchases of goods and services required for the production of exported goods.

Foreign currency invoices. A VAT invoice for transactions performed between two resident entities must be issued in the domestic currency, which is the Tunisian dinar (TND), according to the exchange legislation. If one or both of the parties are nonresident, the VAT invoice may be issued in a foreign currency.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Tunisia. As such, full VAT invoices are required.

Records. In Tunisia, examples of what records must be held for VAT purposes include the general journal, the general ledger, the balance and the previous monthly tax returns. In Tunisia, VAT books and records must be held within the country. Such records must be held at the taxable person's premises at the address that is reflected on the taxable person's VAT registration documents.

Record retention period. The accounting system of businesses, financial statements relating to an accounting period, as well as the documents, books, balance and supporting documents relating thereto must be kept by taxable persons for at least 10 years.

Electronic archiving. Electronic archiving is allowed in Tunisia. However, in case of tax audit, all supporting documents should be presented on hard original copies.

I. Returns and payment

Periodic returns. Tunisian VAT returns must be filed on a monthly basis. Returns must be filed by the 28th day of the following month for legal entities and by the 15th day of the following month for individuals.

Periodic payments. Payments must be paid by the 28th day of the following month for legal entities or the 20th day of the following month for those taxable persons required to make payments electronic *(see below)*. For individuals, the payment deadline is by the 15th day of the following month for individuals.

The payments must be paid in TND and, it should be processed electronically (via specific payment platform) for taxable persons of which the annual turnover is equal or exceeds TND100,000. There is a system of online tax declaration that allows taxable persons to liquidate and pay their taxes online (www.impots.finances.gov.tn).

The online tax declaration allows to liquidate and pay monthly tax returns and annual tax returns (monthly tax returns, filing of corporate tax returns, declaration of the advance due by partnerships and similar companies, declaration of personal income tax, declaration of the installment). This process is mandatory for persons whose turnover is equal or more than TND100,000.

Electronic filing. Electronic filing is mandatory in Tunisia for certain taxable persons. The electronic filing of a monthly VAT return is mandatory for entities whose annual revenue exceeds TND100,000. Below this threshold, electronic filing is optional.

Payments on account. Payments on account are not required in Tunisia.

Special schemes. *VAT suspension regime.* For sales and purchases under the VAT suspension regime, the purchaser and the supplier must each make an electronic declaration, before the 28th day of the month that follows the quarter of the calendar year. The VAT suspension regime may be granted to special taxable persons, e.g., those that wholly export, supply hydrocarbon and those in the mining sectors.

Annual returns. Annual returns are not required in Tunisia.

Supplementary filings. *Quarterly reporting on purchases with the suspension of VAT.* A detailed list of invoices is required to be submitted to the tax authority. These are for invoices issued in

suspension of VAT according to a model established by the administration including in particular the invoice number object of the benefit, its date, the customer's first and last name or business name, address, tax identification card number, the price excluding tax, the rate and the amount of value added tax having is the subject of suspension and the number and the date of the certificate of purchase in suspension of VAT relating to the sale transaction in suspension of tax. The filings must be submitted to the competent tax control office during the 28 days that follow each calendar quarter.

Correcting errors in previous returns. Omissions, errors and concealments found in the base, rates or liquidation of the declared VAT returns can be corrected as follows:

- Until the end of the fourth year following the year in which the profit, income, turnover, receipt or disbursement of sums or other transactions giving rise to the liability for tax. However, for companies subject to tax under the actual regime and for which the balance sheet closing date does not coincide with the end of the calendar year, the claw back/tax recovery right for a given fiscal year is extended until the end of the fourth calendar year following the year in which the balance sheet is closed
- Within four years from the date of registration of the act or statement, regarding registration rights

However, when an act or judgment with a higher value of buildings in the scope of a declaration of succession occurs within two years from the date of death, the limitation period begins to run from the date of registration of the act or judgment.

A taxable person should consequently correct errors or omissions from prior periodic declarations within the aforementioned period via a rectifying declaration, which may be made online or in person.

Digital tax administration. There are no transactional reporting requirements in Tunisia.

J. Penalties

Penalties for late registration. A fine that varies between TND1,000 and TND50,000 is applicable for late registration of VAT. However, this fine does not apply if the taxable person regularizes the situation prior to a tax audit.

Penalties for late payment and filings. For the late filing of VAT returns or underpayments of VAT, penalties are imposed as follows:

- In the case of a spontaneous late filing (prior to a tax audit):
  - A delay penalty of 1.25% per month or fraction of a month
  - A base penalty of 3%, and where the delay exceeds 60 days a penalty of 5%
- In the case of a tax audit:
  - A delay penalty of 2.25% per month or fraction of a month
  - A base penalty of 10%, which can be increased to 20% in the following cases:
    a) A claim for collected turnover taxes and unremitted withholding taxes
    b) A decrease that is equal or more than 30% in reported turnover
    c) Tax fraud
  - The above penalties can be reduced as per the following:
    a) A delay penalty of 1.25% per month or fraction of a month
    b) A base penalty of relief of 50% on the due penalty
  - The following conditions must be met to receive the benefit of the above penalty relief:
    a) Signature of an acknowledgment of debt before notification of the automatic tax order
    b) Undivided payment within 30 days of acknowledgment of debt

The total amount of the above penalties is capped in all cases to the amount of the tax base.

For sales and purchases under the VAT suspension regime, fines and penalties, which would be incurred by the purchaser and the supplier in case they do not comply with some formalities, are as follows:

- The purchaser: In case of undeclared purchase orders, the taxable person must pay a fine that amounts to TND2,000 per undeclared purchase order for the first five purchase orders and TND5,000 each starting from the sixth purchase order. In addition, if the seller makes sales without obtaining an original of the certified purchase order, the customer would be subject to a fine that amounts to 50% of the VAT that would have been invoiced by the supplier if the sales had been made out of the exceptional VAT suspension regime.
- The seller: If the seller makes sales without obtaining an original of a certified purchase order, it would be subject to a fine that amounts to 50% of the VAT that would have been invoiced if the sales had been made out of the exceptional VAT suspension regime.

VAT credits unduly refunded under the full refund without a prior tax audit framework are subject to an administrative tax penalty equal to 100% of the VAT credit:

- Refund of the VAT derived from exportations of goods or services used or consumed out of Tunisia
- Refund of the VAT for the profit of the enterprises under the control of the DGE

Penalties for errors. The same penalties for late payment and filings are applicable for the case of errors. There are no specific penalties for errors.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. However, the tax authorities may consider the taxable person as noncompliant, which can lead to blocking issues with respect to the Tunisian administrations. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A penalty of imprisonment of 16 days to three years and a fine of TND1,000 to TND50,000 for any person who keeps double accounts or uses falsified accounting documents, registers or directories, with the aim of totally or partially to the payment of tax or to benefit from tax advantages or tax refunds.

The above is imposed, in addition to the withdrawal of the license to practice, business agents, tax advisors, experts and all other persons having an independent profession of keeping or helping to keep accounts and who have knowingly established or helped in making false accounts or false accounting documents in order to minimize the tax base or the tax itself. These people are also jointly liable with their customers for the payment of the principal tax and the related penalties evaded by their actions.

Personal liability for company officers. The legal representatives of the company can be held personally liable for errors and omissions in VAT declarations and reporting and may therefore be subject to the penalties outlined above under the subsection *Penalties for fraud.* This means that business agents, tax consultants, experts and all other persons who make an independent profession of keeping or assisting in the keeping of accounts and who have knowingly established or helped to establish false accounts or false accounting documents with the aim of reducing the tax base or the tax itself can be punished by imprisonment from 16 days to three years and assessed a fine of TND1,000 to TND50,000, in addition to the withdrawal of the license to practice.

These people are, moreover, jointly and severally liable with their clients for payment of the principal of the tax and the related penalties evaded by their actions.

The same penalty is applicable to the persons responsible for carrying out or setting up the computer systems or applications relating to the keeping of accounts or the preparation of tax returns in the event that they fulfill the facts outlined above.

However, it should be noted that Article 101 of the Tunisian Tax Rights and Procedures Code provides that any increase in the VAT credit or decrease in turnover to evade payment of the said tax or to benefit from the refund of the said tax entails a sanction that is applied when the reduction or increase is equal to or greater than 30% of the declared turnover or tax credit. As for the sanction, it is a fine from TND1,000 to TND50,000 and imprisonment from 16 days to three years. As for the transaction fee, it is 50% of the amount of the tax principal evaded without the amount of the fine due being less than TND500 or more than TND50,000.

Statute of limitations. The statute of limitations in Tunisia is 4, 6 or 10 years. For underpayment of VAT due, omissions, errors and concealments found in the tax base, the rates or the liquidation of declared taxes can be corrected until the end of the fourth year following the year in which the profit, income, turnover, receipt or disbursement of sums or other transactions giving rise to the liability for tax. For noncompliance of filing obligations (i.e., not filing a VAT return), the statute of limitations is 10 years. For filing nil returns or including insufficient reported taxes, the statute of limitations six years.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Katma deger vergisi (KDV)
Date introduced	2 November 1984
Trading bloc membership	European Customs Union The system of Pan-Euro-Mediterranean Cumulation
Administered by	Turkish Revenue Administration (http://www.gib.gov.tr)
VAT rates	
Standard	20%
Reduced	1%, 10%
Other	Full exemption and partial exemption
VAT number format	1234567890
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Türkiye by a taxable person in the course of performing commercial, industrial, agricultural or independent professional activities
- Services received in Türkiye or benefited from in Türkiye by a taxable person or any other person responsible for payment of the tax
- Goods and services imported into Türkiye

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Türkiye, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Türkiye. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets. However, merger and acquisition transactions, which are done under the articles of Corporate Tax Law exemptions, may also benefit from the VAT exemption. This is done on a case-by-case basis.

Transactions between related parties. For a transaction between related parties, the value for VAT purposes should be done at on an arms-length basis.

C. Who is liable

A taxable person is any person or legal entity that is registered or must register for VAT in Türkiye. Any entity that has a fixed place of business or regularly carries out commercial or professional operations in Türkiye must register in Türkiye.

No VAT registration threshold applies. VAT registration is granted automatically by the tax office when a business registers for corporate and income tax purposes. It is necessary to have a fixed place of business to register for tax. A fixed place of business includes a residence, place of business and registered head office or business center in Türkiye. Only entities that are registered for tax may import goods into Türkiye.

Partial VAT withholding. There is a "partial VAT withholding" mechanism in Türkiye. Under this mechanism, a certain portion of VAT amount is withheld by the recipient (purchaser, service receiver, etc.), and the recipient pays this VAT directly to the tax office instead of the supplier (seller, service provider, etc.). The portion that is not subject to withholding is declared and paid to the tax office by the supplier.

Partial VAT withholding is applied to a list of transactions that covers but is not limited to:
- Construction works
- Maintenance and repair services related to machinery and equipment
- Catering and organization services
- Labor procurement services
- Contract textile manufacturing
- Cleaning, environmental and garden care services
- Delivery of copper, zinc, aluminum and lead products

The rate of withholding varies depending on the type of services.

Exemption from registration. The VAT law in Türkiye does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Türkiye does not contain any provision for voluntary VAT registration and no special VAT registration rules for small businesses, as there is no registration threshold (i.e., all entities established in Türkiye that make taxable supplies are obliged to register for VAT).

Group registration. Group VAT registration is not allowed in Türkiye.

Fixed establishment. In Türkiye, there is no legal definition of a fixed establishment for VAT purposes. However, there is no VAT-only registration rule in Türkiye. In principle, a taxable person registered for all taxes (including VAT) is responsible for all direct and indirect taxes. Tax registration is done based on the permanent establishment evaluation under the Corporate Tax Legislation and Tax Procedural Code.

Non-established businesses. A "non-established business" is a business that has no fixed establishment in Türkiye. A non-established business may not register for VAT only (other than "Special VAT Registration for Electronic Service Providers" – see the *Digital economy* subsection below). If a Turkish taxable person receives services from an entity that does not have a fixed establishment in Türkiye, VAT is accounted for using the reverse-charge mechanism (that is, the Turkish recipient of the service must self-assess VAT).

Tax representatives. Tax representatives are not required in Türkiye.

Reverse charge. The reverse charge is a form of self-assessment for VAT through which the recipient of services accounts for the tax. The reverse charge applies if certain services subject to Turkish VAT are made by a person that is not a resident in Türkiye or that does not have a permanent establishment or headquarters in Türkiye. The Ministry of Treasury and Finance is authorized to determine the parties responsible for the payment of VAT. The recipient does not need to be a taxable person under Turkish VAT law. The recipient may be an individual or an institution.

The reverse charge applies to the following services performed or used in Türkiye:
- Transfers of copyrights, patents, licenses, trademarks, know-how and similar rights
- Import commissions
- Services of independent professionals, such as engineering, consulting, data processing and provision of information
- Interest payments made to foreign entities other than banks and financial institutions
- Rental services
- Transfer or assignment of the right to use capacity for the transmission, emission or reception of signals, writings, images, sounds or information of any nature by wire, radio, optical or other electromagnetic systems
- Other services not specified in this list

Domestic reverse charge. There are no domestic reverse charges in Türkiye.

Digital economy. Nonresidents providing electronically supplied services to nontaxable real persons (i.e., for business-to-consumer (B2C) supplies) in Türkiye are required to register and account for VAT on supplies in Türkiye. Nonresidents mean those businesses that have no resident, business place, legal or business center in Türkiye.

The service providers must register for "Special VAT Registration for Electronic Service Providers." Such service providers declare the VAT related to these transactions electronically with the VAT Return No. 3. There is no VAT registration threshold for these types of suppliers.

These service providers must fill in the form on the Turkish Revenue Administration's website (www.digitalservice.gib.gov.tr) before filing the VAT Return No. 3 for the first time. Upon completing and filing the aforesaid form online, the "Special VAT Registration for Electronic Service Providers" will be registered in the name of the service provider.

Such service providers will be required to file VAT return type No. 3, electronically, by the 28th of the month following the end of the return period. See the *Section I. Returns and payment* below for further detail.

Nonresidents providing electronically supplied services only to tax-registered entities (i.e., for business-to-business (B2B) supplies) in Türkiye are not required to register and account for VAT

in Türkiye. Instead, the customer is required to self-account for the VAT via the reverse-charge mechanism (see the *Reverse charge* subsection above).

There are no other specific e-commerce rules for imported goods in Türkiye.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Türkiye.

Registration procedures. There is no online registration application system except for "Special VAT Registration for Electronic Service Providers" (see details above under the *Digital economy* subsection). To register for tax, an application must be submitted to the tax office with the documents listed below:
- Articles of association of the company
- Registration certificate or original trade registry gazette
- Signature circular document indicating the authorized signatories and their signature samples
- Trade registry document of the legal entity founder or authorized signatory (if any)
- Notarized passport copies of the authorized signatories and founders of the company
- Potential tax numbers of the founders and signatories that are obtained from the tax office
- Notarized lease agreement in the name of the company
- Originally signed Form of Commence Business (standard form to be received from the tax authority)
- Power of attorney (only if the application will be conducted by a representative)

Approximately one week after submitting an application with the above documents, the tax officer will conduct an inspection at the registered office of the company. This is to determine whether or not there actually is an office space with adequate equipment. The authorized signatory of the company shall be present for this inspection to sign the necessary documents, or such documents shall be signed by the representative via a power of attorney. Upon completion, the tax number will be issued within a few days.

Deregistration. In the case of the closing down of a business or the dissolution of a legal entity, the person authorized to represent the company must submit written notice to the tax office within one month of the date of closure. After submitting the application for the liability cancellation, a visit to the relevant workplace is performed by the authority to confirm its closure.

Changes to VAT registration details. Taxable persons must notify the relevant tax office online or by post within one month from when there is a change in their registration details.

D. Rates

The term "taxable supplies" refers to supplies of goods and services liable to a rate of VAT.

The VAT rates are:
- Standard rate: 20% *(the rate increased from 18% to 20% from 10 July 2023)*
- Reduced rates: 1%, 10% *(the rate increased from 8% to 10% from 10 July 2023)*

The standard VAT rate applies to all supplies of goods or services unless a specific measure provides for a reduced rate or exemption.

Examples of goods and services taxable at 1%
- Newspapers and magazines
- Basic foodstuffs
- Used passenger cars

Examples of goods and services taxable at 10%
- Foodstuffs
- Textile products
- Pharmaceuticals

- Medical products
- Some construction equipment
- Admission charges for cinemas, theaters and operas

The term "exempt supplies" refers to supplies of goods and services that are not subject to VAT. "Partially exempt" supplies (as specified in Articles 16 and 17 of the VAT law) do not give rise to a right of input tax deduction (see *Section F*). Some supplies are classified as "fully exempt," which means that no VAT is due, but the supplier may recover related input tax. These supplies include exports of goods and related services.

Examples of partially exempt supplies of goods and services

- Leasing immovable property by an individual
- Financial transactions
- Supplies to certain cultural bodies
- Supplies by and to certain governmental bodies
- Water for agriculture
- The supply of unprocessed gold, foreign exchange money, stocks and bonds, duty stamps, scrap metal, plastic and certain other items
- Storage services performed at bonded warehouses or temporary storage places
- Delivery of goods or performance of services in free-trade zones

Examples of fully exempt supplies of goods and services

- Exports of goods and services
- Services rendered at marinas and airports for marine and air conveyances
- International transport
- Supplies to persons engaged in petroleum exploration
- Supplies of goods to investment incentive certificate holders
- Sales to the Directorate of the Defense Industry

Option to tax for exempt supplies. Taxable persons may submit a request to opt to tax exempt transactions by applying to the tax office in writing. The taxable persons who have an option to tax approved and become liable for VAT in this way will not be able to change this option for a minimum of three years after the date of the option to tax applying.

The option to tax cannot be requested for:

- Exemptions with the purpose of culture and education, social utility and military
- Exemption regarding the transactions within the scope of banking and insurance tax and the transactions of insurance agents related to insurance activities

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. However, if the supplier issues an invoice before the time of supply, VAT applies to the extent that the supply is covered by the invoice.

Deposits and prepayments. A deposit or prepayment alone does not create a tax point from VAT point of view if the supply has not been made and the invoice has not been issued yet. As outlined above, the tax point occurs when goods are delivered or services are performed, or when an invoice is issued if it is earlier than the time of supply. A deposit or prepayment is basically a transfer of cash in advance before the supply or invoice. Therefore, prepayment alone does not create a tax point for VAT.

Continuous supplies of services. If services are received continuously but payment is made periodically, the tax is declared every month. If the invoice is issued before the declaration period, the tax point is the date of the invoice.

Goods sent on approval for sale or return. The time of supply for goods sent on approval for sale or return is when the customer accepts the goods, and a supply is made.

Reverse-charge services. There are no special time of supply rules in Türkiye for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. There are no special time of supply rules in Türkiye for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. The time of supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Türkiye, VAT paid on imports of goods and VAT self-assessed on reverse-charge services.

If the input tax exceeds the output tax, the excess amount is generally not refunded but can be carried forward to subsequent VAT periods.

A valid document, such as an invoice or customs document, must accompany a claim for input tax.

The time limit for a taxable person to reclaim input tax in Türkiye is until the end of the calendar year following the calendar year in which the taxable event takes place. The right of deduction may be exercised in the tax period in which the purchase documents are entered into the recipient's books of account, but only until the end of the calendar year following the calendar year in which the taxable event takes place.

Nondeductible input tax. Input tax is not recoverable if it is charged on purchases of goods and services that are not used for business purposes and are considered to be nondeductible expenses for corporate tax purposes. In addition, input tax may not be recovered for partially exempt transactions.

Examples of items for which input tax is nondeductible

- Input tax of nondeductible expenses in corporate tax law
- Input tax of passenger cars
- Input tax of lost goods (covering all situations where goods were lost, other than an earthquake, flood disaster or fire disaster that has been announced by the Ministry of Finance as a force majeure)
- Input tax over the surveillance application, anti-dumping, additional financial obligation on imports (abolished through Presential Decision No.7846, with effect from 24 November 2023)

Examples of items for which input tax is deductible (if related to a taxable business use)

- All kinds of commercial expenses for operating activities of the entity
- All direct and indirect expenses for commercial purposes of the entity

Partial exemption. An input tax deduction is granted for taxable supplies and for supplies that are exempt with credit. An input tax deduction is not granted for partially exempt supplies. If a taxable person makes both taxable and partially exempt supplies, it may recover only input tax related to supplies that are taxable or fully exempt.

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Türkiye.

Capital goods. In general, input tax incurred on fixed assets is recoverable. Taxable persons can deduct the whole amount of VAT paid for fixed assets in the taxation period in which the related invoices are recorded in the legal books.

On the other hand, input tax of lost goods is not deductible and needs to be corrected in the taxation period in which the goods became lost.

However, if depreciable assets are lost (due to fire, being stolen, etc.) after completing their useful lives, then there is no need for VAT correction.

If depreciable assets are lost before fully completing their useful lives, then the portion of input tax corresponding to the remaining useful life needs to be corrected.

Refunds. If the amount of input tax recoverable in a period exceeds the amount of output tax payable in the same period, a refund is, as a rule, not granted. In most cases, the taxable person must carry forward the excess amount to a future VAT period. Refunds of the excess are available only for the following:
- VAT related to supplies of goods subject to a reduced rate
- VAT related to supplies of goods and services that are exempt with credit
- VAT related to supplies in the scope of partial VAT withholding

The amount of the VAT refund may be credited against other tax liabilities.

In addition, it is mandatory to submit all VAT refund certification reports on electronic environment via the internet tax office.

Pre-registration costs. The amount of incurred VAT for the prior costs and expenditures related to the registration process could be deductible after the registration process is complete. The main condition that must be met is that they are related to the registration process. As for recovery, there is no separate/special rule – normal recovery rules apply (as outlined above).

Bad debts. Taxable persons must declare and pay the VAT related to their supplies of goods and services, whether or not they receive the consideration for these supplies.

Taxable persons can deduct the VAT that has been calculated and declared related to the receivables that became a bad debt (as per the article 322 of the Tax Procedures Code).

A "bad debt" is defined as receivables that are no longer possible to be collected according to a judicial decision or a satisfactory document, as per the article 322 of the Tax Procedures Code.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Türkiye.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Türkiye is not recoverable, except for the following:
- Expenses by nonresident international transporters on repairs, fuel and spare parts

- Expenses by non-established businesses on fairs and exhibitions (if the business' country of residence is on mutual terms with Türkiye)
- Expenses by foreign producers of cinematographic works approved by the Ministry of Culture and Tourism

H. Invoicing

VAT invoices. Turkish taxable persons must provide invoices for all taxable supplies and services. Taxable person recipients of the supplies and services must retain copies of the invoices.

Credit notes. Credit notes may not be used to reduce VAT charged and reclaimed on supplies of goods or services.

Electronic invoicing. Electronic invoicing is mandatory in Türkiye, for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Türkiye. The requirements related to electronic invoicing are the same as those for paper invoicing.

Electronic invoicing is mandatory for the following taxable persons (it is optional for those who don't fall under this list):

- Taxable persons whose gross sales revenue is greater than the following:
  - TL5 million in FY18, FY19 and FY20
  - TL4 million in FY21
  - TL3 million and above for FY22 and subsequent years
- Energy Market Regulatory Authority (EPDK) licensed companies – Special Consumption Tax List (ÖTV) I
- Taxable persons who obtain a charging network operator license from the Energy Market Regulatory Authority within the scope of the Charging Service Regulation and charging station operators certified by these taxable persons
- Special Consumption Tax List (ÖTV) III (Alcoholic/non-alcoholic beverages, spirits)
- Online goods or services sales and online advertisement publishing service providers whose gross sales revenue is greater than the following:
  - TL1 million in FY20 and FY21
  - TL500,000 and above in FY22 and subsequent years
- Fruit and vegetable merchants and commission merchants
- Taxable persons who make supplies of real estate and/or motor vehicles, construction, production, purchase, sale or leasing transactions and act as intermediaries in these transactions with gross sales revenue greater than the following:
  - TL1 million in FY20 and FY21
  - TL500,000 and above in FY22 and subsequent years
- Hotel enterprises that provide accommodation services by obtaining investment and/or business certificates from the Ministry of Culture and Tourism and municipalities
- Medical service providers who signed contracts with social security institutions and medical equipment and drugs/active substances suppliers

The threshold for issuing the invoices is TL4,400. For the sales less than TL4,400, sales receipt can be issued instead.

Those who are registered with the electronic invoicing application should issue an electronic invoice for sales to those who are also registered with the electronic invoicing application (B2G, B2B or B2C).

Those who are registered with the electronic invoicing application should issue an electronic archive invoice for sales to those who are not registered with the electronic invoicing application (B2G, B2B or B2C).

Those who are not registered with the electronic invoicing application should issue an electronic archive invoice for sales to the tax-registered entities with a total amount of more than TL4,400 (B2G, B2B or B2C).

Those who are not registered with the electronic invoicing application should issue an electronic archive invoice for sales to those who are not tax registered with a total amount of more than TL5,000. If the amount is less than TL5,000, then paper invoice can be issued instead.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Türkiye. As such, full VAT invoices are required.

Self-billing. Self-billing is allowed in Türkiye. In practice, it is used in certain circumstances. For instance, when a taxable person transfers own goods from inventory accounts to fixed assets, they need to issue a self-invoice.

Proof of exports. Turkish VAT is not charged on exports. However, to qualify as VAT-exempt, export supplies must be supported by evidence that confirms that the goods have left Türkiye. The evidence required consists of the customs declaration, which clearly identifies the exporter, the customer, the goods and the export destination, and invoice information.

Foreign currency invoices. An invoice issued for a domestic sale must be issued in the domestic currency, which is the Turkish lira (TRY). The invoice may also show the invoiced amount in a foreign currency if the TRY equivalents are stated.

An invoice issued for an export sale may be issued in a foreign currency. The amount of the invoice must be recorded in the supplier's books together with the exchange rate on the date of the transaction.

Supplies to nontaxable persons. For supplies made by taxable persons to private consumers (i.e., not VAT registered), where the price of the supply is below TRY4,400 (for 2023), a till receipt is sufficient to be issued from the supplier to the purchaser, and there is no obligation to issue a full VAT invoice unless requested by the purchaser.

Records. In Türkiye, examples of what records must be held for VAT purposes include the legal books (i.e., the journal ledger, inventory ledger) and the substantiating documents (such as invoices, expense vouchers, bank receipts, payrolls, contracts, etc.).

In Türkiye, VAT books and records can be held outside of the country. Taxable persons have the option to hold records both in and outside of Türkiye. However, if kept outside Türkiye, the records must be presented in a timely manner when requested by the tax authorities.

Record retention period. The record retention period is 5 years as per the Tax Procedures Code and 10 years as per the Turkish Commercial Code. The retention period of five years is only valid for tax purposes. Therefore, considering the Turkish Commercial Code, it is recommended to maintain all files for 10 years.

Electronic archiving. Electronic archiving is allowed in Türkiye. Taxable persons using e-archive system archive their data on an electronic environment. However, they are required to archive original hard copy of the documents that were originally issued in hard copy format.

Taxable persons not using e-archive system archive their data and files in their original format. They will be required to submit these data/files to tax authorities when requested.

Taxable persons who are permitted to use e-invoicing, must e-archive the invoices, and those that are issued electronically must be archived electronically. Taxable persons who are allowed to benefit from the e-archive application have to issue, deliver, archive and, when requested, submit the invoices as e-invoices, which are issued for those who are registered for e-invoicing. Taxable persons may use e-archiving in two methods: through their own information technology system or through a special integrator information technology system authorized by the Revenue Administration.

I. Returns and payment

Periodic returns. The VAT return period is monthly. Returns must be submitted electronically through the internet by the 28th day of the month following the end of the return period. Returns must be declared in the form that was designated according to the provisions of Tax Procedural Law. There are five types of VAT returns:

- VAT Return No. 1: Filed by the taxable persons who are subject to real taxation to declare VAT calculated over their supplies
- VAT Return No. 2: Filed by taxable persons responsible to declare reverse charge and partially withheld VAT
- VAT Return No. 3: Filed by the non-established companies to declare VAT on their electronically supplied services to Turkish real persons (B2C)
- VAT Return No. 4: Filed by the taxable persons who are subject to revenue-based taxation system
- VAT Return No. 5: Filed by the enforcement offices and those who are not subject to real taxation to declare VAT on sales made in auction halls

Periodic payments. Payment in full must be made by the 28th day of the month following the end of the return period (i.e., month of submission). Tax return liabilities must be paid in Turkish lira.

For "Special VAT Registration for Electronic Service Providers," payment of VAT is made online via using debit cards (via a Turkish public bank or any foreign banks) and only foreign bank credit cards. Alternatively, there is also EFT option to the bank account of the Large Taxable Person Tax Office.

Partial VAT withholding. There is a "partial VAT withholding" mechanism in Türkiye. Under this mechanism, a certain portion of VAT amount is withheld by the recipient (purchaser, service receiver, etc.), and the recipient pays this VAT directly to the tax office instead of the supplier (seller, service provider, etc.). The portion that is not subject to withholding is declared and paid to the tax office by the supplier.

Partial VAT withholding is applied to a list of transactions that covers but is not limited to:

- Construction works
- Maintenance and repair services related to machinery and equipment
- Catering and organization services
- Labor procurement services
- Contract textile manufacturing
- Cleaning, environmental and garden care services
- Delivery of copper, zinc, aluminum and lead products

The rate of withholding varies depending on the type of services.

Electronic filing. Electronic filing is mandatory in Türkiye for all taxable persons. Taxable persons are obliged to submit their tax returns by using the Ministry of Treasury and Finance's system

called "e-Beyanname." All tax returns must be submitted through this system and are electronically archived. Tax returns from previous periods are easily retrievable from this system.

Payments on account. Payments on account are not required in Türkiye.

Special schemes. *Specified sectors.* As of 1 January 2019, a revenue-based taxation system has been established for taxable persons operating in specified sectors in Türkiye. Accordingly, those operating within the sector and occupational groups determined by the President, if requested, may pay a certain percentage of their proceeds (including VAT) by declaring it without considering the deductible VAT amount. Currently, suppliers of public transportation services who fulfill certain conditions are in the scope.

Annual returns. Annual returns are not required in Türkiye.

Supplementary filings. *BA-BS forms.* Taxable persons are required to file BA-BS forms to declare the transactions over TRY5,000 between the purchaser company and seller company. The purchases from other companies are stated within the BA Form, whereas the sales to other companies are stated within the BS Form. The "BA-BS" stands for "*Bildirim Alış-Bildirim Satış*" in Turkish, which means notification of purchases and sales.

Correcting errors in previous returns. To correct any errors in a tax return, a new tax return must be filed electronically by including an explanation for the purpose of correction on the return. If a tax amount is corrected, the new tax return must show the final corrected amount and not only the part of amount to be added or deducted.

Digital tax administration. There are no transactional reporting requirements in Türkiye.

J. Penalties

No specific penalties relate to VAT offenses. Penalties are prescribed by the Tax Procedures Code, which defines various acts of noncompliance with the tax laws, as outlined in more detail below.

Penalties for late registration. In case of late registration, the following penalties could apply:
- Tax loss penalty
- Late payment charge (interest)
- Irregularity penalty

Penalties for late payment and filings. Late submission of tax returns on electronic environment is subject to tax loss penalty and special irregularity penalty. In such a case, the special irregularity penalty is TRY7,500 (for 2023) per tax return and the tax loss penalty is the amount of the tax loss itself.

Late payment of taxes due is subject to late payment interest at the rate of 2.5% per month.

The penalty for the failure to account for VAT under the reverse-charge mechanism is the full amount of tax that has not been accounted for (i.e., 100% of the tax due). The amount of interest is calculated starting from the due date of the tax payment until the date on which the penalty notice is issued.

Penalties for errors. Penalties for errors should be evaluated based on the result of error. If, for example, the error causes a tax loss, then the tax loss penalty may apply. If the error does not cause a tax loss but is only related to form, such as not using the correct line of the return to declare a tax, then the irregularity penalties may apply. The amount of irregularity penalties varies depending on the type of irregularity.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a second-degree irregularity penalty of TRY7,500 (for 2023). For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Manipulating or destroying the legal books and accounting records or issuing misleading or forged documents are evaluated under smuggling and penalized. Smuggling acts may result in jail sentence varying between 18 months and five years.

Personal liability for company officers. The directors that have management powers are liable to perform their obligations with due care and to protect the interest of the company. The liability of directors is based on fault, meaning that the directors may be personally held liable due to their fault or negligence while performing their duties against the company, shareholders and other related third parties and compensate the damaged parties. In case the tax debts of a company cannot be collected, in part or in a whole, from the assets of such company and the said tax collection is due to the failure of fulfillment of duty of the directors, then such taxes would be collected from the assets of the directors who have failed to perform their legal duties.

Statute of limitations. The statute of limitations in Türkiye is five years.

Uganda

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 July 1996
Trading bloc membership	Common Market for Eastern and Southern Africa (COMESA) East African Community (EAC) African Continental Free Trade Area (AfCFTA)
Administered by	Uganda Revenue Authority (https://www.ura.go.ug) (URA)
VAT rates	
Standard rate	18%
Others	Zero-rated (0%) and exempt
VAT number format	10-digit numeric tax identification number in the form of 1234567890
VAT return periods	Monthly
Thresholds	
Registration	UGX150 million (annual)/UGX37.5 million (quarter)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- Taxable supplies of goods and services made in Uganda by taxable persons
- Imports of goods other than exempt imports
- Supplies of imported services other than exempt services

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Uganda, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be exempt from VAT under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as exempt from VAT. In Uganda, a TOGC is treated as exempt from VAT where the following conditions are met:

- The supplier disposes of any part of a business that is capable of separate operation (for example a branch of a business)
- Both the seller and the buyer must be registered as taxable persons for VAT
- The Agreement of Sale, which should be duly executed, must make it absolutely clear that the property is a whole or part of the seller's business, which is being sold as a going concern
- Activities of the business must continue after the business is transferred to the purchaser for at least two years
- The supplier supplies to the recipient all of the facilities that are necessary for the continued operation of the enterprise being sold. This may include premises, plant and equipment, stock in trade, intangible assets such as goodwill, contacts and licenses, and all the operating structure and process of the enterprise
- The supplier carries on or will carry on the business until the day of the supply (whether or not as a part of a larger business carried on by the supplier) and that the nature of the business will not change after the transaction
- The transferor and transferee shall within 21 days of the transfer, notify the Commissioner General in writing of the details of the transfer in accordance with section 19 (2) of the VAT Act, Cap.349

Note: a mere disposal of an asset used by the business is not a supply of a going concern.

Transactions between related parties. In Uganda, for a transaction between related parties, the value for VAT purposes is calculated at fair market value. The VAT law requires that supplies between associated parties should be made at their fair market value, which is the consideration in money that a similar supply would generally fetch if supplied in similar circumstances at that date in Uganda, being a supply freely offered and made between persons who are not associates.

C. Who is liable

The persons liable for VAT in Uganda vary according to the type of supply. The following persons are liable for VAT in Uganda:

- Taxable supply in Uganda: the taxable person making the supply
- Import of taxable goods: the importer
- Import of taxable services: the recipient of the services

The annual registration threshold is UGX150 million (approx. USD40,500).

A "taxable person" is defined in the Uganda VAT law as someone that is registered or required to be registered for VAT in Uganda.

Exemption from registration. The VAT law in Uganda does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Uganda contains a provision for application for voluntary registration of persons supplying goods or services for consideration. In exercising the discretion whether to grant the voluntary registration or not, the Commissioner General must be satisfied that the person has a fixed place of abode or business; will keep proper accounting records; will submit regular and reliable tax returns and that the person is a fit and proper person to be registered.

Group registration. Group VAT registration is not allowed in Uganda.

Fixed establishment. In Uganda there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. A "non-established business" is a business that does not have a fixed place of abode or business in Uganda. Non-established businesses are not liable to charge and account for VAT except where they provide specified electronic services delivered remotely to persons who are not taxable persons in Uganda at the time of supply.

Tax representatives. A tax representative is responsible for performing any duty or obligation imposed by the tax law on a taxable person, including the submission of returns and payment of tax. A tax representative making a payment of tax on behalf of the taxable person is treated as acting under the authority of the taxable person. Examples include:
- For an individual under legal disability, the guardian or manager
- For a company, the chief executive officer, managing director
- For a partnership any partner
- For a trust, a trustee of the trust

Tax representatives are therefore required to assist taxable persons who are not able to meet their tax compliance personally.

Reverse charge. Generally, the reverse-charge mechanism is not applicable except for the import of services made by a contractor or licensee in the petroleum or mining sector, or a person providing business process outsourcing services. VAT on imported services does not apply for any exempt service.

An import of a service is an exempt import if the service would be exempt had it been supplied in Uganda. Therefore, reverse charge would also not be applicable on the import of a service that is an exempt import. *At the time of preparing this chapter, the Tax Appeals Tribunal had issued a ruling on the issue of reverse-charge VAT on imported services. This issue regarded whether the place of supply provision is applicable to the imported services provision. The Tribunal ruled that VAT is payable on imported services by all recipients, whether taxable or not, and this input tax is not claimable, unless the person is a licensee or a contractor in the petroleum or mining operations or is a person providing business process outsourcing services.*

Domestic reverse charge. There are no domestic reverse charges in Uganda.

Digital economy. Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to account and register for VAT in Uganda. Instead, the customer is required to self-account for the output tax via the reverse-charge mechanism. However, the output tax declared cannot be claimed as an input credit except if the importer of the services is a contractor or licensee in the petroleum or mining sector, or a person providing business process outsourcing services.

Nonresidents providing electronically supplied services for business-to-consumer (B2C) supplies are required to account and register for VAT in Uganda. The supply is treated as a local service under the place of supply rules. The nonresident would be required to register and account for VAT on its B2C supplies if the electronic services provided are done so remotely (see

definition below) and if its supplies exceed the registration threshold. The registration requirement only applies for these types of services.

Online marketplaces and platforms. Electronic services when provided or delivered remotely to a person in Uganda, where the recipient is a nontaxable person or a person whose supplies do not exceed UGX150 million (approx. USD40,500) or a government entity that is not registered for VAT, are deemed as supplied in Uganda and as such are taxable supplies in Uganda. Electronic services are defined to include websites, webhosting or remote maintenance of programs and equipment; software and updating of software; images, text and information; access to databases; music; films; games, including games of chance; political, cultural, artistic, sporting, scientific and other broadcasts and events including television; advertising platforms; streaming platforms and subscription-based services; cab-hailing services; cloud storage; and data warehousing. The Uganda Revenue Authority (URA)has issued a Public Notice that such a person providing these services ought to apply for registration, file a return and account for VAT in Uganda. The return shall be filed within 15 days after the end of three consecutive calendar months. A nonresident person may appoint a tax representative for purposes of effecting the registration and filing requirements. The Commissioner General may, at the cost of a nonresident, appoint another person to prepare and furnish the return on behalf of that person.

Registration procedures. A person that is not already a registered person must apply to be registered in accordance with the VAT Act by the following dates:

- Within 20 days after the end of any period of 3 calendar months during which the person made taxable supplies, the value of which exclusive of any tax exceeded UGX37.5 million (approx. USD10,150)
- At the beginning of any period of three calendar months if reasonable grounds exist to expect that the total value of taxable supplies, exclusive of any tax, to be made by the person during the period will exceed UGX37.5 million (approx. USD10,150)

Applications for VAT registration are done on the URA portal (https://www.ura.go.ug/) using a form/template prescribed by the Commissioner General. A person who applies for registration is registered and issued a certificate of registration if the Commissioner General is satisfied that the person is eligible for registration under the VAT Act and has a fixed place of abode or business. The Commissioner General must also be satisfied that person:

- Will keep proper accounting records relating to any business activity
- Will submit regular and reliable tax returns
- Is a fit and proper person to be registered

Upon submitting the application for registration online, the applicant is required to submit the following physical documents to the URA offices:

- Tenancy agreement; this is required to show fixed place of business
- Invoices or contracts that show the applicant's sales satisfy the VAT threshold of UGX37.5 million for three consecutive months or a contract whose stipulated value exceeds the annual or quarterly threshold

Applicants are also currently required to mandatorily register for the Electronic Fiscal Receipting and Invoicing System (EFRIS).

An inspection of the premises will be done by an officer from the URA and thereafter the application is approved.

Registration for VAT takes an average of two working days from the date a complete application is submitted.

Deregistration. In the following circumstances, the VAT-registered person is required to apply for VAT deregistration by amending the taxable person's tax identification number (TIN):
- If the taxable person has ceased to make supplies of goods or services for consideration as part of their business activities
- If, with respect to the most recent period of three calendar months, the value of taxable supplies exclusive of tax does not exceed UGX37.5 million and if the value of taxable supplies exclusive of tax for the previous 12 calendar months does not exceed UGX112.5 million

However, the Commissioner General may also initiate the cancellation of a person's VAT registration if the Commissioner General is satisfied that any one of the following circumstances exist:
- The taxable person is neither required nor entitled to apply for VAT registration
- The taxable person has no fixed place of abode or business
- The taxable person has not kept proper accounting records relating to its business activity
- The taxable person has not submitted regular and reliable tax returns
- The taxable person is not, in the opinion of the Commissioner General, a fit and proper person to be registered

The Commissioner General is required to serve notice in writing on a taxable person of a decision to cancel or refuse to cancel registration within 14 days of making the decision. The cancellation of registration takes effect from the end of the tax period in which the registration is canceled.

Deregistration does not affect the person's obligations and liabilities while the person was still a taxable person under the VAT act, including the lodging of VAT returns and payments of any taxes due.

Changes to VAT registration details. Any changes made to VAT registration details are made on the profile of the company on the URA web portal, e.g., a change in the nature of the business.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 18%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of supplies of goods and services taxable at 0%

- Exports of goods or services from Uganda
- International transport of goods or passengers and tickets for their transport
- Drugs, medicines and medical sundries manufactured in Uganda
- Educational materials, including educational materials manufactured in a partner state of the East African Community
- Seeds, fertilizers, pesticides and hoes
- Sanitary towels, menstrual towels, menstrual cups, tampons and inputs for their manufacture
- Leased aircraft, aircraft engines, spare engines, spare parts for aircraft and aircraft maintenance equipment
- The supply of cereals grown and milled in Uganda
- The supply of handling services provided by the National Medical Stores in respect of medical supplies, funded by donors

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Livestock, unprocessed foodstuffs and unprocessed agricultural products except wheat grain
- Postage stamps
- Financial services – the term "financial services" was amended to add "(v) Islamic financial arrangements offered by a person as an Islamic financial business but does not include provision of credit facilities under a lease-based financing." "Islamic financial business" means financial business that conforms to Shari'ah principles and includes the following:
  - The business of receiving property into profit-sharing investment accounts or of managing such accounts
  - Any other business of a person that involves or is intended to involve the entry into one or more contracts under Shari'ah principles or otherwise carried out or purported to be carried out in accordance with Shari'ah principles including:
    a) Equity or partnership financing
    b) Lease-based financing
    c) Sale-based financing
    d) Currency exchange contracts
    e) Fee-based activity
    f) Purchase of bills of exchange, certificates of Islamic deposit or other negotiable instruments
    g) Acceptance or guarantee of any liability, obligation or duty of any person
    h) Providing finance by any means, including through the acquisition, disposal or leasing of assets or through the provision of services that have similar economic effect and are economically equivalent to any other financial business
- Services related to health insurance, life insurance, micro insurance, reinsurance and aircraft insurance services
- Unimproved land
- Sale, letting or leasing immovable property, other than:
  - Sale, lease or letting of commercial premises
  - Sale, lease or letting for parking or storing cars or other vehicles
  - Sale, lease or letting of hotel or holiday accommodation
  - Sale, lease or letting for periods not exceeding three months
  - Sale, lease or letting of service apartments
- Education services
- Veterinary, medical, dental and nursing services
- Imported drugs, medicines and medical sundries
- Social welfare services
- Betting, lotteries and games of chance
- Goods as part of a transfer of a business as a going concern by one taxable person to another taxable person
- Precious metals and other valuables to the Bank of Uganda for the State Treasury
- Passenger transportation services (other than tour and travel operators)
- Petroleum fuels subject to excise duty (motor spirit, kerosene and gas oil), spirit-type jet fuel, kerosene-type jet fuel and residual oils for use in thermal power generation to the national grid
- Dental, medical and veterinary goods, including:
  - Dental, medical and veterinary equipment
  - Ambulances
  - Contraceptives of all forms
  - Maternity kits (mama kits)
  - Medical examination gloves
  - Medicated cotton wool

  - Mosquito nets, acaricides, insecticides and mosquito repellent devices–
  - Disposable medical face masks reusable face masks made of fabric
  - Medical boots
  - Medical impermeable aprons/coverall suits
  - Bouffant nonwoven surgical cap
  - Goggles, protective, indirect side ventilation
  - Infrared thermometers
  - Motorized fumigation pumps
  - Oxygen cylinder or oxygen for medical use
  - Body bags
  - Biohazard bags, container, used sharps, leak proof
  - Disinfectants
  - Medical plastics or rubber gloves
  - Gas masks with mechanical parts
  - Disposable hair nets
  - Paper bedsheets
  - Raw materials and inputs for their manufacture
- Selected machinery, tools and implements suitable for use only in agriculture
- Crop extension services
- Irrigation works, sprinklers and ready-to-use drip lines
- Deep cycle batteries, composite lanterns and raw materials for the manufacture of deep cycle batteries and composite lanterns
- Agriculture insurance premium or policy
- Photosensitive semiconductor devices, including photovoltaic devices, regardless of whether they are assembled in modules or made into panels, light-emitting diodes, solar water heaters, solar refrigerators and solar cookers
- Life jackets, life-saving gear, headgear and speed governors
- Any goods or services supplied to the contractors and subcontractors of hydroelectric power, solar power, geothermal power, or biogas and wind energy projects
- Movie production
- Bibles and Qur'ans and textbooks
- Construction materials for development of an industrial park or free zone to a developer or operator of an industrial park or free zone, the developer's investment capital is at least USD50 million
- The supply of services to conduct a feasibility study, design and construction to a developer of an industrial park or free zone whose investment is at least USD50 million
- Services to conduct feasibility study, design and construction; the supply of locally produced materials for the construction of a factory or a warehouse and the supply of locally produced raw materials and inputs or machinery or equipment to an operator within an industrial park, free zone or any other person carrying on business outside the industrial park or free zone. Minimum investment capital is USD10 million in the case of a foreigner or USD300,000 in case of a citizen; or USD150,000 for a citizen whose investment is placed upcountry who uses at least 70% of the raw materials that are locally sourced, subject to their availability and at least 70% of the employees are citizens earning an aggregate wage of at least 70% of the total wage bill; and who processes agricultural goods, manufactures or assembles medical appliances, medical sundries or pharmaceuticals, building materials, automobile, household appliances; manufactures furniture, pulp, paper, printing and publishing of instructional materials; establishes or operates vocational or technical institutes; carries on business in logistics and warehousing, information technology or commercial farming; or manufactures tires, footwear, mattress or toothpaste, manufactures chemicals for agricultural and industrial use, textiles, glassware, leather products, industrial machinery and electrical equipment, sanitary pads and diapers

- Services to a manufacturer, other than a manufacturer referred to above, whose investment capital is at least USD30 million for a foreign investor or USD5 million for a local investor to conduct a feasibility study or to undertake design and construction, or in the case of any other manufacturer, from the date on which the manufacturer makes an additional investment equivalent to USD30 million for a foreign investor or USD5 million for a local investor – (i) who has the capacity to use at least 70% of the raw materials that are locally sourced, subject to their availability; and (ii) who has the capacity to employ at least 70% of the employees that are citizens earning an aggregate wage of at least 70% of the total wage bill.
- Services to conduct a feasibility study, design and construction; locally produced materials for construction of premises, infrastructure, machinery and equipment or furnishings and fittings that are not available on the local market to a hotel or tourism facility developer whose investment capital is USD8 million with room capacity exceeding 100 guests
- Services to conduct a feasibility study, design and construction; locally produced materials for construction of premises, infrastructure, machinery and equipment or furnishings and fittings to a hospital facility developer whose investment capital is at least USD5 million and who develops a hospital with capacity to provide specialized medical care
- Services to conduct a feasibility study, design and construction; the supply of locally produced materials for the construction of premises and other infrastructure, machinery and equipment or furnishings or fittings for technical or vocational institute operators whose investment capital is at least USD10 million in the case of a foreigner or USD1 million in the case of a citizen
- Earth moving equipment and machinery for development of an industrial park or free zone to a developer of an industrial park or free zone whose investment is at least USD50 million
- Wet processing operations and garmenting, cotton lint, artificial fibers for blending; polyester staple fiber, viscose rayon fiber yarn other than cotton yarn, textile dyes and chemicals garment accessories, textile machinery spare parts, industrial consumables for textile production, textile manufacturing machinery and equipment
- Fabrics and garments made in Uganda by vertically integrated textile mills that operate spinning, weaving/knitting, wet processing operations and garmenting
- Billets for further value addition in Uganda
- Imported mathematical sets and geometry sets used in educational services
- Woodworking machines
- Welding machines and sewing machines
- Imported crayons, colored pencils, lead pencils, rulers, erasers, stencils, technical drawing sets, educational computer tablets, educational computer applications or laboratory chemicals for teaching science subjects used in educational services
- Animal feeds and mixed components, such as eggshells, feed additives, wheat bran, maize bran, premixes, concentrates and seed cake
- Supply of the following services:
  - Software and equipment installation services to manufactures
  - Services incidental to telemedical services
  - Royalties paid in respect of agricultural technologies
- Supply of accommodation in tourist hotels and lodges located upcountry
- Supply of processed milk
- Supply of locally developed computer software, its maintenance and software licenses
- Supply of services to conduct a feasibility study, design and construction; the supply of locally produced materials for construction of premises, infrastructure, machinery and equipment or furnishings and fittings that are not available on the local market to a hotel or tourism facility developer whose investment capital is USD10 million with a room capacity exceeding 30 rooms; or to meetings, incentives, conferences and exhibitions facility developer whose investment capital is not less than USD1 million
- Supply of accommodation in tourist lodges and hotels inside a radius of 50km from the boundaries of Kampala from 1 July 2020 to 30 June 2021

- Supply of liquefied gas and denatured fuel ethanol from cassava
- Supply of assistive devices for persons with a disability
- Supply of airport user services charged by the Civil Aviation Authority

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Uganda.

E. Time of supply

The following are the rules for determining the time of supply:

- If goods are applied for a person's own use, the time of supply is the date on which the goods or services are first applied to the person's own use
- If the goods or services are supplied as a gift, the time of supply is the date on which ownership in the goods passes or the performance of the service is completed
- In all other cases, the time of supply is the earliest of the following dates:
  - The goods are delivered or made available, or the performance of the service is completed
  - The payment for the goods or services is made
  - A tax invoice is issued

If goods are supplied under a rental agreement or if goods or services are supplied under an agreement or law that provides for periodic payments, or goods are supplied to a person offering Islamic financial business for the purpose of sale-based financing, the goods or services are treated as successively supplied for successive parts of the period of the agreement or supplied as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.

Deposits and prepayments. For deposits and prepayments, the time of supply occurs, and VAT is due, on the date on which the payment for the goods or services is made.

Continuous supplies of services. For supplies of continuous supplies of services, the goods or services are treated as successively supplied for successive parts of the period of the agreement and each successive supply occurs on the earlier of the date on which payment is due or received.

Goods sent on approval for sale or return. For supplies of goods sent on approval for sale or return, the time of supply occurs, and VAT is due on the date on which the goods are delivered or made available.

Reverse-charge services. Where applicable in cases of import of services made by a contractor or licensee in the petroleum or mining sector, or a person providing business process outsourcing services, the reverse charge and VAT is due at the time of import of the services. The same treatment applies to imported goods.

Leased assets. For supplies of leased assets, the assets are treated as successively supplied for successive parts of the period of the agreement and each successive supply occurs on the earlier of the date on which payment is due or received.

Imported goods. VAT on imported goods is due at the time of import.

F. Recovery of VAT by taxable persons

A credit can be issued to the taxable person for the tax payable with respect to taxable supplies made to that person during the tax period and all imports of goods made by that person during the tax period if the supply or import is for use in the business of the taxable person. "Business use" of "use in the business" applies only to the related business generating a taxable supply.

On registration, a credit can be issued to a taxable person for input tax paid or payable with respect to taxable supplies of goods, including capital assets, made to the person, and imports of

goods, including capital assets, made by the person before registration, if all the following conditions are satisfied:
- The supply or import was for use in the business of the taxable person
- The goods are on hand at the date of registration
- The supply or import occurred not more than 6 months prior to the date of registration or in case of manufacturers, not more than 12 months before the date of registration

The time limit for a taxable person to reclaim input tax in Uganda is six months.

Specifically in relation to Islamic financing, a credit is allowed to the taxable person for the tax payable in respect of:
- A taxable supply to the person offering Islamic financial business for purposes of sale-based financing to the taxable person
- Import of goods by the person offering Islamic financial business for purposes of a sale-based financing to the taxable person if the supply or import is for use in the business of the taxable person.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). VAT may also not be recoverable where the goods or services are not used in generating the specific taxable supply for which VAT is accrued. In addition, input tax may not be recovered for certain business expenses.

The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply.

Examples of items for which input tax is nondeductible
- Taxable supply or import of a passenger automobile and the repair and maintenance of the automobile, including spare parts
- Entertainment (provision of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind), unless the person is in the business of providing entertainment or supplies meals or refreshments to its employees on premises operated by it, or on its behalf, solely for the benefit of its employees
- Payment for entertainment made by a taxable person for membership of a person in a club, association or society of a sporting, social or recreational nature

Examples of items for which input tax is deductible (only if related to a taxable business use)
- A supply or import of a passenger automobile and the repair and maintenance of the automobile, including spare parts, if the automobile is acquired by the taxable person exclusively for the purpose of making a taxable supply of that automobile in the ordinary course of a continuous and regular business of selling, dealing in or hiring of passenger automobiles
- Entertainment if the taxable person is in the business of providing entertainment
- Supplies of meals or refreshments by employers to their employees in premises operated by the employers or on the employers' behalf, solely for the benefit of the employees

Partial exemption. If a taxable supply to, or an import of goods by, a taxable person is partly for a business use and partly for another use, the amount of the input tax allowed as a credit is the part of the input tax that relates to the business use.

If the percentage of the total amount of taxable supplies to the total amount of all supplies made by the taxable person during the period (other than the supply of goods as part of the transfer of a business as a going concern) is less than 5%, the taxable person may not credit any input tax for the period.

If the percentage of the total amount of taxable supplies to the total amount of all supplies made by the taxable person during the period (other than the supply of goods as part of the transfer of a business as a going concern) is more than 95%, the taxable person may credit all input tax for the period.

When a taxable person, who deals in both exempt and taxable supplies, apportions its input tax using the fraction of taxable supplies to total supplies made in any tax period, the taxable person is required to make a calculation of input tax based on the annual value of taxable and exempt supplies within the period following the end of the year.

Approval from the tax authorities is required to use the partial exemption standard method in Uganda. Special methods are not allowed in Uganda.

Capital goods. The VAT law in Uganda does not define "capital goods." In practice this means any goods other than finished consumer goods that may be used in the production process.

Tax incurred on capital goods is claimable where these capital goods are used in the carrying on of the taxable person's business activities. Like with all other input tax incurred where the goods are used for both taxable and exempt supplies, the input tax will be apportioned using the Standard method in order to allow input tax credit in respect of taxable supplies.

The standard method is A*B/C where A is the total amount of input tax for the period, B is the total amount of taxable supplies made by the taxable person and C is the total amount of all supplies made by the taxable person during the period other than an exempt supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person.

Where the standard method disadvantages the taxable person, the Commissioner General may approve an alternative method (standard alternative method) to calculate the input tax to be credited. Using this method, the taxable person may directly attribute input tax separately to the exempt and taxable supplies in so far as it is possible and may claim credit for all input tax related to taxable supplies and none of input tax related to exempt supplies.

Refunds. If, for a tax period, a taxable person's input tax credit exceeds the person's liability for tax for that period, the Commissioner General must refund the excess to the person within one month after the due date for the return for the tax period to which the excess relates, or within one month of the date when the return was filed if the return was not filed by the due date.

Notwithstanding the above, if the taxable person's input credit exceeds its liability for tax for that period by less than UGX5 million (approx. USD1,350), the Commissioner General may offset the excess amount against the future liability of the taxable person, except in the case of a licensee or person providing mainly zero-rated supplies. In addition, with the consent of the taxable person, if the taxable person's input credit exceeds its liability for tax for that period by UGX5 million (approx. USD1,350) or more, the Commissioner General may offset the excess amount against the future liability of the taxable person or apply the excess in reduction of any other tax not in dispute that is due from the taxable person.

A claim for a refund of input tax must be made in a return within three years after the end of the tax period in which tax was overpaid.

Pre-registration costs. A credit can be issued to a taxable person on becoming registered for input tax paid or payable in respect of:

- All taxable supplies of goods, including capital assets, made to the person prior to the person becoming registered
- All imports of goods, including capital assets, made by the person prior to becoming registered

Where the supply or import was for use in the business of the taxable person, the input tax paid for those supplies is creditable provided that the goods are on hand at the date of registration and that the supply or import occurred not more than six months prior to the date of registration, or 12 months for manufacturers.

Bad debts. A taxable person may seek a refund for the portion of tax paid that it has not received payment for within two years after the supply. The taxable person should have taken all steps to pursue the payment and reasonably believes that it will not be paid.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Uganda.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Uganda is not recoverable.

H. Invoicing

VAT invoices. A taxable person making a taxable supply to any person must issue to that other person, at the time of supply, with an original tax invoice for the supply.

A tax invoice must contain the following particulars:
- The words "tax invoice" written in a prominent place
- The commercial name, address, place of business and tax identification number of the taxable person making the supply
- The commercial name, address, place of business and tax identification number of the recipient of the taxable supply
- The individualized serial number and the date on which the tax invoice is issued
- A description of the goods or services supplied and the date on which the supply is made
- The quantity or volume of the goods or services supplied
- The tax rate for each category of goods and services described in the invoice
- The total amount of tax charged the consideration for the supply exclusive of tax and the consideration inclusive of tax

Credit notes. Where a tax invoice has been issued and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the taxable person making the supply shall provide the recipient of the supply with a credit note.

A credit note may also be issued by a person where a tax invoice has been issued and tax properly chargeable in respect of the supply that exceeds the amount shown as tax charged in the tax invoice.

A credit note must contain the following particulars:
- The words "credit note" in a prominent place
- The commercial name, address, place of business, and tax identification and VAT registration numbers of the taxable person making the supply
- The commercial name, address, place of business, and tax identification and VAT registration numbers of the recipient of the taxable supply
- The date on which the credit note was issued
- Tax rate
- Taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts and the tax charged that relates to that difference
- A brief explanation of the circumstances resulting in the issuance of the credit note
- Sufficient information to identify the taxable supply to which the credit note relates

Electronic invoicing. Electronic invoicing is mandatory in Uganda for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Uganda. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Uganda.

The Commissioner shall, by notice in the *Gazette*, specify certain taxable persons for whom it is mandatory to issue e-invoices or e-receipts or employ electronic fiscal devices that shall be linked to the centralized invoicing and receipting system or devices authenticated by the URA. Taxable persons do not have to apply to use electronic invoicing. Electronic invoicing became mandatory on 1 July 2020 through a public notice issued by URA that later extended the implementation date to 1 January 2021.

The Electronic Fiscal Receipting and Invoicing System (EFRIS) has been implemented in FY2020/21 (see the *Digital tax administration* subsection below). This system manages the issuance and centralized tracking of all invoices and receipts (both paper and electronic) by taxable persons in Uganda. Effective 15 May 2022, the following taxable person categories were gazetted to issue fiscal documents using their enterprise resource planning (ERP), billing systems, receipting or invoicing systems and accounting system integrated with EFRIS for system-to-system integration:

- A VAT-registered taxable person operating a business with a billing, invoicing, receipting or ERP system
- A VAT-registered taxable person with a gross turnover of UGX2 billion or more per annum
- A VAT-registered taxable person with a gross turnover of less than UGX2 billion per year but making 100 sales transaction or more per day

Simplified VAT invoices. Simplified tax invoices may be issued by registered persons with a taxable turnover below UGX100 million per annum (USD27,000), for taxable supplies made to another registered person, provided the value of any individual item on the invoice does not exceed UGX50,000 (USD14) and the total invoice does not exceed UGX100,000 (USD27).

Self-billing. Self-billing is not allowed in Uganda.

Proof of exports. Goods that are supplied by a registered taxable person to a person in another country that are delivered by a registered taxable person to a port of exit for export may be invoiced at the zero rate if the registered taxable person obtains documentary proof and if the goods are removed from Uganda within 30 days of delivery to a port of exit.

The Commissioner General may require that goods for export specified in a notice in the Uganda *Gazette* be distinctively labeled by the registered taxable person. The Commissioner General will issue guidelines to specify the color, size and type of labels.

For an export transaction to qualify for the zero rate, a registered taxable person must show as proof of export the following:

- A copy of the bill of entry or export certified by the customs authorities
- A copy of the invoice issued to the foreign purchaser with tax shown at the zero rate
- Evidence sufficient to satisfy the Commissioner General that the goods have been exported, in the form of an order from, or signed contract with, a foreign purchaser, or transport documentation that identifies the goods such as transit order or consignment note, copy of bill of lading, copy of airway bill or copy of transit document

If services are supplied by a registered taxable person to a person outside Uganda, the services qualify for a zero rate only if the taxable person can provide evidence that the services are used or consumed outside Uganda. This evidence can be in the form of a contract with a foreign purchaser and must clearly indicate that the place of use or consumption of the service is outside Uganda or that the service is provided for a building or premises outside Uganda.

Foreign currency invoices. Foreign currency invoices are treated in the same manner as domestic currency invoices, which is the Ugandan shilling (UGX). However, the tax authorities require that for purposes of accounting for output tax and input tax, the exchange rate prescribed by the tax authorities for that tax period is used.

Supplies to nontaxable persons. Taxable persons (i.e., those registered for VAT or required to be registered for VAT in Uganda) making supplies to any person are required to issue all customers with a VAT invoice. Simplified tax invoices can only be issued by a registered person with a taxable turnover below UGX100 million (approx. USD28,000) per annum to another registered taxable person and in respect to individual items on the invoice that do not exceed UGX50,000 (approx. USD15) and the total invoice value does not exceed UGX100,000 (approx. USD30).

Records. In Uganda, examples of what records must be held for VAT purposes include tax accounts and records, purchase records, sales records, export records, sales invoices, cash registers, credit and debit notes, computer records, bank deposit books and account statements, sales contracts, stock records, employment contracts and purchase receipts, among others. Any information relating to the business of the company.

Every taxable person is required for tax purposes to maintain in the English language records as may be required to determine or readily ascertain the taxable person's tax liability under a tax law. The records kept shall contain sufficient transaction information, and the case of an electronic format shall be capable of being retrieved and converted to a standard record format equivalent to that contained in an acceptable paper record.

In Uganda, VAT books and records can be kept outside of the country. However, a taxable person is required to readily avail information as and when it is requested by the URA.

Record retention period. The record retention period is a minimum of five years.

Electronic archiving. Electronic archiving is allowed in Uganda. The Tax Procedure Code Act requires every taxable person to maintain records including in electronic format, for a period of five years. Records (including invoices) kept in electronic format should be capable of being retrieved and converted to a standard record format equivalent to that contained in an acceptable paper record.

I. Returns and payment

Periodic returns. The VAT tax period is one month. Returns must be filed by the 15th day after the end of the tax period. A "nil" return must be filed if no VAT is payable (either because the taxable person does not make any supplies or input tax exceeds output tax in the period).

If the normal filing date falls on a public holiday or on a weekend, the VAT return must be submitted on the last working day before that day.

A manager of a takaful business is required to file by the 15th day after the end of the tax period on behalf of the participants in each group in the takaful business. "Takaful" means insurance business conducted in accordance with Shari'ah principles.

Periodic payments. Payment must be made in full by the 15th day after the end of the tax period.

Payment is made by generating a payment registration number (PRN) on the URA web portal, selecting preferred mode of payment, i.e., cash, check, EFT, as well as preferred bank. Upon generation of the PRN, payment will be made by the taxable person in the bank or any other preferred mode of payment and URA will acknowledge receipt of payment in the taxable person's account.

For purposes of compliance under the VAT Act, all amounts of money are to be expressed in the Ugandan shilling (UGX). However, a non-established business that is required to file VAT

returns in Uganda may file a return and make the corresponding payment in the United States dollar (USD).

Electronic filing. Electronic filing is mandatory in Uganda for all taxable persons. All VAT returns are submitted online. The returns are populated and uploaded using return templates designed by the tax authorities. Similarly, amendments to VAT returns are also done online.

Payments on account. Payments on account are not required in Uganda.

Special schemes. *VAT withholding scheme.* A designated withholding agent for VAT purposes is required to withhold and remit 6% of the taxable value on making payment for taxable supplies. The withholding VAT will not apply to a taxable person who the Commissioner General thinks is satisfied has regularly complied with the obligations imposed on the taxable person by the Value Added Tax Act Cap 349.

If a taxable person is included on the list of designated VAT withholding agents, they are required to withhold VAT from nonexempted suppliers at the rate of 6% of the taxable value of the supply. The list of designated withholding VAT agents was published through legal notice No. 1 of 2020 published in the *Gazette* on 29 May 2020. The list of exempt persons was issued by the Commissioner General, URA. A public notice issued by the URA on 27 October 2021 notified withholding agents that from 1 December 2021, noncompliance with the requirement to withhold will be punishable under the law.

Annual returns. Annual returns are not required in Uganda.

Supplementary filings. No supplementary filings are required in Uganda.

Correcting errors in previous returns. VAT returns can be amended within a period of three years from filing the original return. This is done through the URA web portal by uploading an amended return. Where there is tax outstanding, a taxable person is required to remit the same to URA.

Voluntary Disclosure Program. Taxable persons are given an opportunity to voluntarily declare the taxes that they did not pay and benefit from the Voluntary Tax Disclosure Program. This tax amnesty will waive interest and penalties for taxable persons who have unpaid tax liabilities and voluntarily declare the same before being prompted by an action or threat by URA, such as initiation of a tax investigation, request for tax information, tax advisory letter, tax health check/review, notice for audit, tax query or compliance visit by the URA officers.

Procedure of voluntary disclosure. A taxable person fills out the voluntary disclosure form (VDF) from the URA web portal in its entirety. Payment must be made for the principal tax due and attach the payment registration number (PRN) form highlighting the payment made. Then the taxable person must submit the form to any URA offices near them or online via email to services@ura.go.ug.

The taxable person may be required to submit a return or amend an existing return subsequent to submission of the VDF. A voluntary disclosure certificate signed by the Commissioner will be issued to the taxable person.

Waiver of interest and penalty. Interest and penalties outstanding as of 30 June 2023 shall be waived where the taxable person pays the principal tax by 31 December 2023. If only part of the principal tax outstanding as of 30 June 2023 is paid by the taxable person by 31 December 2023, then the interest and penalties shall be waived on a pro rata basis.

Digital tax administration. *Electronic Fiscal Receipting and Invoicing System (EFRIS).* The EFRIS is an automated compliance system that was implemented on 1 January 2021 by the URA. It manages the issuance and centralized tracking of all invoices and receipts by taxable persons in Uganda.

Initiated transactions by the taxable person are transmitted to the URA's bank end system in real time for fiscalization to produce electronic fiscal documents. The use of this system is mandatory for all VAT-registered persons in Uganda to issue e-invoices and e-receipts through EFRIS.

Registration is done on the URA web portal account and completing the e-invoicing section. Currently the channels available are:
- System to system, applicable to taxable persons who use robust accounting systems
- URA web portal that requires manual configuration of the product listings, pricing and inventory details
- Client application that can be downloaded from the URA portal and installed on the taxable person's computer to enable issuance of e-invoices and e-receipts
- The use of an electronic fiscal device attached to the taxable person's point of sale
- Electronic dispenser controller used in the fuel retail sector
- Use of a USSD quick code issued by URA

J. Penalties

Penalties for late registration. A person who fails to apply for registration as required by the VAT law is liable to pay a penalty equal to the higher of double the amount of the tax payable during the period commencing on the last day of the period when the obligation to register arises until either the person files an application for registration or the tax authority registers the person forcefully or UGX1 million.

Penalties for late payment and filings. The late submission of a return is subject to a penalty of UGX200,000 (approx. USD55) per month or an interest charge at 2% compounded for the period the return is outstanding, whichever is higher. A person who fails to pay tax imposed before the due date is liable for a penal tax on the unpaid tax at 2% compounded. The interest due and payable on unpaid tax shall not exceed the aggregate of the principal tax and penal tax. For the avoidance of doubt, where the interest due and payable as at 30 June 2017 exceeds the aggregate referred to above, the interest in excess of the aggregate shall be waived.

Penalties for errors. Where a person makes a statement to an officer of URA that is false and misleading in a material particular or omits any matter or thing without which the statement is misleading and the tax properly payable exceeds the tax assessed based on the false or misleading information is liable to penal tax equal to double the amount of the excess.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details is a tax offense that attracts upon conviction a fine not exceeding UGX1 million or imprisonment not exceeding two years or both. If it was done knowingly or recklessly, a person is liable on conviction to a fine not exceeding of UGX3 million or imprisonment not exceeding six years or both. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Fraud is a criminal offense and will be triable in criminal courts. Fraud varies, and each case will be determined on its own set of facts.

Personal liability for company officers. Where an offense under the tax law is committed by a company, the offense is treated as having been committed by a person who, at the time the offense was committed is the chief executive officer, managing director, company secretary, treasurer or other similar officer of the company or acting or purporting to act in that capacity.

In case the offense is committed by a partnership, every partner at the time of commission of the offense is treated as having committed the offense.

Some of the tax offenses include:
- Failure to furnish a tax return; penalty upon conviction is a fine not exceeding UGX1 million (approx. USD278)

- Failure to maintain proper records is an offense and upon conviction a person is liable to a fine not exceeding UGX2 million (approx. USD555) or imprisonment not exceeding six years or both. Additionally, failure to maintain proper records attracts a penal tax equal to double the amount of tax payable for the period to which the failure relates
- Use of a false tax identification number knowingly or recklessly on a tax return is an offense and upon conviction a person is liable to a fine not exceeding UGX3 million (approx. USD833) or imprisonment not exceeding six years or both
- Failure to comply with any obligations under the tax laws is punishable and upon conviction a person is liable to a fine not exceeding UGX2 million (approx. USD555)
- Failure to issue an electronic receipt, an electronic invoice or employ an electronic device is an offense and upon conviction a person is liable to a fine not exceeding UGX30 million (approx. USD7,895) or imprisonment not exceeding 10 years or both
- Forgery of electronic receipt or invoice is an offense and upon conviction a person is liable to a fine not exceeding UGX30 million (approx. USD7,895) or imprisonment not exceeding 10 years or both
- Unauthorized interference with the software or hardware of an electronic fiscal device or electronic dispensing control device is an offense and upon conviction a person is liable to a fine not exceeding UGX30 million (approx. USD7,895) or imprisonment not exceeding 10 years or both
- Making materially false or misleading statements to a tax officer is an offense and a person is liable on conviction to UGX110 million (approx. USD28,947) or imprisonment not exceeding 10 years or both
- Obstructing a tax officer in performance of their duties is also an offense and a person upon conviction is liable to a fine not exceeding UGX5 million (approx. USD1,388) or imprisonment not exceeding 10 years or both

Statute of limitations. The statute of limitations in Uganda is three years. The Commissioner may make an additional assessment within a three-year period from the date the taxable person furnished the self-assessment return, or the Commissioner served a notice of the original assessment or notice of the additional assessment on the taxable person. However, in case of fraud or any gross or willful neglect has been committed by, or on behalf of, the taxable person, or new information has been discovered in relation to the tax payable by the taxable person for a tax period, additional assessments can be made at any time.

Ukraine

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Podatok na dodanu vartist (PDV)
Date introduced	1 January 1992
Trading bloc membership	None
Administered by	State Tax Service of Ukraine (http://www.tax.gov.ua)
VAT rates	
Standard	20%
Reduced	7%, 14%
Other	Zero-rate (0%) and exempt
VAT number format	Tax identification number (TIN): 12, 10 or 9 digits, depending on type of entity
VAT return periods	Monthly
Thresholds	
Registration	UAH1 million
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:

- Supply of goods if the place of supply is within the customs territory of Ukraine, including the free-of-charge transfer and the transfer of title to pledged property to the creditor, transfer of title to goods under a commodity loan and transfer of a financial lease object to a lessee
- Supply of services if the place of supply is within the customs territory of Ukraine
- Import of goods into Ukraine
- Export of goods from Ukraine
- Supply of services with respect to the international transportation of passengers, luggage and shipment of cargo by railway, automobile, sea and air transport
- Deemed supplies in cases specified by law

The following transactions are outside the scope from VAT (the below list is not exhaustive):
- Most banking services
- Issue and placement of securities
- Insurance and reinsurance services and services of securities traders
- Transfer of property with respect to pledges or operational leases
- Reorganization of legal entities (mergers and acquisitions)

In general, supplies of goods and services, where the place of supply is within the customs territory of Ukraine, are considered taxable by Ukrainian VAT.

Place of supply of goods. The following goods are deemed to be supplied in Ukraine:
- Goods located in Ukraine at the time of their supply, if they are not shipped, transported, assembled or installed
- Goods located in Ukraine at the time when shipment or transportation begins
- Goods assembled or installed in Ukraine, if such assembly or installation is performed by the seller or on its behalf

Place of supply of services. The following are the rules for determining the place of supply of services:
- Services related to movable property (for example, repairs and services auxiliary to transportation), services in the areas of culture, art, education, science, sport and entertainment, organization of training courses and seminars and certain other services: the place of their actual supply
- Services related to immovable property: the actual location of the immovable property
- Certain other types of services such as consulting, engineering, legal, accounting, audit, software development, information technology, data processing, telecommunication, advertising, granting of intellectual property rights, provision of personnel, renting, leasing of movable property (except for vehicles and bank safes), broadcasting, production of multimedia content, provision of intermediary services (where the types of services listed above are actually provided to the customer) on behalf of and at the expense of another person, or on its own behalf but at the expense of another person; freight forwarding services; physical transmission rights for electricity and ancillary rights: the place where the service recipient is incorporated
- Digital (electronic) services: if the customer is a business entity – the place where the service recipient is incorporated, if customer is a private individual – the actual location of such recipient

To define the actual location of the recipient of electronic services (private individual), the following factors should be considered:
- Country code of the SIM card used by the service recipient
- Location of the telecommunications provider through which the services have been delivered
- IP address of the device used by the service recipient
- Location of the bank where the service recipient has opened an account (through which payment for the electronic service was made)
- Information on the place of residence provided by the service recipient
- Other services (default rule): the place where the supplier is established

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Ukraine, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Ukraine. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets. While a transfer of shares in the legal entity is outside the scope of VAT, sales of particular assets (e.g., equipment, tangible goods, patents) may be viewed as a separate taxable supply, depending on the type of the underlying asset.

Transactions between related parties. In Ukraine, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. Domestic sales between related parties are taxed the same way as where the buyer and seller are not related. For imports of goods, the invoice value of the goods is taken as a basis for customs valuation purposes, if a relationship between the parties did not influence the price of the goods (the importer may need to produce appropriate evidence at customs' request).

C. Who is liable

The following types of persons qualify as a "VAT taxpayer" (i.e., a taxable person) under Ukraine's tax law:

- The person registered as a VAT taxpayer or is subject to a registration as a VAT taxpayer
- The person that imports goods into Ukraine in amounts subject to tax (provided such person is liable for payment of taxes on the import of goods)
- The person who maintains accounting under joint activity (JA) arrangements, as well as investor (operator) under product sharing agreements (PSA)
- The person who performs asset management
- The person who disposes of seized, abandoned or unclaimed property as well as property inherited or transferred to the state (regardless of threshold and tax status of such person)
- The person who is liable to administer tax with respect to services supplied by railway transportation companies
- Non-established foreign entity who supplies electronic services to Ukrainian private customers (not registered for VAT)

If an importer who is not registered for VAT and imports goods in amounts subject to tax, such importer pays VAT during customs clearance, without VAT registration.

If a nonresident entity, including a permanent establishment of a nonresident that has not registered for VAT, supplies services (other than electronic services supplied to private individuals) with a place of supply in Ukraine, Ukrainian service recipient must accrue and pay VAT to the treasury.

A legal entity, individual entrepreneur (except for an entrepreneur who uses the simplified taxation system and belongs to certain groups) or representative office of a nonresident must register as a VAT taxpayer if its taxable supplies exceeded UAH1 million (net of VAT) during the preceding 12 calendar months.

A registrant is assigned a tax identification number (TIN), which is 12 digits for legal entities and permanent establishments of nonresidents (except those for which a 9-digit number applies – see below) and 10 digits for private entrepreneurs. A 9-digit TIN is assigned to the following entities:

- Entities paying tax from a joint activity without establishing a legal entity
- Property managers under property-management agreements
- Investors under product-sharing agreements
- Permanent establishments of nonresidents that do not have an identification number in the Unified State Register of Enterprises and Organizations of Ukraine
- Permanent establishments of nonresidents created through:
  - A building site, construction, assembly or installation project if it lasts more than six months

- Employees/other personnel hired by a nonresident for the provision of services (excluding provision of personnel) if these activities last more than six months within any 12-month period
- Residents authorized to act exclusively on behalf of a given nonresident

Exemption from registration. VAT law in Ukraine does not contain any provisions for exemption from registration for VAT.

Voluntary registration and small businesses. A person that does not reach the registration threshold may still opt for a voluntary VAT registration. Existing entities willing to register voluntarily file a registration request not later than 10 calendar days prior to the tax period from which these entities would qualify as taxpayers. Such entities may indicate the date from which they would qualify as taxpayers in their application. Newly registered entities may register voluntarily through applying in writing to the state registrar who then passes this application to the tax authorities.

Group registration. Group VAT registration is not available in Ukraine.

Fixed establishment. In Ukraine there is no legal definition of a fixed establishment for VAT purposes. However, if a nonresident's activities in Ukraine have resulted in creation of a permanent establishment (PE) for direct tax purposes (under the rules provided by the relevant double tax treaty, as well as domestic PE definition), such PE must register for VAT in Ukraine, after the volume of its taxable supplies has exceeded the threshold of UAH1 million.

Non-established businesses. VAT registration of the non-established foreign businesses (other than nonresidents supplying electronic services to Ukrainian private individuals) is not possible.

Tax representatives. Tax representatives are not required in Ukraine.

Reverse charge. A reverse-charge mechanism applies if a nonresident entity (including a permanent establishment of the nonresident that is not registered for VAT) supplies services for which the place of supply is within Ukraine.

In these cases, the VAT liability would arise for the service recipient under the reverse-charge procedure. The service recipient would account for the VAT due, at the time the payment for the services is made or the execution of the act of acceptance, whichever occurs first. The service recipient registered as a taxpayer may record a VAT credit after registration of the VAT invoice in the Unified Tax Invoice Register.

Domestic reverse charge. There are no domestic reverse charges in Ukraine.

Digital economy. For business-to-business (B2B) transactions, there is no VAT if the payment qualifies as a royalty and is paid for in cash or securities. VAT is expected to apply if the payment represents a service fee (and the service is deemed to be supplied in Ukraine). In this case the customer should self-assess VAT through the reverse-charge mechanism.

Under the general rule, the place where services are supplied is deemed to be at the place of the service provider's establishment. In this case, no VAT implications are anticipated in Ukraine, since the nonresident's business is based outside of Ukraine. However, for certain types of services (e.g., those in the sphere of information technology or data processing, including the use of computer systems, development, supply and testing of software or use of intellectual property objects, including those under license agreements), the place of supply is at the service recipient's place of establishment (i.e., in Ukraine). VAT would apply in those cases, and the customer would have to self-assess VAT through the reverse-charge mechanism.

A temporary VAT exemption may apply to supply of software (including "online services," although there is no certainty as to the scope of this term) and transactions with software where

payment does not qualify as royalty (e.g., sale to end-users, sale of data media with software). Eligibility for the exemption should be analyzed and contractual language may be important for this analysis. *At the time of preparing this chapter, Ukraine's Parliament decided not to extend the above VAT exemption, thus it is only in effect until 31 December 2022. As from 1 January 2023 supplies of software are subject to VAT at the standard rate.*

For business-to-consumer (B2C) transactions (other than digital (electronic) services as described below), the qualification of transactions for VAT purposes should be the same as described above. However, even if VAT should formally apply, there may be no taxpayer in Ukraine since the individual consumer is not regarded as a taxpayer for VAT and cannot reverse charge VAT by itself. Under the law, neither the foreign supplier nor the Ukrainian customer would be legally responsible for administration/payment of VAT in this case.

VAT on electronic services supplied by nonresidents to private Ukrainian customers. Starting from 2022, Ukraine implemented new VAT rules for the supply of electronic services are due to come into force in Ukraine.

If a nonresident entity, which does not have a permanent establishment in Ukraine, supplies electronic services to private individuals who are not registered for VAT (B2C transactions), such services are subject to 20% VAT in Ukraine.

The following electronic services (provided via the internet, automatically, using information technology and mainly without human intervention, including by installing a special application or application on smartphones, tablets, TV or other digital devices) are subject to VAT:
- Providing electronic copies, providing access to images, texts and information, including, but not limited to, by subscribing to electronic publications
- Access to databases, including use of search engines and directory services on the internet
- Supply of electronic copies and/or provision of access to audiovisual works, games
- Provision of services for access to television programs (channels) or their packages
- Providing access to information, commercial, entertainment electronic resources and other similar resources, in particular but not exclusively, hosted on platforms for sharing information or videos
- Provision of distance learning services on the internet, the conducting and providing of which does not require human participation, including by providing access to virtual classrooms, educational resources
- Provision of cloud services in terms of providing computing resources, storage resources or electronic communications systems using cloud computing technologies
- Supply of software and updates to it, including electronic copies, providing access to them, as well as remote maintenance of software and electronic equipment
- Provision of advertising services on the internet, mobile applications and other electronic resources, provision of advertising space, including by placing banner advertising messages on websites, webpages or web portals

The following supplies do not qualify as "electronic services":
- Supply of goods/services, which are ordered via the internet and actually delivered offline (e.g., accommodation services, car rental, catering services, services passenger transport and other similar services)
- Supply of goods and/or other service (different) from electronic services, which include electronic services, if the cost of electronic services is included in the total cost of such goods/services
- Provision of distance learning services on the internet, if the internet is used exclusively as a means of communication between teacher and student

VAT compliance requirements for nonresident providers of electronic services. Nonresidents supplying electronic services to Ukrainian private individuals are liable to register for VAT, if the total amount of their taxable sales for the preceding calendar year exceeds UAH 1M.

Deadline for registration is 31 March, following the year when the registration threshold has been exceeded. For example, where the volume of taxable sales was exceeded in 2023, a nonresident is liable to register for VAT till the end of March 2024.

Failure to timely register is subject to a penalty of 30 minimum wages (approx. USD5,839 as of 2024).

VAT reporting period for the above nonresidents is a calendar quarter (a special type of simplified VAT return to be filed electronically). The VAT base and taxable amount are determined in foreign currency (EUR or USD), input tax (if any) is not deductible.

Online marketplaces and platforms. Under the general rule, an intermediary supplying electronic services on its own behalf is liable for VAT.

At the same time, an intermediary (e.g., marketplace) itself would not qualify as a taxpayer where it:
- Supplies electronic services under intermediary agreements, if the invoices provided to customers contain a list of electronic services and their actual provider
- Only processes payments for electronic services but does not participate in actual provision of electronic services.

Registration procedures. Existing entities that are subject to a mandatory registration file a registration request by the 10th day of the calendar month following the month in which the threshold (UAH1 million) was exceeded.

A registration application is completed in electronic format, using the statutory template (approved by the Ministry of Finance) and must bear a qualified electronic signature of the applicant.

The tax authority includes the entity in the register of VAT taxpayers within three working days after receipt of the registration request or from the date indicated by the requestor (in the case of voluntary registration). The tax authority issues the VAT registration certificate.

VAT registration of a taxpayer is effective from the following dates:
- For voluntary VAT registration:
  - First day of the calendar month indicated by the taxpayer in the registration application as a first reporting period
  - First day of the month following 10 calendar days after filing the registration application (where the taxpayer did not opt to elect the date of its VAT registration in the application)
- For persons opting the single tax system:
  - First day of the calendar quarter (reporting period for the single tax system, which implies accrual of VAT) indi-cated by the taxpayer in the registration application
  - First day of the calendar month (reporting period for VAT) for taxpayers who shifted from the 5% to 3% single tax system
- For mandatory VAT registration:
  - First day of the calendar month when the taxpayer shifted from the single tax to general tax system, implying pay-ment of VAT (if the registration application has been lodged prior to the date of transfer from the single tax to gen-eral tax system)
  - Date of data entry to the registry of VAT payers (for persons who exceeded the mandatory VAT registration threshold, or for those taxpayers who lodged a registration application after the date if shifting from single tax to general tax system)

Note that access to the online VAT taxpayers' database is currently restricted during the martial law period.

Deregistration. An entity registered for VAT for the past 12 months may apply for deregistration if the value of its taxable supplies for the past 12 calendar months was below UAH1 million. Deregistration is also available at the request of the taxpayer or the tax authorities in cases such as the following:
- The entity took a decision to liquidate
- The taxpayer has been registered as a single taxpayer, which does not envisage payment of VAT
- The taxpayer has not been filing VAT return for 12 consecutive months and/or has filed VAT returns evidencing absence of taxable supplies/purchases
- A court judged the entity's statutory documents to be invalid
- A court ruled to liquidate the legal entity due to bankruptcy
- The taxpayer is liquidated under a court decision, or the entity is relieved from VAT under a court decision
- The individual entrepreneur has died
- A joint activity or asset management or production sharing agreement expires

Once deregistered, the entity is not allowed to credit input tax and issue VAT invoices.

Changes to VAT registration details. Changes to a taxpayer's VAT registration details must be notified for the following changes:
- Reorganization of the legal entity taxpayer
- Change in VAT ID of the taxpayer
- Change in name of the taxpayer
- Discrepancies and errors revealed in the previous registration details

Taxpayers must file an electronic request to update the VAT registration data submitted to the tax authorities within 10 working days after occurrence of the relevant changes (except for a change in name of taxpayers who are registered in the Unified State Register of Legal Entities, Individual Entrepreneurs and Social entities).

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rates: 7%, 14%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a reduced rate, the zero rate or an exemption applies.

Examples of goods and services taxable at 0%
- Exports of goods (under customs regime of export, reexport (return of goods), duty-free shop and free customs area)
- International transportation of passengers, luggage and shipments of cargo
- Processing and repairs of imported movable property that is subsequently exported from Ukraine

Examples of goods and services taxable at 7%
- Supplies within Ukraine and import into Ukraine of registered medicines and medical devices that are either duly registered or for which compliance with technical regulations is supported by a compliance certificate

- Supplies within Ukraine and import into Ukraine of medicines, medical devices and/or medical equipment for use in clinical trials permitted by the Ministry of Health of Ukraine
- Supplies of certain services related to admission to shows, theatres, concerts, museums, zoos, exhibitions and similar cultural events, as well as hotel accommodation services

Examples of goods and services taxable at 14%

- Domestic supplies and imports of agricultural products classified under the following Harmonized System (HS) customs tariff (sub)headings: 1001, 1003, 1005, 1201, 1205, 1206 00

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Supplies of certain types of software *(temporarily in place, with effect until 1 January 2023)*
- Health care and rehabilitation services
- Supplies of baby nutrition
- Educational services
- Charity and humanitarian aid
- Supply of land plots (except for those located under real estate objects and included in their value under legislation)
- Supplies of housing (except for the first supply)
- Supplies of periodical printed mass media (newspapers and journals), books, etc., of domestic production
- Religious and funeral services
- Supplies to embassies, consulates and representations of international organizations (for their own needs) on a reciprocal basis
- Imports of cultural items produced 50 or more years ago
- Disposals by banks and financial institutions of property pledged by non-VAT taxpayer
- Sales or purchases by banks of liabilities on deposits
- Supplies of certain IT-related distance learning services (e.g., computer sciences, cyber security, software development) by the service providers who have elected special "Diia.city" tax regime for IT industry

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Ukraine.

E. Time of supply

Under the general "first event" rule, a VAT liability arises on the occurrence of the first of the following events:

- The date on which goods or services are dispatched or rendered
- The date on which payment is received with respect to a supply of goods or rendering of services

Special rules apply to certain transactions, including the following:

- For the import of goods, the VAT liability arises on the filing of the customs declaration for customs clearance.
- For the import of services (where the place of supply is within Ukraine), the VAT liability arises on payment or execution of the act of acceptance, whichever occurs first.
- For long-term agreements, the VAT liability arises on the delivery of the work results.
- For taxable supplies of electronic services made by non-established foreign suppliers to Ukrainian private individuals, the VAT liability arises on the date of receipt of payment at the supplier's bank account or the date of execution of the document certifying the supply of services, whichever occurs firs.t

- For supplies of goods and services paid from the state budget, the VAT liability arises upon receiving the payment (or remuneration in any other form) by the supplier, regardless of when the goods/services were actually supplied.

Deposits and prepayments. There is no special time of supply rules in Ukraine for deposits and prepayments. As such, the general time of supply rules apply (as outlined above). For prepayments (except for export/import of goods) these normally trigger a VAT event. If the supply does not take place and the seller returns prepayment, the seller and the buyer may adjust the output and input tax, respectively, based on the adjustment note to the VAT invoice properly registered in the Unified Tax Invoice Register.

Continuous supplies of services. There is no special time of supply rules in Ukraine for supplies of continuous or rhythmic (two times and more per month) supplies of goods and services. As such, the general time of supply rules apply (as outlined above). However, the law prescribes that in such cases the supplier may issue aggregate VAT invoices to each buyer registered for VAT or one aggregate VAT invoice for supplies to buyers not registered for VAT, by the last day of the month. A VAT invoice must be registered in the Unified Tax Invoice Register within the statutory deadlines. Generally, a VAT invoice is to be issued when the VAT liability arises.

Goods sent on approval for sale or return. There is no special time of supply rules in Ukraine for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. A reverse-charge mechanism applies if a nonresident entity (including a permanent establishment of the nonresident that has not registered for VAT) supplies services for which the place of supply is within Ukraine.

In these cases, the VAT liability would arise for the service recipient under the reverse-charge procedure. The service recipient accrues a VAT liability on the payment for the services or the execution of the act of acceptance, whichever occurs first. The service recipient registered as a taxpayer may record a VAT credit after registration of the VAT invoice in the Unified Tax Invoice Register.

Leased assets. The time of supply rules for the supply of leased assets depends on the type of lease (i.e., operational lease or financial lease).

Transfer of assets under the financial lease arrangements is treated as supply of goods for VAT purposes. The lease qualifies as a "financial lease" if at least one of the below conditions is satisfied:

- Leased assets are transferred for a term during which at least 75% of their initial value is depreciated, and the lessee must purchase these assets from the lessor under the contract
- At the time of expiration of the lease arrangement, the residual (balance) value of the leased assets constitutes up to 25% of the initial value of such assets
- The total amount of lease payments equals/exceeds the initial value of the leased assets.
- Leased assets are manufactured under the instructions of the lessee and cannot be used by the third parties, considering the characteristics of such assets

In case of financial leasing, the lessor must accrue VAT liabilities on the value of the assets upon their transfer to the lessee. The lessee is entitled to credit this VAT upon receipt of assets from the lessor.

Transfer and return of assets under operational lease (i.e., all leasing arrangements that do not satisfy the criteria for financial leasing) is not subject to VAT. Leasing fees payable under the operational lease arrangements can be subject to VAT under the general rules for supply of services.

Imported goods. Import of goods is subject to VAT at the standard or reduced rates unless an exemption is available under current legislation. The tax base includes contractual value or customs value of the goods, whichever is higher, including excise tax and customs duty paid. VAT liabilities arise, and VAT is paid during filing import customs declaration for customs clearance of the goods. It is not possible to delay payment of import VAT. The importer may credit import VAT in the tax return for a tax period in which the import VAT was paid. VAT credit should be supported by an import customs declaration. Customs may allow payment of VAT by installments for a period of up to 24 or 36 months during import of certain equipment for own manufacturing needs under the procedure approved by the government. The time of installments depends on the type of the equipment. The VAT amount payable should be guaranteed to customs through a financial/banking guarantee or pledge of the equipment.

F. Recovery of VAT by taxable persons

In general, VAT credit is available only for VAT registered taxpayers with respect to input tax paid in connection with the acquisition or production of goods, fixed assets or services.

A VAT taxpayer may claim VAT credit with respect to the following transactions:
- Purchases or production of goods and services
- Purchases (building and construction) of fixed assets
- Import of goods and/or fixed assets into Ukraine
- Receipts of services supplied by nonresidents in the customs territory of Ukraine
- Imports of noncurrent assets into the customs territory of Ukraine under lease agreements

A taxpayer must be able to confirm a VAT credit with a VAT invoice registered in the Unified Tax Invoice Register or a customs declaration. A duly registered VAT invoice is sufficient grounds for crediting input tax and no other evidence are required.

The time limit for a taxpayer to reclaim input tax in Ukraine is 1,095 calendar days. Taxpayers are entitled to claim input VAT as a tax credit within 1,095 calendar days starting from the date of receipt of an incoming VAT invoice from the supplier.

A VAT credit is recognized regardless of whether goods or services or fixed assets were used in taxable transactions or whether the taxpayer performed taxable transactions in the reporting period.

Under the "first event" rule for VAT credit, the right to a VAT credit arises on occurrence of the first of the following events (provided other conditions are met):
- The date on which the taxpayer makes the payment for goods or services
- The date on which the taxpayer receives the goods or services

Special rules include the following:
- For the import of goods, the right to VAT credit arises on the payment (accrual) of VAT on the filing of the customs declaration for the customs clearance
- For the import of services, the right to VAT credit arises on the date the VAT invoice is self-issued and registered in the Unified Tax Invoice Register
- For long-term agreements, the right to VAT credit arises on the receipt of the work results (execution of the acts of work acceptance)

Nondeductible input tax. At the end of the tax period, the taxpayer must recognize VAT liability and register a VAT invoice in respect of 1) the goods, services or noncurrent assets that are designated for use or start to be used in nontaxable or nonbusiness transactions and 2) noncurrent assets converted into nonproductive assets. However, taxpayer may deduct such VAT for corporate profit tax purposes if certain conditions are met.

Input tax credits are not available for supplier invoices that are not registered in the Unified Tax Invoice Register, for imports that are not supported by customs declarations or on purchases that are not related to the business activity.

Examples of items for which input tax is nondeductible

- Business entertainment
- Goods found missing during stock-taking
- Purchases used to make supplies for which the place of supply is outside Ukraine (e.g., advertising services provided to a nonresident customer)

In general, input tax credits are not available from suppliers' invoices that are not registered in the Unified Tax Invoice Register, for imports that are not supported by customs declarations or on purchases that are not related to the business activity.

Examples of items for which input tax is deductible (if related to a taxable business use)

- Corporate business mobile phones
- Hotel accommodation for employees
- Business purchases for an amount up to UAH200 supported by a cash receipt indicating VAT ID of the supplier and an amount of VAT

Partial exemption. If the taxpayer carries on both taxable and nontaxable transactions, at the end of the tax period the taxpayer must recognize the VAT liability and register a VAT invoice for the amount of VAT on purchases used to make exempt supplies, determined on a pro rata basis.

There is only one method of calculation of partial exemption ratio in Ukraine's tax code. The pro rata coefficient is based on the percentage of taxable supplies to total supplies in the preceding calendar year. Based on the current year results, the taxpayer must recalculate the pro rata coefficient according to actual volume of taxable and exempt supplies and adjust VAT credit in the tax return for the last tax period of current year.

Approval from the tax authorities is not required to use the partial exemption standard method in Ukraine. Special methods are not allowed in Ukraine.

Capital goods. Taxpayers may deduct the whole amount of input tax incurred upon purchases of capital goods, provided that a duly registered VAT invoice or a customs declaration is available. If purchased capital goods are used both for taxable and exempt transactions, the taxpayer must then accrue VAT liabilities based on the pro rata coefficient (refer above). If capital goods are used not for business (i.e., income generating purposes) or to make exempt supplies, the taxpayer must accrue VAT liabilities based on the balance sheet value.

Refunds. VAT due to the budget is calculated as a positive difference between VAT liability (output tax collected from the customers with respect to sales of goods and services) and VAT credit.

If a taxpayer has a negative difference, the difference may be used to decrease the tax debt or may be carried forward as a tax credit to the next reporting period or claimed as a tax refund in the amount not exceeding the threshold of VAT invoices' registration calculated when the VAT return is filed. A refund may be provided by way of remittance of funds to the taxpayer's bank account or through offset against liabilities/debt on other taxes payable to the State Revenue.

The tax authorities maintain a single register of VAT refund claims. In the register, the refund is available in sequential order depending on the date of the relevant claim (i.e., the earlier the claim is included in the register, the earlier the refund will be provided). The register is publicly available via the tax authority website.

Pre-registration costs. Input tax incurred on pre-registration costs in Ukraine is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Ukraine.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Ukraine is not recoverable.

H. Invoicing

VAT invoices. A Ukrainian VAT taxpayer (seller) must provide an electronic VAT invoice registered in the Unified Tax Invoice Register to the buyer. The VAT invoice must be issued on a date when the tax liability arises for the seller and is registered by the end of the month (for VAT invoices issued from the 1st to the 15th day of the calendar month) and by the 15th day of the following month (for VAT invoices issued from the 16th day of the calendar month). The VAT invoice must contain all the necessary elements and must bear a duly registered electronic signature. A supplier must issue separate VAT invoices for exempt and taxable supplies.

If a VAT invoice is improperly completed or is not registered in the Unified Register, the buyer does not have the right to a VAT credit, but the supplier must report the relevant VAT liability. Improper completion of the VAT invoice (except for mistakes in the HS code of the goods) still allows identification of the transaction, and such VAT invoice should be allowed for registration.

The authorities may block registration of VAT invoices based on the risk assessment system that automatically monitors all VAT invoices. In this case, the authorities request additional explanations/documentation (to be submitted within 365 calendar days after arising tax liabilities reflected in the tax return) sufficient for unblocking registration of VAT invoices.

Taxpayers must issue electronic excise invoices for all shipments of certain excisable goods (fuel and ethyl alcohol). The excise invoice layout and principles of electronic excise tax administration are similar to VAT rules.

Credit notes. If output/input tax needs to be adjusted (e.g., due to change of compensation, return or goods/advance payment), the seller must issue electronically an adjustment note to the VAT invoice that must be registered in the Unified Tax Invoice Register either by the seller (in case of compensation increase) or by the buyer (in case of compensation decrease). The format of the adjustment note is approved by the Ministry of Finance.

In some cases, the buyer has the right to a VAT credit without the VAT invoice on the basis of the following documents:
- Transport ticket or an invoice for hotel or communication services
- Checks for goods or services for an amount not exceeding UAH200 per day
- Customs cargo declaration for the import of goods

Electronic invoicing. Electronic invoicing is mandatory in Ukraine for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Ukraine. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Ukraine. The requirements related to electronic invoicing are the same as those for paper invoicing.

VAT invoices are filed under statutory template in the format (XML-based) published by the tax authorities. A VAT invoice must contain all relevant elements and bear an electronic signature

duly registered in the tax authorities. Only qualified electronic signatures of the taxpayer's authorized persons, as well as an electronic stamp of the company (where available) are accepted for completion of VAT invoices.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Ukraine. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Ukraine.

Proof of exports. Export of goods should be supported by duly executed export customs declaration certified by customs to evidence that the goods actually left customs territory of Ukraine.

Foreign currency invoices. Invoices cannot be issued in a foreign currency in Ukraine. All invoices must be issued in the domestic currency, which is the Ukrainian hryvnia (UAH).

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Ukraine. As such, full VAT invoices are required (registered in the Unified Tax Invoice Register). However, it is not mandatory to provide a full VAT invoice to private customers (B2C), unless they request it.

Records. In Ukraine, examples of what records must be held for VAT purposes include source accounting documents (e.g., invoices, service acceptance acts, supply contracts), accounting ledgers, VAT returns, customs declarations, issued and received VAT invoices, and other documents related to tax accounting.

In Ukraine, VAT books and records can be held outside of the country. Note that Ukrainian law is silent on whether the records must be kept locally in Ukraine or abroad. However, regardless of where such records are held, they (including hard copies) must be made available to the tax authorities in case of audit.

Record retention period. The statutory retention period in Ukraine is three years (1,095 days) after the deadline for filing a tax return for the relevant reporting period.

Electronic archiving. Electronic archiving is allowed in Ukraine. Electronic keeping and archiving records are allowed for documents that were initially completed electronically (inter alia these documents should bear a relevant electronic digital signature). Otherwise, physical storage (i.e., paper) must be used.

I. Returns and payment

Periodic returns. VAT returns are filed on a monthly basis (within 20 calendar days of the following month).

Periodic payments. Tax is payable within 10 days after the filing deadline. VAT liabilities must be paid to the revenue from the special VAT account of the taxpayer (opened in the State Treasury). Taxpayers remit funds to the VAT account from their regular bank accounts. After the expiration of the payment deadline, the Treasury will collect funds to the revenue, based on the amount of tax due indicated in the returns (provided by tax office). All settlements must be made in Ukrainian hryvnia (UAH).

Electronic filing. Electronic filing is mandatory in Ukraine for all taxpayers.

A system of electronic VAT administration is based on the interaction of the Unified Tax Invoice Register (UTIR) with the special VAT accounts.

VAT accounts are free for all taxpayers in the State Treasury of Ukraine. Under this system the supplier can register a VAT invoice in UTIR for an amount that exceeds its VAT credit only when

the taxpayer pays the corresponding amount of money into its VAT account. The VAT invoice registration threshold is calculated according to a formula. The formula also includes an allowed overdraft calculated as the average monthly amount of VAT that was declared as payment for the past 12 months (overdraft is to be recalculated quarterly). This overdraft is not available to taxpayers registered for VAT for less than 12 calendar months (as of 1 January 2016) or registered as taxpayers after that date and becomes available in the quarter following the quarter in which the 12-month VAT registration period has been achieved.

Taxpayers will be able to replenish their VAT accounts or transfer funds remaining after settlements to their regular bank account (in the latter case, the VAT registration threshold would be reduced but a negative amount is not acceptable). Taxpayer will not be able to transfer money from the VAT accounts at their discretion. Neither funds from customers nor VAT refunds are transferred to the VAT account.

If a VAT taxpayer's registration is canceled, its VAT account will be closed, and the net balance of the account will be transferred to the state revenue.

The treasury communicates data about the net balance of the VAT account to the Unified Register online. If the total of input tax and VAT account balance is insufficient, the taxpayer will not be able to register the issued VAT invoice with the Unified Register. Consequently, the customer of the VAT taxpayer in question will not be entitled to recognize VAT credit.

At the end of the reporting period, the tax on the added value generated by such supplier should be accumulated in its VAT account. VAT payable to the state revenue at the end of the reporting period will be settled by means of funds in the VAT account.

Payments on account. Payments on account are not required in Ukraine.

Special schemes. *Tourist operators.* For tourist operators who sell tourist products for use in or outside of Ukraine, 20% VAT is applied on a margin calculated as a difference between the value of the tourist product and expenses incurred in relation to creating such a tourist product. For tourist operators acting as intermediaries for foreign tourist service providers and for Ukrainian tourist agents, 20% VAT is levied on a remuneration payable to such entities. Input tax on services included in the tourist product is not creditable whereas input tax on any tourist services not included in the value of the tourist product is creditable.

Works of art. The supply of works of art (HS headings 9701-9706) by dealers is subject to a marginal profit tax scheme if they were purchased from:
- Entities not registered as taxpayer
- Taxpayers where the supply is exempt or not subject to VAT
- Taxpayers using a marginal profit tax scheme
- Authors of works of art or their legal successors

The taxable base includes the seller's marginal profit (excluding VAT). The VAT rate is 20%. The dealer (seller) is not required to issue a VAT invoice. The dealer who buys works of art from the above entities is not entitled to credit input tax. Export of works of art is not subject to zero VAT during export (i.e., input tax, if any, is not recoverable). The dealer is required to maintain separate accounting of transactions involving purchase and sale of works of art.

Cash-basis method. The following types of suppliers may use the cash-basis method for defining the date of arising VAT liabilities and crediting input VAT:
- Contractors/subcontractors performing construction works
- Entities supplying heat energy, natural gas, as well as other power and utilities services to households/apartment building co-owners' associations

Cash basis method assumes that the taxpayer recognizes VAT obligations at time of receiving the funds from the customer, whereas the buyer is entitled to deduct input tax at the moment of payment to the seller.

Annual returns. Annual returns are not required in Ukraine.

Supplementary filings. No supplementary filings are required in Ukraine.

Correcting errors in previous returns. Where a taxpayer identifies errors/omissions in their VAT returns for the previous months, they must complete and send an adjustment calculation to the relevant VAT return.

An adjustment calculation is completed under the standard template in electronic form only. Procedure of filing adjustment calculation is the same as for VAT returns.

Correction of underpayments in the previous VAT returns may trigger penalties. See *Section J. Penalties* below for details.

Digital tax administration. *Electronic cash registers.* Taxpayers who are liable to use electronic cash registers must transmit real-time transactional data (information from cash receipts) to the tax authorities. Inter alia, this data includes information on the goods and services supplied, as well as amounts of VAT and excise tax.

J. Penalties

Penalties for late registration. Late registration or violation of other tax registration requirements may trigger a fine of UAH340 for self-employed persons and UAH1,020 for legal entities or tax agents. For a repeated violation, the fine increases to UAH680 and UAH2,040, respectively.

If the tax authorities determine that late registration caused tax understatement and reassesses the taxpayer's tax liability, general fines for tax understatement apply (see the subsection *Penalties for late payment and filings* below). An interest penalty may also apply. In addition, the taxpayer is not eligible for a VAT credit or refund with respect to input tax incurred before VAT registration.

Penalties for late payment and filings. The following are the penalties for failure to file or for the late filing of the VAT declaration:
- UAH340 for each violation
- UAH1,020 for repeated violations within a year

If a failure to properly file the tax return results in the understatement of tax liabilities, additional fines apply.

The following penalties are imposed for late payments:
- 5% of unpaid liabilities if the period of delay is up to 30 days
- 10% of unpaid liabilities if the period of delay exceeds 30 days
- 25% of unpaid liabilities if failure to pay tax was intentional
- 50% of unpaid liabilities for repeated (within three years) failure to pay tax, or where period of delay is over 90 days

Under the tax code, an amount of VAT that is not refunded to the tax authorities on time is considered to be a debt to the state revenue. An interest penalty at a rate of 120% of the National Bank of Ukraine (NBU) rate applies to this debt amount until it is settled.

Penalties for errors. Penalties are imposed for the overstatement of a VAT refund or the understatement of VAT liabilities if the tax authorities increase the amount of VAT liabilities or

decrease the VAT refund. The penalties are imposed at the following percentages of the reassessed tax liability or overstated VAT refund:
- 10% for unintentional errors
- 25% for an intentional violation, if it was made for the first time within a three-year period
- 50% if the violation was repeated within a three-year period

It is not clear whether an overstatement of negative VAT (that does not lead to tax understatement or the overstatement of VAT refund) is subject to a fine.

The following are the penalties for the understatement of tax liabilities if the taxpayer corrects the mistake made in the VAT return:
- 3% of the understatement of tax liabilities if it submits an adjustment calculation
- 5% of the understatement of tax liabilities if it corrects the mistake in the tax return for the next reporting period
- 5% of the understatement for the failure to submit an adjustment calculation

The following penalties are applied for failure to timely register VAT invoices in the UTIR:
- 10% of VAT amount if the delay is up to 15 calendar days
- 20% of VAT amount if the delay is from 16 to 30 calendar days
- 30% of VAT amount if the delay is from 31 to 60 calendar days
- 40% of VAT amount if the delay is 61 days to 365 calendar days
- 50% of VAT amount if the delay is over 365 calendar days
- 2% of the volume of supply, but no more than UAH1,020 – for VAT invoices for exempt, zero-rated and certain other transactions (where the taxpayer voluntarily registers belated VAT invoices)
- 5% of the volume of supply, but no more than UAH3,400 – for VAT invoices for exempt, zero-rated and some other transactions (where the tax authorities detect failure to timely register a VAT invoice upon tax audit)

If tax authorities detect failure to register a VAT invoice, they will issue the tax notification decision and apply a penalty in the amount of 50% of the VAT amount. This penalty will not be applied where a VAT invoice is registered prior to tax audit. The above penalties (10%–50%) are not applied where the VAT invoice is registered within 10 calendar days after receipt of the tax notification decision.

If the tax authorities block registration of a VAT invoice based on the risk assessment system, the above penalties are not applied for the duration of the blocking period.

A failure to register a VAT invoice after 10 calendar days following the receipt of the tax-notification decision may attract a penalty in the amount of 50% of VAT.

The following fines are applied for mistakes in a VAT invoice detected by the tax authorities during a documentary out-of-schedule tax audit at the buyer's request. The percentage penalty is based on the VAT amount due, and the timings are based on if the mistake is not corrected within such number of calendar days:
- UAH170 and obligation to correct the mistake
- 10% (15 days)
- 20% (16 to 30 days)
- 30% (31 to 60 days)
- 40% (61 to 90 days)
- 50% (91 to 120 days)
- 60% (121 to 150 days)
- 70% (151 to 180 days)
- 100% (after 181 days)

These penalties are applied for mistakes in a VAT invoice regarding indication of the tariff code of goods or code of services under the State Classifier of Products and Services.

In addition to the above, the interest penalty may apply for tax understatement and late payment. The interest penalty for late payment applies from the first business day on which the tax liability becomes overdue (that is, after expiration of the deadline for settling the tax liability indicated in the tax return or in the tax-notification decision issued by the tax authorities). Where taxpayers voluntarily correct errors in tax returns, late payment interest applies from the 91st calendar day after expiration of the deadline for payment of tax. The interest penalty for tax understatement applies to the whole period of understatement of the tax liability, even though the taxpayer may have recourse to the administrative or court appeal procedure.

The rate of the interest penalty equals 120% (100% in cases where taxpayers voluntarily correct errors in tax returns) of the yearly NBU discount rate for each day of tax understatement.

In addition to financial sanctions, administrative or criminal liability may apply.

Failure to notify tax authorities in case of the taxpayer's reorganization would result in revoking VAT registration. Fines for violation of the registration requirements (UAH340–UAH2,040) may also apply.

If the taxpayer fails to retain primary accounting documents requested by the tax authorities upon audit, this will trigger a fine of UAH1,020 (UAH2,040 for repeated violation).

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Deliberate tax evasion committed by a taxpayer is recognized as a criminal offense under the Criminal Code of Ukraine. Tax evasion may trigger criminal responsibility, if the total amount of underpaid tax (including financial sanctions) exceeds 3,000 statutory nontaxable minimum income (for 2024 the threshold is UAH4,542,000 [approx. USD124,000]). *At the time of preparing this chapter, the threshold of criminal liability for tax evasion for 2024 has been updated based on the Law on State Budget for 2024, which has been approved by the Ukraine Parliament and awaits the president's signature.*

The potential penalties for tax evasion include fines (the amount gradually rises depending on the amount of unpaid tax liability), restriction to occupy certain positions or conduct certain activities for up to three years and, in certain cases, confiscation of property.

Ukrainian Criminal Code does not envisage any special provisions on criminal liability of tax advisors.

Personal liability for company officers. Administrative penalties for violation of tax rules (including late registration/filing, underpayment of tax, errors in VAT returns, etc.) are levied on the company as a whole.

In addition, criminal penalties for tax evasion (refer above) are imposed on the relevant natural persons/employees of the taxpayer (in practice this may include directors and chief accountants).

Statute of limitations. The statute of limitations in Ukraine is 1,095 days. This is starting from the filing deadline (20th calendar day of the month following the reporting months). During this period, the tax authorities can audit taxpayers, as well as assess tax and apply penalties for a failure to comply with the VAT law.

The statute of limitations does not apply (i) where the taxpayer fails to file a VAT return or (ii) the taxpayer is found guilty of tax evasion by the court.

K. VAT during martial law

Tax administration rules. The president of Ukraine announced martial law in Ukraine by the Decree No. 4/2022 of 24 February 2022. Martial law is periodically extended by the President and Ukraine's Parliament. The following VAT-related administration rules are valid during the martial law period:

- If the taxpayer is unable to timely fulfil its tax obligations (due to force majeure circumstances), e.g., with respect to settlement of taxes, submission of tax returns, VAT invoice registration, then penalties for violation of the tax law would not apply, provided that such taxpayer would actually perform relevant obligations within six months after the termination or cancellation of martial law in Ukraine.
- Taxpayers are allowed to retain input tax credit in respect of the following goods:
  - Destroyed/lost due to force majeure circumstances during martial law
  - Goods donated to the state/local authorities (including voluntary military units), as well as donated to any third parties for the purposes of securing Ukraine's defense
- Free-of-charge supplies of goods and services to the military units, civil state authorities, as well as to health care institutions do not represent a VAT-able supply.
- Where the taxpayer detects and corrects errors occurring in the tax periods during martial law, penalties and late payment interest do not apply.
- Late payment interest does not apply where the state authorities failed to timely refund VAT due to force majeure circumstances during martial law.
- During martial law, as well as within six months after termination/cancellation of the martial law, the deadlines for registration of the VAT invoices in UTIR are as follows:
  - For VAT invoices issued from the 1st to the 15th day of the calendar month – no later than by 5th calendar day of the following month
  - For VAT invoices issued from the 16th day of the calendar month – no later than by 18th calendar day of the following month
- Reduced amounts of penalties for late registration of the VAT invoices apply:
  - 2% of VAT amount if the delay is up to 15 calendar days
  - 5% of VAT amount if the delay is from 16 to 30 calendar days
  - 10% of VAT amount if the delay is from 31 to 60 calendar days
  - 15% of VAT amount if the delay is 61 days to 365 calendar days
  - 25% of VAT amount if the delay is over 365 calendar days
- Most types of tax audits (excluding desk audits, factual audits, currency control audits, audits of VAT refund claims exceeding UAH100k, as well as audits performed at taxpayer's request/ in case of liquidation of the legal entity, etc.) were initially suspended/banned after the introduction of martial law.

According to the law adopted by Ukraine's Parliament in 2023, unscheduled tax audits are allowed from 1 December 2023 (excluding certain categories of certain categories of the taxpayers, e.g., those located at temporary occupied Ukrainian territories, zones of military hostilities etc.). As regarding scheduled audits, these are possible solely for certain types of taxpayers (e.g., excisable goods suppliers, gambling operators, financial services providers, nonresidents and other taxpayers meting the risk criteria specified by the law).

During martial law, the tax audits may be performed only where there are sufficient safety conditions, including access to the company's premises, records, stock-taking, etc.

At the time of preparing this chapter, the draft law was adopted by Ukraine's Parliament and awaits the president's signature.

VAT reliefs for import and supply of strategical goods. Importation and domestic supplies of the following types of goods/services are exempt from VAT during martial law:

- Protective helmets and armor vests, as well as certain materials for manufacture thereof
- Medicines and medical devices for use by the healthcare institutions and persons involved in the defense activities
- Defense goods (under the list of customs tariff codes approved by the law) purchased under the defense public procurement procedure
- Services related to the military software subject to export control regulations (including supplies, development and testing of military software, development of documentation, as well as supply of IP rights thereto, etc.)

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	ضريبة القيمة المضافة
Date introduced	1 January 2018
Trading bloc membership	Gulf Cooperation Council (GCC) Greater Arab Free Trade Area (GAFTA)
Administered by	Federal Tax Authority (FTA) (www.tax.gov.ae)
VAT rates	
Standard	5%
Other	Zero-rated (0%) and exempt
VAT number format	XXXXXXXXXXXXXX (15-digit combination)
VAT return periods	Quarterly (general)/Monthly (discretion of the FTA)

Thresholds	
Registration	AED375,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply (and deemed supply) of goods and services made in the United Arab Emirates (UAE) by a taxable person
- The acquisition of goods from another Gulf Cooperation Council (GCC) Member State by a taxable person
- Reverse-charge services received by a taxable person in the UAE
- The importation of goods into the UAE, regardless of the status of the importer

Designated Zones. A "Designated Zone" specified by a decision of the UAE Cabinet shall be treated as being outside the UAE and outside the GCC, subject to the following conditions:
- The Designated Zone is a specific fenced geographic area and has security measures and customs controls in place to monitor entry and exit of individuals and movement of goods to and from the area
- The Designated Zone shall have internal procedures regarding the method of keeping, storing and processing of goods therein
- The operator of the Designated Zone complies with the procedures set by the authority

Note that not all Free Zones in the UAE qualify as Designated Zones for VAT purposes.

A transfer of goods between Designated Zones shall not be subject to VAT if the following two conditions are met:
- Where the goods, or part thereof, are not released and are not in any way used or altered during the transfer between the Designated Zones
- Where the transfer is undertaken in accordance with the rules for customs suspension according to the GCC Common Customs Law

Where goods are moved between Designated Zones, the FTA may require the owner of the goods to provide a financial guarantee for the payment of the VAT, which that person may become liable for, should the conditions for movement of the goods not be met.

If a supply of goods is made within a Designated Zone to a person to be used by him or by a third person, special rules apply. The place of supply shall be the UAE unless the goods are to be incorporated into, attached to or otherwise form part of or are used in the production or sale of another good located in the same Designated Zone that itself is not consumed.

The place of supply of water or any form of energy shall be considered to be inside the UAE if the place of supply is in a Designated Zone.

Goods located in a Designated Zone on which the owner has not paid VAT will be treated as imported into the UAE by the owner, with VAT chargeable subject to normal rules if the goods are consumed by the owner. An exception to this applies where these goods are incorporated into, attached to or otherwise form part of or are used in the production of another good located in a Designated Zone that itself is not consumed.

Any person established, registered or who has a place of residence in a Designated Zone shall be deemed to have a place of residence in the UAE for the purposes of the VAT law.

There are minimal special rules or exemptions for services rendered in Designated Zones. If the place of supply is in the Designated Zone, the service is considered to be provided within the

UAE. This means that services provided in a Designated Zone may be taxable under the normal VAT rules. A special rule does, however, exist for certain services related to the shipping and delivery of goods supplied within a Designated Zone or moved from a Designated Zone to a location within the UAE.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In the UAE the "use and enjoyment" provisions are applicable to businesses making supplies of telecommunication and electronic services. Where a business is making such supplies to a non-VAT-registered customer in the UAE (i.e., business-to-consumer (B2C) supplies), it may have an obligation to register in the UAE and account for VAT. For further details, see the subsection *Digital economy* below.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In the UAE, a TOGC is treated as outside the scope of VAT where the following conditions are met:

- There must be a transfer of a whole or an independent part of a business (for example, a transfer of shares does not constitute a whole or independent part of a business, nor does a standalone transfer of inventory/assets where such assets are not all things necessary to allow the recipient to operate the whole or independent part of the business being transferred)
- The transfer must be made to a taxable person
- The recipient intends to continue the business which was transferred

Transactions between related parties. The value of the supply or deemed supply or the value of any import of goods or services that is undertaken between related parties shall be considered to be equal to the market value in cases where the original value of the supply is actually lower than market value (or supply for no consideration, in some cases) and the recipient of the supply cannot claim the related input tax in full. There is no explicit difference in the valuation methods for supplies of goods and services. The same principle outlined here shall apply.

C. Who is liable

A "taxable person" is any person registered or required to register for VAT in the UAE.

Every individual/business who has a place of residence in the UAE, or in another GCC Member State, where the total value of all taxable supplies made in the past 12 months, or expected taxable supplies in the next 30 days, exceeds AED375,000, must register for, collect and remit VAT.

Where a person has a requirement to register based on the above, they must apply to the FTA to register within 30 days of being required to register. Where a person does not file its VAT registration application despite being required to do so, the FTA shall register that person with effect from the date on which the person first became liable to be registered for VAT and impose the necessary penalties.

For registrations based on supplies made in the last 12 months, the registration will take effect from the first day of the month following the month in which the person is required to register or from an earlier date as agreed between the FTA and the person.

For registrations based on expected supplies in the next 30 days, the registration will take effect from the date on which there are reasonable grounds for believing the person will be required to register or from an earlier date as agreed between the FTA and the person.

A taxable person who has been late in registering for VAT is liable to account for and pay to the FTA the VAT due on all taxable supplies and imports made by that person before registering.

Exemption from registration. A taxable person providing zero-rated supplies only may, upon application to the FTA, be excepted from the mandatory VAT registration obligation. Any taxable person excepted from the VAT registration obligation must inform the FTA of any changes to its business that would make it subject to VAT within 10 business days of making such supplies.

The FTA has the right to collect any VAT due and to levy administrative penalties for the period of exception if the taxable person was not entitled to the exception from VAT registration.

Voluntary registration and small businesses. A taxable person who is not obliged to register for VAT may apply for VAT registration where its taxable supplies or expenses over the past 12 months exceeded AED187,500. Alternatively, an application for voluntary registration can also be made where it is expected that its supplies or expenses will exceed AED187,500 in the next 30 days. It should be able to provide evidence of an intention to make taxable supplies or incur expenses that are subject to VAT (at the standard rate) greater than AED187,500.

Where a taxable person applies to register for VAT voluntarily, the FTA shall register it with effect from the first day of the month following the month in which the application is made or from an earlier date as agreed between the FTA and the person.

Group registration. Two or more taxable persons may apply for VAT registration as a tax group if all of the following conditions are met:

- Each taxable person has a place of establishment or fixed establishment in the UAE
- The taxable persons must be related parties
- One or more taxable persons must control the other taxable person(s), i.e., there must be common ownership

A tax group must select one of its registered members to act as the representative member of the tax group.

An application to form a tax group must be made by a taxable person. This person is the representative member of the tax group.

Any goods or services supplied to any of the members of the tax group (including imports) will be deemed to be supplied to the representative member. Any supplies made by a member of the tax group shall be deemed to be made by the representative member, which includes output tax charges or input tax incurred by any of the members.

All members of a VAT group in the UAE are jointly and severally liable for VAT debts and penalties. While the representative member is deemed to have made supplies and acquisitions (and account for output tax and input tax) for the members of the VAT group as if it had made them itself, all members of a tax group shall be personally and jointly liable for the payable tax of the VAT group (reported by the representative member on behalf of the VAT group) during any tax period that the member is part of the VAT group.

Any supplies made by a member of the VAT group to another member of the same group may be disregarded for VAT purposes. The tax group registration takes effect from the first day of the tax period following the tax period in which the application is received, or any date as determined by the FTA.

Where the FTA establishes that two or more taxable persons are associated as a result of their economic, financial and regulatory practices in business, the FTA may register them as a VAT group. Such notice may only be issued where the FTA is satisfied that to treat such businesses separately would create a VAT advantage. In this scenario, the FTA may only register a taxable person as part of a tax group if the taxable person's business includes making taxable supplies (or imports) and would exceed the mandatory registration threshold.

There is no minimum time period required for the duration of a VAT group.

Self-supplies. Goods or services that a taxable business (same legal person) supplies to itself are not taxable (i.e., outside the scope of UAE VAT). This includes instances where one member of a tax group provides goods and services to another member of the same tax group.

Supplies and acquisitions of goods and/or services between a head office and/or its branches should be disregarded, being a supply between the same legal person (i.e., outside the scope of UAE VAT).

Fixed establishment. The term "place of residence" is defined as a place where a person has a place of establishment or fixed establishment, as outlined below.

For the place of establishment, this is the place where a business is legally established in a country pursuant to its decision of establishment, in which significant management decisions are taken or central management functions are conducted.

For a fixed establishment, this is any fixed place of business, other than the place of establishment, in which a person conducts its business regularly or permanently and where sufficient human and technology resources exist to enable the person to supply or acquire goods or services, including the person's branches.

Non-established businesses. Every individual/business that does not have a place of residence in the UAE or in another implementing GCC Member State, and where no other taxable person is obliged to pay the VAT due on these supplies in the UAE (i.e., via the reverse-charge mechanism) must register for VAT with the FTA if they make taxable supplies of goods or services in the UAE. There is a nil registration threshold for nonresidents. A GCC Member State is only regarded as an implementing state if it is fully compliant with the provisions of the Common VAT Agreement of the States of the GCC and recognize the UAE as implementing state. *At the time of preparing this chapter, none of the Member States that have implemented VAT in the GCC recognize another Member State as an implementing GCC Member State.*

An individual/business who has a place of residence in a UAE Designated Zone shall be deemed to have a place of residence in the UAE for the purposes of UAE VAT.

The FTA shall register a non-established business from the date on which it started making taxable supplies in the UAE or from an earlier date as agreed between the FTA and the business.

A non-established business may not take into account the value of goods and services imported into the UAE to determine whether they are entitled to apply for VAT registration if the calculation of VAT for such goods and services is the responsibility of the importer via the reverse-charge mechanism.

Tax representatives. A registered tax agent may act on a taxable person's behalf in respect of lodging VAT returns in the UAE for the taxable person, by submitting a notification. Notwithstanding the appointment of a tax agent, the taxable person shall maintain individual responsibility for all such obligations. In performing their duties as a tax agent, the tax agent may rely on information provided to them by the taxable person unless the tax agent has reasonable grounds for believing that the information may be incorrect. The FTA may also rely on the information provided to it by the tax agent in the case of a tax audit, even after the expiry of the agency engagement or the

dismissal of the tax agent. It is not permitted for any person to practice the profession of a tax agent in the UAE unless it is listed as a tax agent with the FTA and licensed for this purpose by the Ministry of Economy and the competent local authority.

A local tax agent must be licensed and registered with the FTA, where a file shall be kept regarding all matters of professional conduct associated with the tax agent. For the tax agent to be registered with the FTA, he must satisfy several conditions, including (but not limited to):
- To be of good conduct and behavior
- Has never been convicted of a crime or misdemeanor
- Has the ability to communicate orally and in writing in both Arabic and English
- Passes any tests to meet qualification standards as may be specified by the authority
- Performs his activity through a legal person approved by the Ministry of Economy and the local competent authority

The FTA shall not deal with any tax agent where the FTA has been informed that the agency engagement has ended or that the tax agent has been dismissed.

Reverse charge. Generally, reverse-charge VAT is applicable to the purchase of goods or services from a place outside the UAE. Imports into the UAE by a VAT-registered person are required to be accounted for under the reverse-charge mechanism. Imports of goods by a non-VAT registered person will be subject to VAT at import, with an actual payment of VAT required. The goods may not be released until the VAT has been paid (a registered freight-forwarding agent can also be used to clear and pay the import VAT on their behalf).

Domestic reverse charge. A domestic reverse charge is applicable to supplies made in the UAE of any crude or refined oil, unprocessed or processed natural gas, or pure hydrocarbons, and the recipient of these goods intends to either resell the purchased goods as any of these types of goods, or to use these goods to produce or distribute any form of energy.

The domestic reverse charge is also applicable to supplies of gold, diamonds and any products where the principal components are gold or diamonds. The supplies must be made to recipients registered for VAT in the UAE who intend to either resell such goods or use them to produce or manufacture any such the goods.

The domestic reverse-charge provisions can also apply to certain supplies of electronic devices and electronic parts when supplied within the UAE and where the VAT-registered recipient intends to either resell such devices or use them for production of electronic devices.

This domestic reverse charge shall not apply in any of the following situations:
- Before the supply takes place, the customer has not provided a written confirmation to the supplier that their acquisition of the goods is for the purpose of resale (or for other specified approved purposes in the case of a supply of an electronic device)
- The customer is VAT registered and the supplier has not verified the VAT registration of the customer by means approved by the FTA
- Where the supply would have been subject to the zero-rate VAT as a direct or indirect export of goods
- Where the supply includes a supply of goods or services other than crude or refined oil, unprocessed or processed natural gas, or any pure hydrocarbons
- Where the supply includes a supply or import of investment precious metals as specified under the VAT Executive Regulations that is subject to the zero rate of VAT

If the supplier was aware (or was supposed to be aware) that the customer was not VAT registered at the time the supply takes place, the supplier and the customer shall be jointly and severely liable for any VAT due and relevant penalties.

Digital economy. For the purposes of UAE VAT, telecommunication services include those supplied using communications equipment or devices that can deliver, broadcast, convert or receive communications, such as wired/wireless communications, music, viewable images and signals used to operate machinery, etc.

Where telecommunication and electronic services are supplied within the UAE, the place of supply will be within the UAE to the extent that the use and enjoyment of the supply is within the UAE. Where the services are supplied outside the UAE, the place of supply shall be outside the UAE to the extent that the use and enjoyment of the supply is outside the UAE. The actual use and enjoyment shall be where the recipient consumes and enjoys the services, regardless of the place of contract or payment.

Telecommunications services may be zero-rated where the supplier has a place of residence within the UAE and makes the supply to either:
- Another telecommunications supplier who has a place of residence outside the implementing states
- A person who is not a telecommunications supplier but who has a place of residence outside the UAE, where the services are initiated outside the implementing states

Nonresident providers of electronically supplied services for B2C supplies are required to register and account for VAT on the supplies made in the UAE. This is because for nonresident suppliers, the registration threshold is nil.

Nonresident providers of electronically supplied services for business-to-business (B2B) supplies are not required to register and account for VAT on the supplies made in the UAE. Instead, the customer is required to self-account for the VAT due via the reverse-charge mechanism (see the *Reverse-charge* subsection above).

There are no other specific e-commerce rules for imported goods in the UAE.

Online marketplaces and platforms. Electronic services include those delivered automatically over an electronic network or marketplace, including the supply of domain names, web hosting, software (including updates), images, music, magazines, advertising space, distance learning and livestreaming.

At the time of preparing this chapter, the respective tax authorities of the UAE, Saudi Arabia, Bahrain and Oman are not treating each other as implementing states. Consequently, until being recognized as implementing states by the UAE, GCC Member States are treated the same as non-GCC jurisdictions. Therefore, the zero-rating provisions should still be considered in the context of GCC Member States. This situation should, however, be monitored as going forward GCC Member States that implemented VAT may be recognized as implementing states. Note that where we refer to the GCC, we are referring to GCC Implementing States.

Registration procedures. A UAE VAT registration application must be made online on the FTA portal (www.eservices.tax.gov.ae). The following details must be provided:
- Company information: including, the UAE trade license; if the company has a place of residence in the UAE; legal name of the company in English and Arabic; certificate of incorporation
- Details of the authorized signatory and manager of the business: including copy of the signatory's/manager's passport; copy of the signatory's/manager's Emirates ID; signatory's/manager's scanned copy of proof of authorization, for example, power of attorney
- Contact and bank account details for the taxable person
- Actual or estimated financial information, for example, audited or non-audited financial statements or revenue forecasts

- Cross-border flows of goods and/or services, specifying if they will be in relation to any other GCC Member States
- Details and evidence of business relationships

Upon receipt of the application, the FTA will usually process the application within 20 business days. If the application is successful, the taxable person will receive its VAT registration certificate, containing the tax registration number, registered address, effective registration date, first and subsequent registration periods and VAT return due date.

Deregistration. A taxable person must apply to the FTA to deregister from VAT within 20 business days of the occurrence of any of the following cases:
- If the taxable person stops making taxable supplies and does not expect to make any such supplies over the next 12-month period
- If the value of the taxable supplies made over a period of 12 consecutive months is less than AED187,500 and the taxable person does not expect its total value of supplies (or costs subject to VAT to be incurred) will exceed AED187,500 during the next 30-day period

If the deregistration application is approved, the FTA shall cancel the VAT registration of the taxable person with effect from the last day of the tax period during which the taxable person has met the conditions for deregistration or from another date determined by the FTA.

A taxable person may not apply for VAT deregistration within 12 months of the date of VAT registration (where registered voluntarily).

Where a taxable person requests to be deregistered from VAT due to the reduction of its taxable supplies to less than AED375,000, the FTA will, if in agreement with the taxable person, cancel the VAT registration. This is in effect from the date requested by the taxable person in the application, or the date on which the request is made if the taxable person did not indicate a preferred deregistration date. The FTA, in accordance with the specified controls and conditions in the UAE VAT regulations, may also issue a deregistration decision to a taxable person in instances where the integrity of the tax system is prejudiced. It should be noted that deregistration of the taxable person shall not result in the relinquishment of the FTA's right to claim any due tax or administrative penalties.

Changes to VAT registration details. Any changes to the business details already submitted to the FTA at the time of obtaining VAT registration should be reported to the FTA within 20 days from the change in circumstance.

For certain types of changes, such as change in business activities or customs registration information, the taxable person is only required to update the details on the FTA's portal. Further approvals are not required for these changes.

For updates regarding the applicant's details, contact details, banking details, etc., the taxable person is required to initiate an amendment application on the FTA's portal. The changes will appear on the FTA's online portal with the taxable persons updated details and on the VAT registration certificate (where applicable) only after the FTA has approved the amendments. The FTA may ask for more information while reviewing the amendment application.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero-rate or an exemption.

Examples of goods and services taxable at 0%

- A direct or indirect export of goods to outside of the UAE (with certain evidence and timings)
  - A movement of goods into a Designated Zone from a place in the UAE or a supply of goods to a Designated Zone shall not be considered an export of those goods
- Export of services, where the following conditions are met:
  - The services are supplied to a recipient of services who does not have a place of residence in the UAE and who is outside the UAE at the time the services are performed
  - The services are not supplied directly in connection with real estate situated in the UAE or any improvement to the real estate or directly in connection with moveable personal assets situated in the UAE at the time the services are performed
  - The services are actually performed outside the UAE or are the arranging of services that are actually performed outside the UAE
  - The supply consists of the facilitation of outbound tour packages, for that part of the service

For the export of services outlined above, a recipient shall be considered as being "outside the UAE" if they only have a presence in the UAE of less than a month and the presence is not effectively connected with the supply. One of the exceptions of zero-rating the export of services is where the supply is made to a nonresident recipient and all the following conditions are met:
a) The performance of the services will be received in the UAE by another person, including but not limited to, an employee or a director of the nonresident recipient of services
b) The other person in the UAE will receive the services in the course of making supplies for which input tax is not recoverable in full

- Export of telecommunications services, in the following situations:
  - A supply of telecommunications services by a telecommunications supplier who has a place of residence in the UAE to:
    - A telecommunications supplier who has a place of residence outside the GCC
    - A person who is not a telecommunications supplier and who has a place of residence outside of the UAE for a telecommunications service that is initiated outside the GCC
- Intra-GCC and international transport of passengers and goods, which starts or ends in the UAE, including transport-related services
- The supply or import of sea, air and land transport services for the transportation of passengers and goods (including related goods and services designed for the operation, repair, maintenance or conversation of these means of transport, and supply or import of rescue planes and ships for the provision of sea and air help in addition to fishing vessels)
- The supply or import of investment precious metals (gold, silver, platinum that is a metal of purity of 99% or more and the metal is in a form tradeable in global bullion markets) as being for investment purposes
- The first supply of residential buildings of the following cases:
  - Within three years of its completion, either through sale or lease in whole or in part
  - Specifically designed to be used by charities through sale or lease
  - Buildings converted from nonresidential to residential through sale or lease
- The supply or import of crude oil and natural gas
- The supply of educational services and related goods and services, for nurseries, preschool, school education and higher education institutions owned or funded by federal or local government and providing the curriculum and the educational institution are recognized by the competent federal or local government entity
- The supply or import of preventive and basic health care services and related goods and services, made by a health care body or institution, doctor, nurse, technician, dentist or pharmacy, licensed by the Ministry of Health or by any other competent authority – this includes the supply of medications and medical equipment registered with the Ministry of Health and Prevention or imported with permission or approval

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services, as outlined below, that are not conducted in return for an explicit fee, discount, commission and rebate or similar. Also, any Islamic financial products, being financial products under contract that are certified as Islamic Shariah compliant, which simulate the intention and achieve effectively the same result as a non-Shariah compliant financial product, will be treated in a similar manner as the equivalent non-Shariah financial product for the purpose of applying exemption from VAT
  - Issue, allotment, or transfer or ownership of an equity security or debt security
  - Provision or transfer of ownership of a life insurance contract or the provision of reinsurance in respect of any such contract
  - Exchange of currency, whether effected by the exchange of bank notes or coin, by crediting or debiting accounts or otherwise
  - The issue, payment, collection or transfer of ownership of a cheque or letter of credit
- The issue, allotment, drawing, acceptance, endorsement or transfer of ownership of a debt security
  - The provision of any loan, advance or credit
  - The renewal or variation of a debt security, equity security or credit contract
  - The provision, taking, variation or release of a guarantee, indemnity, security or bond in respect of the performance of obligation under a check, credit, equity security, debt security
  - The operation of any current, deposit or savings account
  - The provision or transfer of ownership of financial instruments such as derivatives, options, swaps, credit default swaps and futures
  - The payment or collection of any amount of interest, principal, dividend or other amount whatever in respect of any debt security, equity security, credit and contract of life insurance
  - Agreeing to do or arrange any of the activities outlined above, other than advising thereon
- Supply of residential buildings, unless it is zero-rated, where the lease is more than six months, or the tenant of the property is a holder of an ID card issued by the Federal Authority for Identity and Citizenship
- Supply of bare land, meaning land that is not covered by completed or partially completed buildings or civil engineering works
- Supply of local passenger transport services in a qualifying means of transport by land, water or air from a place in the UAE to another place in the UAE

Option to tax for exempt supplies. The option to tax exempt supplies is not available in the UAE.

E. Time of supply

The time at which VAT becomes due is called the "date of supply" (referred to as "time of supply" or "tax point" in this section). The time of supply is the earliest of any of the following dates:

- The date on which the goods were transferred (if such transfer was under the supervision of the supplier)
- The date on which the recipient of the goods took possession of the goods (if the transfer was not under the supervision of the supplier)
- Where the goods are supplied with assembly and installation, the date on which the assembly or installation of the goods was completed
- Where the goods are supplied on a returnable basis, the date on which the recipient of the goods accepted the supply or a date no later than 12 months after the date on which the goods were transferred or placed under the recipient of goods disposal
- The date when the performance of services has taken place
- The date of receipt of payment or the date on which the tax invoice was issued

Deposits and prepayments. The receipt of a deposit or prepayment would create a tax point where this forms part of the total payment of a particular supply if it precedes the issuance of a tax invoice.

Continuous supplies of services. The date of supply of goods or services for contract that includes periodic payments or consecutive invoices shall be the earliest of any of the following dates:
- The date of issuance of any VAT invoice
- The date payment is due as shown on the VAT invoice
- The date of receipt of payment
- The date of expiration of one year from the date the goods or services were provided

Goods sent on approval for sale or return. There are no special time of supply rules in the UAE for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above).

Reverse-charge services. Generally, reverse-charge VAT is also applicable to the purchase of goods or services from a place outside the UAE. Where these types of purchases are made, which would be taxable if supplied in the UAE, the taxable person shall be treated as making a supply to itself. Therefore, the taxable person is responsible for all applicable VAT obligations and accounting for the tax due in respect of these supplies.

The above mechanism applies where the following conditions are satisfied:
- The taxable person is UAE VAT registered at the time of import
- The taxable person keeps sufficient and appropriate records concerning the supply received
- In the case of goods, the taxable person has given the FTA its customs registration number
- The taxable person has cooperated and complied with the FTA in respect of the import

In terms of the time of supply, the taxable person who has received the goods and/or services must declare and pay the due tax in the VAT return that relates to the tax period at the date of supply for which the purchase took place. Where any relevant VAT amount is expressed in a currency other than AED, the amount must be converted to AED using the daily rate prescribed by the UAE central bank at the date of supply. Supplies within the same legal entity, e.g., branch to branch or head office to branch are, however, disregarded.

Leased assets. *At the time of preparing this chapter, there are no special time of supply rules in the UAE for the supply of leased assets. As such, the general time of supply rules applies (as outlined above). It is expected that both operational and finance asset leases are treated as continuous supplies of services (see below subsection), provided that legal title to the goods does not pass to the recipient and there is no express contemplation that the title will transfer at some point in the future. Goods supplied on terms that expressly contemplate that the title will transfer at some point in the future (e.g., under hire-purchase or conditional sale agreements) are treated in the same way as a normal sale of goods where title passes at the outset. Unless periodic VAT invoices are issued and the payments do not exceed one year from the provision of such goods/services, the time of supply should be linked to the basic tax point (see above). This means that the full amount of VAT may become payable up front, instead of being due as and when installment payments are made. It is also expected that leases made under Islamic finance arrangements should follow the same VAT treatment as their conventional finance equivalents.*

Imported goods. For the supply of imported goods, the time of supply rule is the date when the goods are imported into the UAE, under the customs legislation.

Other supplies. *Deemed supplies.* The tax point of a deemed supply of goods or services shall be the date of their supply, disposal, change or usage or the date of deregistration, whichever is applicable.

Vouchers. The tax point of a supply of a voucher shall be the date of issuance or supply thereafter.

Vending machines. The tax point of supply, in cases where payment is made through vending machines, shall be the date on which the funds are collected from the machine.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Recovery is by way of deducting input tax against output tax, which is the VAT charged on supplies made by the business.

Input tax includes VAT accounted on imports of goods and self-assessed through the reverse-charge mechanism, and the importer must receive and retain invoices and other import documents as supporting documents to substantiate the recovery of VAT.

The time limit for a taxable person to reclaim input tax in the UAE is the first tax return period or a later tax period as outlined below. The key test for recovering input tax is that it must be recovered in the first tax period in which two conditions are satisfied:
- The tax invoice is received
- An intention to make the payment of consideration of the supply before the expiration of six months after the agreed date of payment is formed

Upon receipt of a tax invoice, a taxable person can recover input tax only when an intention to make the payment within a prescribed period is formed. Therefore, if the intention to make the payment is formed in a tax period that is later than the tax period in which the tax invoice is received, the input tax can be recovered only in the later tax period.

Where the timeframe above is not met, then a taxable person must submit a voluntary disclosure to recover any outstanding input tax (see the *Correcting errors in previous returns* subsection below, under *Section I. Returns and payment*).

Nondeductible input tax. Input tax may not be recovered in respect of certain expenses specifically listed as nondeductible.

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

Examples of items for which input tax is nondeductible

- VAT incurred for making exempt supplies
- Provision of entertainment services to anyone not employed by a taxable person, including customers, potential customers, officials, or shareholders or other owners or investors
- Where goods or services were purchased to be used by employees for no charge to them and for their personal benefit, including the provision of entertainment services, except in certain specific cases
- Where a motor vehicle was purchased, rented or leased for use in the business and is available for personal use by any person
- Business gifts supplied for no consideration, unless the total value of these gifts is less than AED500 per recipient within a 12-month period
- Health insurance for dependents, except in respect of non-national Abu Dhabi employees
- Staff party expenses

Examples of items for which input tax is deductible (if related to a taxable business use)

- Motor vehicles not available for private use where this can be sufficiently evidenced
- Where an employee requires hotel accommodation/subsistence for an overnight stay on a domestic business trip
- Food and drink in the normal course of a business meeting (e.g., simple refreshments)

- Short-term accommodation provided to a new employee joining the business (i.e., less than one month)
- Phones, airtime and data packages for use by employees solely for business purposes where this can be sufficiently evidenced

Partial exemption. Input tax related to goods and services used to provide supplies that are subject to VAT and other supplies that are exempt, may be deducted in accordance with the proportion of costs related to the supplies subject to the VAT.

The standard partial exemption method consists of the following two-stage calculation:
- Attribution of input tax exclusively used in making either taxable or exempt supplies
- Apportionment of non-attributable input tax using the standard input-based calculation, which will calculate the percentage of recoverable input tax. This percentage is based on respective values of VAT incurred wholly to make taxable supplies and VAT incurred to make wholly exempt and outside-the-scope supplies

The percentage calculated shall be rounded to the nearest whole number.

The percentage calculated shall be multiplied by the amount of total non-attributable input tax incurred to establish the recoverable portion of that input tax.

The calculations referred to above shall be undertaken in respect of each tax period where input tax incurred relates to making exempt supplies or to activities that are not in the course of business.

At the end of each tax year the taxable person shall undertake the calculation outlined above, but in respect of the entire tax year just ended (not on a tax period but by tax period basis as above) and include the result in the first tax period of its subsequent tax year ("annual wash-up adjustment"). The amount calculated for the tax year shall be compared to the input tax amount actually recovered in all the tax periods making up the tax year, and an adjustment to the recoverable tax shall be made in the tax period. The FTA prescribes a number of different methods to ascertain the actual use via the annual wash-up adjustment, depending on the nature of industry/business of the taxable person. There may be a difference between the recoverable tax amount calculated and the amount of a calculation that reflects the actual use of the goods and services to which the input tax relates. If that difference exceeds AED250,000, the taxable person shall, in the tax period for the tax year, make an adjustment to the input tax.

If the calculation outlined above would give a result that the taxable person considers would not reflect the actual extent to which the input tax relates to making taxable supplies, it may apply to the FTA to authorize the use of an alternative basis of calculation based on the list of accepted mechanisms issued by the FTA.

Special methods are allowed in the UAE where the standard method is not appropriate for the business. The taxable person should apply for approval from the tax authority to use a special method to calculate its input tax apportionment to the extent the standard method is not appropriate for the business

Capital goods. Capital assets are items of capital expenditure that are used in a business over several years. If capital assets are supplied or imported by a taxable person, they shall assess the period of use of the assets and make the necessary adjustments to the input tax paid, in line with the capital assets scheme.

For purposes of the capital asset scheme, a capital asset is a single item of expenditure of the business amounting to AED5 million or more, excluding VAT, on which VAT is payable and which has an estimated useful life equal to or longer than 10 years in case of a building or a part thereof and 5 years for all capital assets other than buildings or parts thereof.

Items of stock, which are for resale, shall not be treated as capital assets.

Expenditure consisting of smaller sums that collectively amount to AED5 million or more shall be treated as a single item of expenditure of AED5 million or more, where the sums are staged payments for any of the following:
- For the purchase of a building
- For the construction of a building
- In relation to an extension, refurbishment, renewal, fitting out or other work undertaken to a building, except that where there is a distinct break between any such works being undertaken, they shall be taken to be separate items of expenditure
- For the purchase, construction, assembly or installation of any goods or immovable property where components are supplied separately for assembly

A taxable person shall keep the records related to capital assets for at least 10 years.

A capital asset eligible for the capital asset scheme shall be monitored and the input tax incurred shall be adjusted, over a period of 5 or 10 years (as outlined above), commencing on the day on which the owner first uses the capital assets for the purposes of its business.

Refunds. The amount of VAT reclaimed must be supported by a valid VAT invoice and (if necessary) the customs documents that prove the taxable person is the importer of the goods in accordance with the GCC Common Customs Law. The recoverable input tax may be deducted through the VAT return relating to the first tax period in which the taxable person receives and keeps the tax invoice. As a condition for input tax recovery, the taxable person must also pay the consideration for the supply or for any part thereof. The taxable person shall be treated as having made a payment of consideration for a supply to the extent that the taxable person intends to make the payment before the expiration of six months after the agreed date for the payment of the supply.

If the taxable person entitled to recover the input tax fails to do so during the tax period, it may include the recoverable VAT in the VAT return for the subsequent tax period.

A taxable person can recover input tax only when it has crystalized its intention to make payment within the next six months and where it has a valid tax invoice in its possession. Where a tax invoice has been received, the input tax cannot be recovered until the period in which the intention to pay has also been crystalized.

Where a taxable person's recoverable input tax exceeds the output tax payable in the same tax period, the taxable person may opt to apply for a refund or carry forward any excess recoverable VAT to the subsequent tax periods and offset such excess against VAT payable or any administrative penalties imposed, until such excess is fully utilized. If a refund is chosen, the request must be submitted through the prescribed form. As part of the application process, the taxable person must submit a letter to verify its banking details and agree to submit additional documentary proof to support the VAT refund application, if requested by the FTA.

Pre-registration costs. A taxable person may recover input tax incurred before its VAT registration on the VAT return submitted for the first tax period following the VAT registration. It can relate to input tax paid of the supply of goods and services made to them (and the import of goods by them) prior to the date of the VAT registration. This is on the basis that these goods and services were used to make supplies that give the right to input tax recovery upon VAT registration.

Input tax may not be recovered in any of the following instances:
- The receipt of goods and services for purposes other than making taxable supplies (for example, supplies made prior to the taxable person's VAT registration effective date)
- Input tax related to the part of the capital assets that depreciated before the date of the VAT registration

- If the services were received more than five years prior to the date of VAT registration
- Where a taxable person has moved the goods to another GCC Member State prior to the VAT registration in the UAE

Bad debts. A taxable person may reduce the output tax in a current tax period to adjust the output tax paid for any previous tax period, if all the following conditions are met:
- Goods and services have been supplied and the VAT due has been charged and paid
- Consideration for the supply has been written off in full or part as a bad debt in the accounts of the supplier
- More than six months has passed from the date of the supply
- The supplier has notified the customer of the amount of consideration for the supply that has been written off

The customer shall reduce the recoverable input tax for the current tax period related to a supply received during any previous tax period where the consideration has not been paid and all the following conditions are met:
- The supplier reduced the output tax by way of an adjustment for bad debts and the customer has received a notification from the supplier of the consideration being written off
- The customer received the goods and services, and the relevant input tax was deducted
- The consideration was not paid in full or in part for the supply for over six months

The reduction shall be equal to the VAT related to the consideration that has been written off. Any adjustment on account of VAT related to bad debt relief should be made in the "adjustment column" of the VAT return.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the UAE.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the UAE is recoverable.

The FTA may refund VAT paid for any supply received by or import carried out by any of the following:
- A citizen of the UAE in respect of the goods and services related to the construction of a new residence that is not part of the person's business
- A nonresident who is not a resident of a GCC Member State and conducts a business and is not a taxable person
- A nonresident, for goods supplied to them in the UAE that will be exported
- Foreign governments, international organizations, diplomatic bodies and missions according to treaties that the UAE is a party to
- Any persons or classes listed in a cabinet decision issued at the suggestion of the minister

Designated persons. The FTA may allow certain persons to apply for a refund of VAT paid by them on supplies of goods or services received in the UAE. These persons include (officials of) foreign governments, international organizations, diplomatic bodies and missions. A claim may be submitted to the FTA requesting a repayment of the VAT incurred.

This mechanism is subject to the following conditions:
- The goods and services are for official use
- The jurisdiction in which the person is established excludes the same type of entities from the burden of any VAT in that jurisdiction, i.e., reciprocity
- The refund claim is consistent with the terms of any international treaty or other agreement concerning the liability to tax of such persons

- Officials of the person should not hold UAE nationality nor have a residence visa under the sponsorship of an entity other the person
- The person should not carry out any business in the UAE

Designated charities. The FTA may allow certain charities to apply for a refund of VAT paid by them on supplies of goods or services received in the UAE for the purposes of charitable activities, to the extent that the VAT paid does not relate to onward exempt supplies made or those expenses are not blocked from input tax recovery.

Refund of VAT to taxable persons in other GCC Member States. Persons who are registered for VAT in another GCC Member State may submit an application for refund of VAT incurred in the UAE in accordance with the mechanism agreed between the GCC Member States.

Refund of VAT to taxable persons nonresident in the UAE. The FTA has implemented a business VAT refund scheme for foreign businesses to allow the repayment of VAT on expenses incurred in the UAE by a foreign entity that has no place of establishment or fixed establishment in the UAE or in an implementing GCC Member State and is not taxable in the UAE. The foreign entity must be registered as an establishment with a competent tax authority in the jurisdiction in which it is established, and that foreign jurisdiction should have a reciprocal arrangement to provide refunds of VAT to eligible UAE businesses. The FTA has provided a list of jurisdictions that may be eligible for VAT refunds. In the event that a jurisdiction is not on the approved list or does not have a VAT system, the Ministry of Finance of that jurisdiction would have to contact the UAE Ministry of Finance for inclusion on the approved list.

A foreign entity is not entitled to make a claim under the VAT refunds for foreign businesses scheme in the following cases:

- If it makes supplies that have a place of supply in the UAE or implementing GCC State, unless the recipient of the goods or services is obliged to account for VAT on those supplies through the reverse-charge mechanism
- If the input tax relates to goods or services for which the VAT is not recoverable
- If the foreign entity is from a jurisdiction that does not in similar circumstances provide refunds of VAT to entities that belong to the UAE (per the above, the FTA has specified a list of jurisdictions it considers eligible)

The claim for any refund shall be made on an electronic form as will be provided for the purpose by the FTA. The period of the claim shall be 12 calendar months ("calendar year"). The minimum claim amount of VAT that may be submitted under the VAT refunds for foreign businesses scheme shall be AED2,000. This may comprise single or multiple purchases.

The FTA will only process refund applications for six months from the date the business can first make a claim, i.e., from 1 March of the year following the calendar year. Note: the condition that the period of claim shall be one calendar year does not apply in the case of residents in any GCC Member State that is not considered to be an implementing state.

Refund of VAT to tourists. The cabinet issued a decision in July 2018 that introduced the tax refunds for tourists' scheme. The decision specified the following:

- The goods are purchased from a retailer who is participating in the scheme
- The purchase of the goods from the retailer is conducted in accordance with requirements as determined in a decision issued by the chairman
- The export of goods is conducted in accordance with requirements as determined in a decision issued by the chairman
- The goods are not excluded from the scheme by the authority

The following conditions shall apply to the tax refunds for tourists' scheme:
- The goods that are subject to the tax refunds for tourists' scheme must be supplied to an overseas tourist who is in the UAE during the purchase of the goods from the supplier
- At the date of supply, the overseas tourist intends to depart from the UAE within 90 days from that date, accompanied by the goods
- The relevant goods are exported by the overseas tourist to a place outside the implementing states in the GCC, within three months from the date of supply, subject to such conditions and verifications as may be imposed by the FTA

The phrase "overseas tourist" means any natural person who is not resident in any of the implementing states in the GCC and who is not a crew member on a flight or aircraft leaving an implementing state. The FTA may publish a list of goods that shall not be subject to tax refunds for tourists' scheme. Hence residents of other GCC jurisdictions will be treated as "overseas tourists" until their jurisdiction of residence is recognized by the UAE as an implementing state. VAT shall not be refunded under the scheme in respect of any claim where the value of tax inclusive purchases is less than AED250 from the same supplier.

The authority may charge an administrative fee amounting to 15% of the amount of VAT to be refunded to the overseas tourist as well as a fixed fee of AED4.8 per refund claim. These fees are deducted from the refundable amount. The cash VAT refund is limited to a maximum of AED35,000 per overseas tourist per 24 hours.

The following goods are excluded from the tax refunds for tourists' scheme:
- Goods that are not accompanied by the overseas tourist at the time of leaving the UAE
- Goods that have been consumed, in full or in part, in the UAE or any other Implementing State.
- Motor vehicles, boats and aircrafts

H. Invoicing

VAT invoices. The supplier of taxable goods and services must issue and deliver a tax invoice or a similar document either upon partial or full receipt of the goods and services and also for deemed supplies. This can be in the form of a printed copy or in an electronic format.

The supplier must issue a tax invoice within 14 days as of the date of supply, as per the tax point rules.

Where the VAT chargeable on a supply is calculated to a fraction of a fils, the taxable person is permitted to round the amount to the nearest fils on a mathematical rounding.

Where the supply is a wholly zero-rated supply and there are or will be sufficient records available to establish the particulars of a supply, a taxable person is not required to issue a VAT invoice for the supply.

Credit notes. A VAT credit note may be used to reduce the VAT charged and claimed on a supply and for deemed supplies. A credit note must be issued within 14 days from the date of occurrence of the event requiring issuance of the credit note.

Electronic invoicing. Electronic invoicing is allowed in the UAE, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the UAE. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the UAE. The requirements related to electronic invoicing are the same as those for paper invoicing.

A taxable person may issue a VAT invoice and VAT credit note by electronic means provided that:
- The taxable person must be capable of securely storing a copy of the electronic VAT invoice or VAT credit note in compliance with the recordkeeping requirements
- The authenticity of origin and integrity of content of the electronic VAT invoice or VAT credit note must be guaranteed

At the time of preparing this chapter, the UAE tax authorities are working on making electronic invoicing mandatory in the future. However, there is no official information available to confirm its applicability and possible threshold or type of supplier that will be covered for the purpose of electronic invoicing.

Simplified VAT invoices. A simplified VAT invoice may be issued in either of the following situations:
- Where the recipient of goods or services is not VAT registered
- Where the recipient of goods or services is VAT registered and the consideration for the supply does not exceed AED10,000

The FTA may at its discretion grant an exception to standard rules applicable to VAT invoices, VAT credit notes, length of tax period, VAT staggers and standard time period for export of goods from the UAE. The FTA considers requests for an exception on a case-by-case basis, depending on each applicant's individual circumstances.

Third party. Where an agent who is VAT registered makes a supply of goods and services for and on behalf of the principal of that agent, that agent may issue a VAT invoice in relation to that supply, as if that agent had made the supply, and provided that the principal shall not issue a VAT invoice. The same rules apply for an agent issuing a VAT credit note.

Summary invoices. A taxable person does not need to issue separate VAT invoices in respect of supplies where it makes more than one supply of goods or services to the same person and those supplies are included on a summary VAT invoice. The summary VAT invoice must be issued to the recipient of the goods or services, in the same calendar month as the date of supply of the goods and services supplied.

Self-billing. Self-billing is allowed in the UAE. Where a recipient agreed to raise a VAT invoice on behalf of a VAT registered supplier, in respect of a supply of goods or services, that document shall be treated as if it had been issued by the supplier if the following conditions are met:
- The recipient of the goods or services is VAT registered
- The supplier and the recipient agree in writing that the supplier shall not issue a VAT invoice in respect of any supply between the parties
- The VAT invoice shall contain the full VAT invoicing requirements (as outlined above)
- The words "tax invoice raised by buyer" are clearly displayed on the VAT invoice

Under self-billing, any invoice issued by the supplier shall be deemed to not be a VAT invoice. The same rules above apply for issuing VAT credit notes.

Proof of exports and intra-GCC supplies. Where a taxable person makes a supply of goods from the UAE to a person who has a place of residence in an implementing GCC Member State, and the supply requires the goods to be physically moved to that other GCC Member State, the taxable person shall retain official and commercial evidence of export of those goods to that other GCC Member State.

Where a supply of the goods and goods or services is considered as supplied in another implementing state in the GCC, the taxable person must include the following additional particulars in the document issued:
- The VAT registration number of the recipient of the goods or services issued to them by the competent authority of the implementing state in which the supply is treated as taking place
- A statement identifying the supply between the UAE and the implementing state
- Any other information specified by the FTA

At the time of preparing this chapter, the respective tax authorities of the UAE, Bahrain, Oman and Saudi Arabia are not treating each other as implementing states and the tax treatment of supplies/acquisitions with counterparties in these jurisdictions should be assessed under the general VAT rules.

Foreign currency invoices. Tax invoices must be issued in the domestic currency, which is the UAE dirham (AED). If the supply is made in a currency other than AED, the amount stated on the tax invoice must be converted into AED according to the exchange rate approved by the UAE central bank at the date of the supply.

Supplies to nontaxable persons. In the UAE, a taxable person is not required to provide a full tax invoice for goods and services where the recipient is not registered. Simplified VAT invoice provisions exist, with the requirements as outlined above in the *Simplified VAT invoices* section.

Records. Records of all goods and services supplied by a taxable person or on its behalf, showing goods and services, suppliers and their agents, must be kept and retained in sufficient detail to enable the FTA to readily identify goods and services, suppliers and agents.

VAT return data, records and documents can be submitted to the FTA in English, except for where the FTA specifically states that it will accept the information submitted by the taxable person to be in Arabic. This decision is at the discretion of the FTA and it may request that some or all the information is translated into Arabic. The taxable person bears the responsibility of ensuring the translated document's accuracy and correctness.

In the UAE, examples of what records must be held for VAT purposes include the following:
- Records of all supplies and imports of goods and services
- All tax invoices and alternative documents related to receiving goods or services
- All tax credit notes and alternative documents received
- All tax invoices and alternative documents issued
- All tax credit notes and alternative documents issued
- Records of goods and services that have been disposed of or used for matters not related to business, showing taxes paid for the same
- Records of goods and services purchased and for which the input tax was not deducted
- Records of exported goods and services
- Records of adjustments or corrections made to accounts or tax invoices
- Records of any taxable supplies made or received in respect of the reverse-charge mechanism, including any declarations provided or received in respect of those taxable supplies
- A tax record that includes the following information:
  - VAT due on taxable supplies
  - VAT due on taxable supplies pursuant to the reverse-charge mechanism
  - VAT due after the error correction or adjustment
  - Recoverable VAT for supplies or imports
  - Recoverable VAT after the error correction or adjustment
- Accounting records and commercial books for UAE tax purposes, including:
  - Records of payments, receipts, purchases, sales, revenue and expenditure
  - Balance sheets and profit and loss accounts
  - Records of wages and salaries
  - Records of fixed assets and inventory

In the UAE, VAT books and records can be held outside of the country. There is no legal requirement to keep the records of supplies within the country. Taxable persons are allowed to store records anywhere as long as these records are readily available for the FTA in the event of an audit. Further, a taxable person who makes taxable supplies of goods or services in the UAE must keep records of such transactions to prove the Emirate in which the fixed establishment related to the supply is located. If the taxable person who makes a taxable supply of goods or services does not have a fixed establishment in the UAE, the taxable person must keep records of the transaction to prove the Emirate in which the supply is received.

From 1 July 2023, taxable persons supplying goods and services through e-commerce that exceeds AED100 million over a calendar year are required to report taxable supplies in the emirate in which the supply is received for the following periods:
- For businesses making supplies amounting to more than AED100 million in sales during the year ending on 31 December 2022, the above rules shall apply for 18 months starting from the first tax period after 1 July 2023.
- For businesses making supplies amounting to more than AED100 million in sales for any year after 2022, these rules shall apply for two years starting from the first tax period of the year after they cross the AED100 million threshold.

For the purposes of the above reporting, the term "e-commerce" is defined as "the process of selling goods or services through electronic means, an electronic platform, a store in social media, or electronic applications in accordance with criteria and conditions determined by the Minister."

Record retention period. The taxable person must hold and maintain these records for a period of five years after the end of the tax period to which they relate, or the concerned document was created, in the case of nontaxable persons. This period is extended to 15 years for records relating to real estate.

Electronic archiving. Electronic archiving is allowed in the UAE. VAT records may be archived electronically in any location, provided that the authenticity, integrity and legibility of the content of source documents (invoice data) is protected and any records can be produced in a readable form (within a reasonable period of time) upon request by the FTA.

I. Returns and payment

Periodic returns. A VAT return must be received by the FTA no later than the 28th day following the end of the tax period concerned or by such other date as directed by the FTA.

A person whose registration has been canceled must provide a final VAT return for the last tax period for which it was registered.

The standard tax period is three calendar months (i.e., quarterly) ending on the date that the FTA determines.

The FTA may assign a taxable person a shorter or longer time period where it considers that a nonstandard tax period length is necessary or beneficial to:
- Reduce the risk of tax evasion
- Enable the FTA to improve the monitoring of compliance or collection of tax revenues
- Reduce the administrative burden on the FTA or the compliance burden on a taxable person

Where a taxable person is assigned the standard tax period, it may request that the tax period ends with the month as requested by them, and the FTA may accept such request at its discretion.

The four staggers of tax periods and tax years are as follows:
- 31 January, where the tax period ends 31 January and quarterly thereafter (stagger group 1)
- Last day of February, where the tax period ends last day of February and quarterly thereafter (stagger group 2)
- 31 March, where the tax period ends 31 March and quarterly thereafter (stagger group 3)
- Last day of the calendar year, where the tax period ends on 31 January and monthly thereafter (stagger group 4)

As part of the administrative exceptions, businesses in a constant refund position, as well as small and medium enterprises that do not receive official funding approved by any government entity

and making taxable supplies equal to or less than AED9 million per 12-month period, may apply to change the length of the tax period to 6 months.

At the time of preparing this chapter, it is expected that the VAT return format may be updated in the future to include reporting for intra-GCC supplies once each of the GCC states recognize each other as GCC VAT implementing Member States.

Periodic payments. Payment of UAE VAT due by a taxable person in respect of a tax period must be made at the latest by the 28th day of the month following the end of that tax period. The person making the payment must provide details of the tax registration number of the taxable person and the tax period or tax periods to which the period relates.

Payment can be made by several means, including:
- Visa/Mastercard bank transfer: there may, however, be other associated fees levied by the bank
- Bank transfer: electronic fund payments can also be made to the tax authority using the taxable person's GIBAN, which is a unique IBAN number allocated to every taxable person

Where any relevant VAT amount is expressed in a currency other than AED, the amount must be converted to AED using the daily rate prescribed by the central bank on the date that the relevant VAT amount becomes due.

Electronic filing. Electronic filing is mandatory in the UAE for all taxable persons. VAT returns must be submitted online on the FTA's portal and pay any VAT due electronically.

Payments on account. Payments on account are not required in the UAE.

Special schemes. *Profit margin scheme.* A taxable person may calculate VAT on any supply of goods by reference to the profit margin scheme in the following situation:
- Where it has made a supply of the following types of goods, which have been subject to VAT before the supply takes place:
  - Secondhand goods, meaning tangible movable property that is suitable for further use as it is or after repair
  - Antiques, meaning goods that are over 50 years old
  - Collectors' items, meaning stamps, coins and currency and other pieces of scientific, historical or archaeological interest
- The goods (as outlined above) were purchased from either:
  - A person who is not VAT registered
  - A taxable person who calculated the VAT on the supply by reference to the profit margin

The profit margin is the difference between the purchase price of the goods and the selling price of the goods, and the profit margin shall be deemed to be inclusive of VAT.

A taxable person may not elect to calculate VAT on the profit margin in respect of the goods (as outlined above) if a VAT invoice or other document is issued for the supply, mentioning an amount of VAT chargeable on the supply.

Where a taxable person has charged VAT in respect of a supply under the profit margin scheme, the taxable person shall issue a VAT invoice that clearly states that the VAT was charged with reference to the profit margin, in addition to all other information required to be stated in a VAT invoice except the amount of VAT.

The taxable person must keep the following records in respect of supplies made under the profit margin scheme:
- A stock book or similar record showing the details of each good purchased and sold under the profit margin scheme
- Purchase invoices showing details of the goods purchased under the profit margin scheme. Where the goods are purchased from non-VAT registered persons, the taxable person must issue an invoice showing details of the goods itself, including at least the following information:
  - The name, address and VAT registration number of the taxable person

- The name and address of the person selling the good
- The date of the purchase
- Details of the goods purchased
- The consideration payable in respect of the goods
- Signature of the person selling the good or authorised signatory

Annual returns. Annual returns are not required in the UAE.

Supplementary filings. No supplementary filings are required in the UAE.

Correcting errors in previous returns. A taxable person in the UAE is required to make a voluntary disclosure to notify the FTA where an error or omission is made in its periodical VAT return, tax assessment or tax refund application. The regulations state voluntary disclosures should be made where:

- A filed VAT return or a tax assessment is incorrect, resulting in a calculated tax liability that is understated by more than AED10,000
- A filed VAT return or a tax assessment is incorrect, resulting in a calculated tax liability that is understated by up to AED10,000 and there is no VAT return through which the error can be corrected
- A filed VAT return resulting in an error or omission resulting in no difference in the amount of due tax
- A filed VAT refund application is incorrect, resulting in a calculation of a refund to the taxable person of more than the correct amount, unless the error was a result of an incorrect VAT return or tax assessment

A voluntary disclosure cannot be submitted upon expiry of five years from the end of the relevant tax period. Voluntary disclosures can be made by using the tax authority's online portal by the taxable person. The taxable person is also required to upload details and supporting documents by way of a letter, which may provide the background information and a detailed description of the errors intended to be rectified by the taxable person with the FTA. This letter should also indicate the reasons for the voluntary disclosure and the errors disclosed, as well as the impact on the relevant sections/boxes of the VAT return. The letter will assist the FTA in acknowledging a taxable person's request.

Digital tax administration. There are no transactional reporting requirements in the UAE.

J. Penalties

Penalties for late registration. Any taxable person who has not applied for VAT registration within the set time frame shall receive a penalty of AED10,000.

Penalties for late payment and filings. A taxable person who fails to submit a VAT return within the prescribed time frame, shall receive a fixed penalty of AED1,000 for the first instance and AED2,000 in case of repetition within 24 months. If a taxable person fails to pay the VAT due within the prescribed time frame, e.g., within 28 days from the end of the taxable person's tax period, the following late payment penalty is levied up to a maximum of 200%:

- 2% of the unpaid tax is immediately levied when the payment is not received by the FTA on the due date
- 4% monthly penalty is due after one month from the due date of payment, and on the same date monthly thereafter, on the unsettled VAT amount to date

For the purposes of the above penalty, the due date of payment in the case of the voluntary disclosure and tax assessment is as follows:

- 20 business days from the date of submission, in the case of a voluntary disclosure
- 20 business days from the date of receipt, in the case of a VAT assessment

The FTA may impose a VAT assessment on a taxable person irrespective of a VAT return filed by the taxable person. The FTA may make a new VAT assessment to amend a previous assessment made by it. The FTA must notify the taxable person of a VAT assessment within five business days.

The FTA may not issue or amend an assessment in respect of any tax period, after a period of five years after the end of the tax period to which the assessment relates.

In cases where any transaction is being carried out with the intention of breaching the provisions of the UAE VAT law and regulations, or in cases where a person is required to register but fails to do so, the FTA may issue or amend assessments up to a period of 15 years after the end of the tax period to which the assessment relates.

Penalties for errors. If a taxable person recognizes an error in an already submitted VAT return, it has 20 days to notify the FTA of the error by submitting a correction form. If the error results in a discrepancy of VAT due under AED10,000, the correction can be made by adjusting the net VAT on the business's next VAT return.

Any taxable person who carries out the following:
- Files an incorrect VAT return to the FTA
- Amends a VAT return after filing or files any document with the FTA due by them that results in an error and, hence, in an amount that is less than the VAT due, shall be liable for both a:
  - Fixed penalty: AED1,000 for the first time and AED2,000 for subsequent voluntary disclosures. Where the incorrect VAT return results in a tax difference that is less than the fixed penalty amount of AED1,000 or AED2,000, the FTA will impose a penalty equal to higher of the VAT difference and AED500.
  - Percentage-based penalty based on the amount unpaid due to the error and resulting tax benefit:
    - 5% on the difference, where the voluntary disclosure is submitted within one year from the due date of submission of the VAT return, the VAT assessment or the relevant refund application
    - 10% on the difference, where the voluntary disclosure is submitted within second year from the due date of submission of the VAT return, the VAT assessment or the relevant refund application
    - 20% on the difference, where the voluntary disclosure is submitted within the third year following the due date of submission of the VAT return, the VAT assessment or the relevant refund application
    - 30% on the difference, where the voluntary disclosure is submitted within the fourth year following the due date of submission of the VAT return, the VAT assessment or the relevant refund application
    - 40% on the difference, where the voluntary disclosure is submitted after the fourth year following the due date of submission of the VAT return, the VAT assessment or the relevant refund application

A taxable person must notify the FTA within 20 days of becoming aware of an error or incorrect amount, by submitting a voluntary disclosure. This notification must be given if the taxable person becomes aware of an error or an incorrect amount in a filed VAT return; or becomes aware of such facts which should have led him to be aware of such error or incorrect amount, which has resulted in the amount of VAT payable to the FTA being understated and that amount of net tax payable is more than AED10,000.

In cases where a taxable person becomes aware of an error or an incorrect amount in a filed VAT return that has resulted in the amount of VAT payable to the FTA being overstated, the taxable person may correct that error at any time, by submitting a voluntary disclosure.

Subject to the above, if the understatement of net VAT is less than AED10,000, the taxable person may correct that error by adjusting the net VAT in its next VAT return. If there is no VAT return through which the error can be corrected, the taxable person must instead make a voluntary disclosure.

No correction to any VAT return relating to an overstatement of VAT in respect of a tax period may be made after a period of five years has passed from the end of the calendar year in which the tax period takes place. In the case of an understated amount of VAT payable or an overstated amount of VAT refundable that is notified by the FTA pursuant to a tax assessment, two penalties may apply:

- Fixed penalty: AED1,000 for the first time and AED2,000 for subsequent voluntary disclosures
- Percentage based penalty based on the amount unpaid due to the error and resulting tax benefit:
  - 50% of the underpaid tax along with 4% of the underpaid tax per month from the due date of the VAT return

A taxable person who fails to issue a tax invoice or alternative document, as appropriate, shall be liable for a fine of AED2,500 for each detected case.

A fine of AED20,000 shall be imposed on any taxable person that:

- Fails to submit data, records and documents related to UAE VAT in Arabic to the tax authority when requested
- Prevents or obstructs the employees of the tax authority or anyone working for the tax authority from performing their duties

Where the taxable person has failed to comply with the conditions and procedures regarding the issuance of electronic tax invoices and electronic tax credit notes, they shall be liable for a separate fine of AED2,500 for each detected case.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of AED5,000 being charged for the first default and AED10,000 in case of repetition. For further details, see the subsection *Changes to a VAT registration details* above.

Penalties for fraud. Tax evasion shall be punishable by a prison sentence and/or a fine not exceeding three times the amount of VAT evaded. By way of example, the following would be classified as tax evasion for UAE VAT purposes:

- A taxable person who deliberately understates the actual value of its business or fails to consolidate its related businesses with the intent of remaining below the required registration threshold
- A person who charges and collects amounts from its clients claiming them to be tax without being registered
- A person who deliberately provides false information and data and incorrect documents to the authority
- A person who prevents or hinders the authority's employees from performing their duties
- A person who deliberately decreases the payable tax through tax evasion or conspiring to evade tax

The imposition of fines shall not prejudice the payment of any tax due, and the application of any other penalty stipulated by any other UAE law. In cases where any transaction is being carried out with the intention of breaching the provisions of the UAE VAT law and regulations, or in cases where a person is required to register but fails to do so, the FTA may issue or amend assessments up to a period of 15 years after the end of the tax period to which the assessment relates.

A prison sentence and a monetary penalty not exceeding AED1 million, or either of the two, shall be imposed on anyone who commits any of the following acts:
- Deliberately providing false information, data and incorrect documents to the FTA
- Deliberately concealing or destroying documents, information and data, or other material that is required to keep and provide to the FTA
- Stealing documents or other materials that are in the possession of the FTA or deliberately misusing or destroying them
- Deliberately preventing or hindering the FTA's employees from performing their duties

Other penalties. The FTA shall issue an administrative penalty assessment to the taxable person and notify the taxable person within five business days as of the date of issuance in any of the following cases:
- Failure by the taxable person to display prices inclusive of VAT (AED5,000)
- Failure by the taxable person to notify the authority of applying VAT based on the profit margin (AED2,500)
- Failure to comply with the conditions and procedures related to keeping goods in a Designated Zone or moving them to another Designated Zone (penalty is the higher of AED50,000 or 50% of the tax chargeable in respect of the goods as a result of the violation)
- Failure by the taxable person to issue a tax invoice or an alternative document when making any supply (AED2,500 for each detected case)
- Failure by the taxable person to issue a tax credit note or an alternative document (AED2,500 for each detected case)
- Failure by the taxable person to comply with the conditions and procedures regarding the issuance of electronic tax invoices and electronic tax credit notes (AED2,500 for each detected case)
- Failure by the taxable person conducting business to keep required records (AED10,000 for first offense, AED20,000 in case of repetition)
- Failure by the taxable person submit records in Arabic when requested by the FTA (AED20,000)

If it is proved that a person who is not VAT registered acquires goods (crude or refined oil, unprocessed or processed natural gas, or pure hydrocarbons, or gold or diamonds), claiming that they are VAT registered for the purposes of the reverse charge, it shall be considered as having committed tax evasion and shall be subject to penalties.

Personal liability for company officers. Company officers cannot be held personally liable for errors and omissions in VAT declarations and reporting in the UAE.

Statute of limitations. The statute of limitations in the UAE is five years. This is the standard period except in the following cases:
- Where a notice for audit/assessment is issued by the FTA and the audit/assessment is completed within four years from the date of notice
  Or
- The taxable person has submitted a voluntary disclosure in the fifth year from the end of the relevant tax period and the FTA concludes the audit/assessment within one year from the date of lodgment of such voluntary disclosure.

The FTA may not conduct a tax assessment after the expiration of five years from the end of the relevant tax period, except in cases of proven tax evasion or non-registration of a taxable person for VAT purposes. If tax evasion is proven, the FTA has 15 years from the end of the tax period in which the tax evasion occurred to conduct a tax assessment. If a taxable person fails to register for tax purposes, FTA may conduct a tax assessment within 15 years of the date the taxable person should have registered.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 April 1973
Trading bloc membership	The UK left the European Union on 31 January 2020. The transition period came to an end on 31 December 2020 at 11:00 p.m. UK time. The UK-EU Trade and Cooperation Agreement (TCA) governs the UK and EU's economic and trading relationship now that the Brexit transition period has come to an end. The UK is free to adapt its own VAT rules going forward with the exception of Northern Ireland (NI), which will operate a "dual" or "mixed" VAT regime and for the time being, follows EU VAT rules for goods and UK VAT rules for services.
Administered by	HM Revenue & Customs (https://www.gov.uk/government/organisations/hm-revenue-customs)

VAT rates	
Standard	20%
Reduced	5%
Other	Zero-rated (0%) and exempt
VAT number format	GB 999 9999 99
	XI 999 9999 99 (for businesses trading under the Northern Ireland Protocol)
VAT return periods	
Quarterly	General rule
Monthly	If requested by a business that receives regular repayments
Annual	If requested by a small business (annual turnover less than GBP1.35 million excluding VAT)
Thresholds	
Registration	
Established	GBP85,000
Non-established	None
Deregistration	GBP83,000
Distance selling	Pan EU threshold of EUR10,000, including Northern Ireland (NI) (not applicable in Great Britain (GB)
Intra-Community acquisitions	GBP85,000 NI only (not applicable in GB)
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in the United Kingdom (UK) by a taxable person
- The intra-Community acquisition of goods from another EU Member State by a taxable person (*see the chapter on the EU*). (This concept no longer applies in GB but continues to apply in NI).
- Reverse-charge services received by a taxable person in the UK
- The importation of goods from outside the EU, regardless of the status of the importer

Brexit – United Kingdom. For VAT purposes, the UK consists of Great Britain (GB) (England, Scotland and Wales) and Northern Ireland (NI). It does not include the Channel Islands or Gibraltar.

The UK left the European Union (EU) on 31 January 2020. However, the transition period came to an end on 31 December 2020 at 11:00 p.m. UK time. Thereafter, the UK-EU Trade and Cooperation Agreement (TCA) governs the UK and EU's economic and trading relationship. The United Kingdom (UK) is free to adapt its own VAT rules going forward with the exception of Northern Ireland (NI), which will operate a "dual" or "mixed" VAT regime, and for the time being follows EU VAT rules for goods under the Northern Ireland Protocol (as amended by the Windsor Agreement in 2023) and UK VAT rules for services.

Brexit – Great Britain. *Movement of goods.* From 31 December 2020 at 11:00 p.m. UK time, GB is a third country in relation to the remaining EU 27 Member States and therefore no longer has the concepts of EU acquisitions or dispatches for goods. Goods leaving and entering GB will be treated as imports and exports. Customs and excise duties and import VAT may apply.

Imports. To continue moving goods from EU countries into GB from 31 December 2020 at 11:00 p.m. UK time, GB businesses needed to complete a number of actions, including deciding how

to make customs declarations, checking whether imported goods are eligible for staged import controls and obtaining relevant Economic Operator Registration Identification (EORI) numbers.

An EORI number is used by tax authorities to identify a business for customs purposes. Businesses may need more than one EORI number depending on where they are moving goods. An EU EORI number is required to: import and export goods into and out of the EU 27; a GB EORI number (separate from its EU EORI number) is required to import into or export from GB; and in some scenarios, an EORI number starting with XI may be required to move goods into NI from GB, move goods from NI to another non-EU country, make a declaration in NI or apply for a customs decision in NI. However, businesses do not need an EORI number that starts with XI if an EU EORI number is already held, goods are only moved on the island of Ireland or between NI and an EU country or the business is "established" in an EU country but not in NI (in the latter case, an EU EORI number is required).

Postponed import VAT accounting. Postponed import VAT accounting (PVA), where import VAT is accounted for on the VAT return can be used by businesses if goods are imported into GB from anywhere outside the UK or into NI from outside the UK and EU. PVA can also be used for goods moved between GB and NI that are declared into a customs special procedure when they are removed from that special procedure.

Tax representatives. If a business is not established in the UK, a third party established in the UK must deal with any customs formalities on behalf of the business. Non-established taxable persons can have their nominated intermediary account for import VAT on the intermediary's VAT return.

In addition, a non-established taxable person can nominate an intermediary who will be able to account for the import VAT on its VAT return. Businesses do not need to be authorized to use postponed import VAT accounting.

In GB, appointing a fiscal representative for UK established entities is not a legal requirement; however, HMRC may request the use of one in special cases. Appointing a VAT fiscal representative for customs purposes may be necessary for non-UK established businesses to act as the importer of record in the UK.

Exports. To export goods to EU countries, GB businesses must have a GB EORI number.

Services. From a services perspective, the UK is now a non-EU country and the application of use and enjoyment rules, which vary by Member State, will apply differently (see the *Effective use and enjoyment* section for further details). In addition to use and enjoyment changes, certain supplies of services to nonbusiness customers outside the UK have seen a shift in the place of supply to where the customer belongs. The services affected by the latter are: transfer and assignment of copyrights or patents, etc., (business-to-consumer [B2C] only); advertising services (B2C only); consultants, lawyers, accountants, engineers, etc., (B2C only); banking, financial and insurance (B2C only); the provision of access to, or transmission or distribution through, a natural gas system; an electricity system or a network through which heat or cooling is supplied (B2C only); supply of staff (B2C only); letting on hire of goods other than means of transport (B2C only) and emissions allowances.

VAT registration. Certain VAT registrations are no longer available post-Brexit, including UK Mini One-Stop Shop registrations for GB businesses and UK distance selling registrations for GB businesses. Distance selling still operates in NI after 1 July 2021, when new rules were introduced, albeit with a change in threshold.

Input tax recovery. Businesses are (subject to the normal rules) able to reclaim input tax attributable to the export of certain financial services products to the EU (as is the case for those exports to non-EU countries).

Case law. Post-Brexit, UK lower courts (First-tier Tribunal, Upper Tribunal and High Court) remain bound by European case law. However, the Court of Appeal of England and Wales, and equivalent courts and upward across the UK, have the power to depart from retained EU case law. The test for doing so is that which is currently applied by the Supreme Court as to whether to depart from one if its own judgments, namely whether it is right to do so. In practice, this power has been exercised very sparingly by the Supreme Court to date. The Retained EU Law (Revocation and Reform) Act has now received Royal Assent. The Act abolishes the principle of supremacy and other general principles of EU law in the UK after 2023. *At the time of preparing this chapter, the Autumn Finance Bill (which should be enacted as Finance Act 2024) contains legislation to clarify how VAT and excise legislation should be interpreted in the light of changes made by the Retained EU Law (Revocation and Reform) Act 2023. The Act may be amended before being enacted and, in any event, the way that this legislation will be applied by the courts and therefore its impact on the status of retained EU law remains unknown.*

Brexit – Northern Ireland. *Goods sold between GB and NI.* In most cases, VAT will continue to be accounted for as it was prior to Brexit on goods sold between GB and NI. This means that the seller of the goods will continue to charge its customers VAT and should show this on its invoices. The VAT charged will be accounted for as output VAT on the supplier's VAT return in the same box as it is now. This VAT is import VAT even though it is charged by the supplier. Where the customer receives an invoice from the seller showing that VAT has been charged, it may use this as evidence to reclaim the VAT as input tax, subject to the normal rules.

Where the movement of goods falls within one of these exceptions, the customer or importer will account for the VAT:
- Declared into a special customs procedure when they enter NI or GB
- Currently subject to domestic reverse-charge rules
- Subject to an onward supply procedure
- Sold by an overseas seller through an online marketplace

Businesses moving their own goods from GB to NI. The business will need to account for VAT on the movement. This should be included as output tax on the UK VAT return. The VAT may be reclaimed as input tax on the UK VAT return, subject to the normal rules. Where a business uses goods for exempt activities, or where the goods are put to a taxable use and exempt use, it may be required to make an adjustment to its partial exemption calculations, to ensure the appropriate recovery of VAT. However, if a UK business has suffered a restriction on input VAT recovery on movement of the goods into GB, then a relief may apply (by enabling VAT recovery on the import into GB) to ensure a double restriction does not apply.

Businesses moving their own goods from NI to GB. A business will not be required to account for VAT when it moves its goods from NI to GB, unless these goods have been subject to a sale or supply to its customer.

VAT on goods sold from GB, transported via NI, to an EU Member State. For goods transported via NI to an EU Member State, the VAT treatment will depend on the specific circumstances or arrangements agreed between the seller and customer. Broadly, it will depend upon where the goods are situated at the point at which the transfer of rights to the goods takes place. If the goods are located in GB at the time of sale to an EU customer and transported by the seller via NI to that EU customer, the seller will zero-rate the sale of goods as an export to the EU. The seller will, however, also be required to account for VAT on the import of those goods into NI. The UK seller is required to include the amount of import VAT in the price charged to the EU customer so that the customer pays it. This amount should be included as output tax on the seller's return. The EU customer can recover this "import VAT" using the EU refund scheme if it is not registered in the UK (or on its UK return if VAT registered).

Goods sold between GB to NI and within NI by members of a UK VAT group. UK VAT groups continue to operate largely as they did pre-Brexit. VAT groups will continue to be able to include members that are established in NI as well as members that are established in GB. However, there are a number of changes to the way in which a VAT group will operate when the group moves goods from GB to NI or where goods in NI are sold between members.

Supplies of goods between VAT group members are usually disregarded. However, where goods are supplied by members of a VAT group and they move from GB to NI, VAT will need to be accounted for on that movement in the same way as a movement of own goods.

If supplies are made between members of a VAT group and the goods are in NI at the time of supply, the transaction is only disregarded if both members are established or have a fixed establishment in NI. If one or both have establishments in GB, the supply cannot be disregarded, and VAT must be accounted for by the representative member of the VAT group. VAT charged may be recoverable subject to the normal rules.

Goods sold onboard ferries between GB and NI. These will continue to be taxed domestically. UK VAT will be due and this will be accounted for on the seller's UK VAT return.

Where goods are sold on journeys that visit GB and NI as part of a voyage to third countries, the supply will be treated as taking place outside the UK and so are outside the scope of UK VAT.

Where goods are sold on journeys between NI and an EU Member State, these will be taxed in the place of departure, as now. UK VAT would therefore be due where the journey departs from NI.

Services. There are no special VAT rules for services between NI, GB and the EU. See the *Services* subsection above under the *Brexit – Great Britain* section.

VAT registration. NI is, and remains, part of the UK's VAT system. Businesses trading under the Northern Ireland Protocol will need to put an "XI" prefix in front of the UK VAT number when communicating with an EU customer or supplier (invoices will show an XI number ahead of the VAT number – for example, XI 123456789 – instead of GB); and complete an EC Sales List when selling goods from NI to VAT-registered customers in the EU (a notification to HMRC is required before the XI prefix is used.) Businesses are considered to be trading under the Northern Ireland Protocol where:

- Goods are located in NI at the time of sale
- Goods are received in NI from VAT-registered EU businesses for business purposes
- Goods are sold or moved from NI to an EU Member State

Intra-EU simplifications. Simplifications, such as triangulation, will not be available for movements of goods involving GB.

Such simplifications will be available for movements of goods involving EU Member States and NI or where the intermediary is identified as moving goods in, from or to NI in the course of its business.

Margin Scheme. In line with EU rules, margin schemes involving goods, such as the secondhand margin schemes, will not usually apply for sales in NI where the stock is purchased in GB (however, see below for an exception for cars). The VAT on these sales will be subject to the normal rules and must be accounted for on the full value of the supply.

Margin schemes remain available for sales of goods that are purchased in NI or the EU, whether sold to customers in NI, GB or the EU. Margin schemes also remain available for sellers in GB selling stock originally purchased in NI or GB, selling to those in GB.

The secondhand motor vehicle payment scheme has replaced the VAT margin scheme for secondhand vehicles that are bought in GB (England, Scotland and Wales), moved to NI and then resold. A dealer who sells motor vehicles in NI that were bought in GB, NI or the EU can benefit from the VAT secondhand margin scheme subject to the rules of the scheme. It is also available for sales from NI to GB and NI to EU.

Quick Fixes. Pending introduction of a "definitive" system for the VAT treatment of intra-Community supplies of goods to taxable persons, the EU adopted Quick Fixes for intra-Community trade in goods. *For an overview of the Quick Fix rules, see the chapter on the EU. For documentary requirements, see Section H. Invoicing, subsection Proof of exports and intra-Community supplies.*

From 1 January 2020, four Quick Fixes aiming to simplify and harmonize EU VAT rules in relation to intra-Community supplies of goods were introduced across the EU. The Quick Fixes were implemented in the UK.

NI has retained the EU Quick Fixes, although for GB, they applied only from 1 January 2020 to 31 December 2020 11:00 p.m. UK time.

The four Quick Fixes are as follows:
- Uniform call-off stock simplification rules
- Uniform rules for the VAT treatment of chain transactions in terms of which party zero rates the supply
- Uniform evidence requirements for zero rating intra-EU supplies of goods
- Mandatory VAT registration number requirements to support the zero rating of intra-EU supplies of goods

From a call-off stock perspective, the UK, for the purposes of NI, defines a "small loss" (whereby deemed acquisitions may be ignored) as 5% or less of the quantity of "relevant goods" delivered into the UK warehouse in any (rolling) 12-month period. The loss can relate to goods that are destroyed, lost or stolen within that same 12 months. Only the goods destroyed, lost or stolen in excess of the 5% measure must be accounted for as a deemed acquisition into the UK.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons.

In the UK, the following services are subject to the "use and enjoyment" provisions:
- The letting on hire of goods (including means of transport)
- Electronically supplied services (business-to-business (B2B) only)
- Telecommunications services (B2B only)
- Repairs to goods under an insurance claim (B2B only)
- Radio and television broadcasting services

Effective use and enjoyment rules apply to the aforementioned services when they are either supplied by a UK supplier but consumed outside the UK or supplied by a non-UK supplier but consumed in the UK.

Other services affected by Brexit may include certain supplies of services to nonbusiness customers outside the UK, which will see a shift in the place of supply to where the customer belongs. This is due to the effect of the term "which is not a Member State (other than the Isle of Man)" being substituted by the term "other than the United Kingdom or the Isle of Man" in Schedule 4A, Paragraph 16 (1)(b) VATA 1994. The services affected are as follows:
- Transfer and assignment of copyrights or patents, etc., (business-to-consumer [B2C] only)

- Advertising services (B2C only)
- Consultants, lawyers, accountants, engineers, etc., (B2C only)
- Banking, financial and insurance (B2C only)
- The provision of access to or transmission or distribution through a natural gas system
- An electricity system or a network through which heat or cooling is supplied (B2C only)
- Supply of staff (B2C only) and letting on hire of goods other than means of transport (B2C only)

Transfer of a going concern. Normally the sale of the assets of a VAT registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) is the sale of a business, including assets that must be treated as "neither a supply of goods nor a supply of services" by virtue of meeting certain conditions. Where the sale meets the conditions, the supply is mandatorily outside the scope of UK VAT.

For there to be a TOGC for VAT purposes in the UK, all of the following conditions must apply:
- The assets, such as stock-in-trade, machinery, goodwill, premises and fixtures and fittings, must be sold as part of the TOGC
- The buyer must intend to use the assets in carrying on the same kind of business as the seller
- Where the seller is a taxable person, the buyer must be a taxable person already or become one as the result of the transfer
- In respect of land or buildings that would be standard rated if they were supplied, the buyer must notify HMRC that they have opted to tax the land by the relevant date, and must notify the seller that their option has not been disapplied by the same date
- Where only part of the business is sold it must be capable of operating separately
- There must not be a series of immediately consecutive transfers of the business

Transactions between related parties. In the UK, for a transaction between related parties, the value for VAT purposes is calculated at the open market value. Special valuation rules apply for the following:
(a) The value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value
(b) The person making the supply and the person to whom it is made are connected
(c) If the supply is a taxable supply, the person to whom the supply is made is not entitled to credit for all the VAT on the supply

HMRC may direct that the value of the supply shall be taken to be its open market value. A direction shall be given by notice in writing to the person making the supply, but no direction may be given more than three years after the time of supply.

C. Who is liable

A "taxable person" is any entity or person that is required to be registered for VAT. The term includes any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions (relevant only in NI) or distance sales in the UK in the course of a business in excess of the relevant turnover thresholds.

The VAT registration threshold is GBP85,000. This VAT registration threshold only applies to businesses established in the UK. A nil registration threshold applies to businesses not established in the UK. As a result, any non-established business that makes a taxable supply (not covered by an existing VAT simplification) in the UK is required to register for VAT, regardless of the value of the supply. Non-established businesses involved only in distance sales of goods to NI private consumers who are not taxable persons are subject to the EU distance selling threshold.

Exemption from registration. A taxable person whose turnover is wholly or primarily zero-rated (*see Section D*) may request exemption from registration.

Voluntary registration and small businesses. A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A business may also register for VAT voluntarily in advance of making taxable supplies. In this case, the business needs to demonstrate to the UK VAT authorities it has the firm intention to make taxable supplies.

Businesses with a taxable turnover of GBP150,000 or less (excluding VAT) may apply to HMRC to use the VAT Flat Rate scheme. Refer to the *Special schemes* section for further details.

Businesses with annual taxable turnover (excluding VAT) of less than GBP1.35 million may apply to complete an annual VAT return rather than quarterly returns. Refer to the *Special schemes* section for further details.

Group registration. VAT grouping is a facilitation measure by which two or more eligible persons can be treated as a single taxable person for VAT purposes. Eligible persons are bodies corporate, individuals, partnerships and Scottish partnerships. Bodies corporate includes companies of all types.

Corporate bodies and certain noncorporate entities that are under "common control" and are established or have a fixed establishment in the UK may apply to register as a VAT group.

The control condition is met where all members of the group are controlled either by one member of the group, which can be a body corporate, an individual, a partnership or a Scottish partnership, or a single other "person" who is not one of the members of the group. Where control is exercised by a person that is a partnership, control must be exercised through the partnership and not by the partners as individuals. The company shares will normally be assets of the partnership.

VAT group members share a single VAT number and submit a single VAT return. No VAT is charged on supplies made between group members.

All members of a VAT group in the UK are jointly and severally liable for VAT debts and penalties.

There is no minimum time period for the duration of a VAT group.

Holding companies. A pure holding company can be included in a VAT group to the extent that it meets the eligibility criteria. VAT recovery on costs will depend on whether any taxable supplies are made and either the direct link that exists between those costs and taxable supplies or the link from those costs to the business activities of the VAT group as a whole.

Cost-sharing exemption. The VAT cost-sharing exemption (in accordance with VAT Directive 2006/112/EEC Article 132(1)(f) has been implemented in the UK. This provides an option to exempt support services that the cost-sharing group supplies to its members, providing certain conditions are met (in accordance with specific requirements laid out in UK VAT law).

The cost-sharing exemption can be used when two or more organizations with exempt and/or nonbusiness activities join together to purchase services on a cooperative basis, and in doing so form a separate entity, a cost-sharing group (CSG), to supply themselves with qualifying services at cost.

There are two fundamental requirements that must be met to qualify for exemption:

- The CSG must consist only of operators carrying out an activity that is exempt from, or not subject to, VAT. The only businesses or organizations that can use the exemption are those that engage in exempt activities that fall within public interest exemptions, including postal services, education, health and welfare, subscriptions to trade unions, professional and other qualifying bodies, sports, sports competitions and physical education, fund raising by charities and cultural services

- The group must not exist for the purposes of gain and must only charge its members for expenses incurred by it to meet their requirements

Fixed establishment. A fixed establishment is an establishment other than the business establishment (a business establishment is usually a head office, headquarters or seat from which the business is run on a day-to-day basis and central administration takes place), which has the human and technical resources necessary for providing or receiving services. A business may have several fixed establishments, which may include a branch or agency. Where there are establishments in more than one country, it will be necessary to determine which one is most directly linked to a supply.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in the UK. A non-established business must register for VAT if it makes any of the following taxable supplies in the UK, regardless of the value of the supply:

- Goods located in the UK at the time of supply
- Services to which the reverse charge (see the subsection *Reverse charge* below) does not apply
- Supplies of telecommunications, broadcasting and electronic services (digital services) to non-taxable customers in the UK (see subsection *Digital economy* below)

EU businesses not established in the UK must also register for VAT if they make distance sales in NI greater than the distance selling annual threshold. From 1 July 2021, the distance selling rules changed across the EU with a new pan European threshold applied on an EU basis, which is relevant for NI businesses. From 1 January 2021, the distance selling rules no longer apply in GB.

A non-established business that registers for VAT may normally do so from its place of business outside the UK.

From November 2023, all businesses will need to register for VAT online unless they are either exempt from applying online or it is a specific type of registration. Guidance from HMRC on this has been issued online (https://www.gov.uk/register-for-vat/how-register-for-vat).

Tax representatives. A non-established business may choose to appoint a tax representative or agent to act on its behalf in relation to UK VAT matters.

The UK VAT authorities may require that a non-established person appoint a tax representative. However, this condition may be imposed only if the business is established in a country outside the EU that has not agreed on mutual assistance provisions with the UK.

Reverse charge. If a non-established business supplies services to a UK taxable person but does not register for VAT, the taxable person may be required to account for the VAT due under reverse-charge accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax (that is, VAT on allowable purchases) depending on the taxable person's partial exemption status (see *Section F*). This measure does not apply in all circumstances. For example, it applies only if the place of supply of the services is in the UK.

Domestic reverse charge. *Telecommunication services.* Purchasers of wholesale supplies of telecommunication services are required to account for VAT under a domestic reverse-charge accounting procedure rather than paying VAT to the supplier. The domestic reverse charge does not apply to supplies made to a member of a corporate group for onward supply within that corporate group, and where the corporate group members consume that supply. When making a supply to which the domestic reverse charge applies, the supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the domestic reverse charge applies, and the customer is required to account for the VAT. No additional notification or reporting requirements apply to these transactions.

Domestic supplies of mobile phones and computer chips. Purchasers of certain designated goods (broadly, mobile phones and computer chips) must account for the VAT due under a domestic reverse-charge accounting procedure, rather than paying the VAT to the supplier. The domestic reverse charge applies for supplies greater than GBP5,000 (exclusive of VAT). When making a domestic sale to which reverse-charge accounting applies, the supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the reverse charge applies, and that the customer is required to account for the VAT.

Domestic supplies of emissions allowances. Purchasers of specified emissions allowances must account for VAT under a domestic reverse-charge accounting procedure, rather than paying VAT to the supplier. When making a domestic sale of emissions allowances to which reverse-charge accounting applies, the supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the reverse charge applies, and that the customer is required to account for the VAT.

Domestic wholesale supplies of gas and electricity. Purchasers of wholesale supplies of gas and electricity are required to account for VAT under a domestic reverse-charge accounting procedure, rather than paying VAT to the supplier. The domestic reverse charge does not apply to supplies of gas and electricity made under supply license or metered arrangements to residential and business premises (supplies for consumption). VAT-registered businesses that do not resell or trade the gas or electricity are not affected. When making a supply to which domestic reverse-charge accounting applies, the supplier must show all the information normally required to be shown on a VAT invoice. The supplier must also annotate the invoice to make it clear that the domestic reverse charge applies, and that the customer is required to account for the VAT.

Domestic B2B supplies of construction services. The domestic reverse charge applies to standard (20%) or reduced rate (5%) supplies of building and construction services, where payments are required to be reported through the Construction Industry Scheme (CIS). Therefore, supplies between subcontractors and contractors (i.e., B2B supply), as defined by the CIS, will be subject to the reverse charge unless they are supplied to a contractor who is an end user.

Digital economy. *E-commerce changes.* The UK introduced changes to the VAT rules relating to e-commerce sales effective 1 January 2021. These changes are similar to the EU e-commerce VAT changes, which were implemented from 1 July 2021, *For an overview of the EU e-commerce changes, see the chapter on the EU.*

In GB, these changes came into effect from 1 January 2021. Although NI follows EU VAT rules for goods, it has released separate guidance relating to e-commerce. As a result, we have highlighted the differences in the NI treatment where applicable. The UK changes coincide with the removal of the low-value consignm ent relief in the UK.

Import of low-value goods for sales to customers in GB and NI. From 1 January 2021, the low-value consignment relief (LVCR), which relieved import VAT on consignments of goods valued at GBP15 or less, was removed for goods imported from outside the UK. Further, the EU VAT distance selling regime no longer applies to the sale of goods to customers in GB from 1 January 2021.

As a consequence of the above changes, VAT is chargeable on all imports into GB (including imports from the EU) and NI. However, different VAT rules apply to the import of goods in consignments valued at GBP135 or less and consignments valued at more than GBP135.

For non-excisable goods imported from outside GB and NI in consignments not exceeding GBP135 in value, the goods will no longer be subject to import VAT. Instead, VAT will be applied at the point of sale. These rules apply irrespective of the place of establishment of the supplier.

If the supplier making such imports is not registered for VAT in the UK, from 1 January 2021 they would be required to obtain UK VAT registration for such imports. If the supplier is making imports in NI, then they would also be eligible to use the Import One-Stop-Shop scheme to account for this VAT in NI.

Similar rules apply to both B2B and B2C transactions involving imports into GB and NI. However, if the customer provides the supplier with a UK VAT registration number, then the customer is required to self-assess VAT under the reverse-charge mechanism.

Import One-Stop Shop. The Import One-Stop Shop (IOSS) may be used by non-EU businesses making consignments of less than EUR150 to customers in the EU and NI. Local VAT registrations may still be appropriate for consignments over EUR150 to facilitate returns and to avoid the need for the customer to act as importer.

Online marketplaces and platforms. There is a distinction for sales of goods to customers in GB and NI and specific rules for joint and several liability of vendors and online marketplaces.

- Sales of goods to GB customers through online marketplaces. Starting from 1 January 2021, if an online marketplace (OMP) facilitates the B2C sales of goods by sellers, the OMP is treated as the deemed supplier of the goods for VAT purposes under the following two scenarios:
  - Goods imported from outside GB into GB in consignments not exceeding GBP135 in value for sales to customers
  - Goods located in GB at the point of sale and are owned by a supplier established outside the UK

In the above scenarios, the OMP is liable to account for VAT as a deemed supplier regardless of its place of establishment. In the above cases, if the customer is VAT registered and it has provided its UK VAT registration number to the OMP, then the OMP is not viewed as a deemed supplier.

The term OMP has been defined as "a website or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace)." The term "operator" is defined as "the person who controls access to, and the contents of, the online marketplace," provided that the person is involved in all the following:
- Determining any terms or conditions applicable to the sale of goods
- Processing or facilitating the processing of payment for the goods
- The ordering or delivery or facilitating the ordering or delivery of the goods

- Sales of goods to NI customers through online marketplaces. Where an OMP facilitates the B2C sales of goods by sellers, the OMP is treated as a deemed supplier for VAT purposes, but only in the following three scenarios:
  - Where goods are imported from outside of the UK and EU into NI in consignments not exceeding GBP135
  - Where goods located in GB are supplied to NI and are owned by an overseas seller (i.e., based outside of the UK)
    Or
  - Where goods located in NI are supplied to GB and they are owned by an overseas seller (i.e., based outside of the UK)

The only exception to the above rules is in circumstances where the customer is VAT registered, and it has provided its UK VAT registration number to the OMP. The OMP is not liable for UK VAT on the sale of goods that are in NI at the point of sale and that are sold domestically in NI.

The seller is required to register for UK VAT (if not already registered) and account for UK supply VAT on the sales of the goods (at the appropriate rate). In all the above scenarios, the OMP is liable to account for VAT as a deemed supplier regardless of its place of establishment.

- Joint and several liability. Where an overseas trader who operates through a fulfillment house/online marketplace is liable to be registered and account for UK VAT and they fail to do so, HMRC has powers in place to hold the online marketplace jointly and severally liable for any UK VAT due. In addition to the joint and several rules, if a business stores goods in the UK for sellers established outside the UK, the business may need to apply for the Fulfillment House Due Diligence scheme. However, if a business stores goods in NI for sellers established in the EU and GB only, the business will not be required to apply for the Fulfillment House Due Diligence scheme.

Vouchers. The EU Voucher Directive has been implemented into UK law and aims to make the rules for the tax treatment of vouchers consistent. These rules still apply under current UK law, even though the UK is no longer a Member State of the EU. The UK rules apply to vouchers issued on or after 1 January 2019 and refers only to a single-purpose voucher (SPV) and a multi-purpose voucher (MPV).

An SPV is one where the place of supply of the underlying goods or services is known (i.e., the country in which the supply will take place) and the relevant goods or services have a single liability to VAT (i.e., standard rate, zero rate, reduced rate or exempt) at the time the voucher is issued and transferred (such that the applicable VAT rate is known at the time the voucher is issued/transferred). Both the issue of a SPV, and its subsequent transfer represent a supply of the underlying goods or services, and any VAT payable is due at this time. The consideration is the amount charged for the issue and transfer of the voucher.

Any voucher that is not an SPV will be an MPV. With an MPV, at the time the voucher is issued or transferred, the VAT rate of the underlying goods or services is not known (e.g., the place of supply and/or rate of the goods is unknown) and thus the underlying goods or services are only taxed when the voucher is redeemed. The issue or transfer of the voucher is disregarded (i.e., not a supply for UK VAT purposes).

Registration procedures. From November 2023, all businesses will need to register for VAT online unless they are either exempt from applying online or it is a specific type of registration. Guidance from HMRC on this has been issued online (https://www.gov.uk/register-for-vat/how-register-for-vat). Those in the latter category will have to call the VAT helpline to request a VAT1 paper form. The electronic VAT1 form will also need to be used when submitting other registration applications such as VAT grouping.

When registering online, a VAT online account (sometimes known as a "Government Gateway account") must be created. Businesses should receive a VAT registration certificate within 30 working days, although it can take longer. Further details on how to register are available on the HMRC website (https://www.gov.uk/vat-registration).

Deregistration. A taxable person that ceases to be eligible for VAT registration must deregister. A taxable person may also request deregistration if its taxable turnover drops below the deregistration threshold (GBP83,000) or if its taxable turnover is wholly or primarily zero-rated (see *Section D* below). However, deregistration is not compulsory in these circumstances.

Changes to VAT registration details. A taxable person must keep its VAT registration details up to date. Details can be changed online (through a VAT online account), by post (using form VAT 484), by webchat or phone.

The form VAT2 must be sent to the VAT Registration Service to report any changes to a partnership.

HMRC must be notified about any changes to the following within 30 days or a financial penalty could be due:
- The name, trading name or main address of a business
- The accountant or agent who deals with VAT
- The members of a partnership, or the name or home address of any of the partners

HMRC must be told at least 14 days in advance if bank details are changing. HMRC must be told within 21 days if the VAT responsibilities have changed as a result of someone who has died or is ill. This can be done by sending form VAT484 in the post, including details of the date of death or the date the illness started.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 20%
- Reduced rate: 5%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Books, newspapers and periodicals (from 1 May 2020, this also applies to digital formats of these publications)
- Certain foodstuffs
- Children's clothing and footwear
- Drugs and medicines supplied by prescription
- New housing
- Transport services
- Exports of goods and related services
- Certain international services
- Intra-Community supplies of goods
- Services supplied to customers outside the EU
- Installation of certain energy-saving materials in residential accommodation in GB from 1 April 2022 to 31 March 2027 and in NI from 1 May 2023 to 31 March 2027
- Women's sanitary products (the scope is to be extended to include reusable period underwear from 1 January 2024)

Examples of goods and services taxable at 5%

- Fuel and power supplied to domestic users and charities
- Installation of certain specified energy-saving materials in residential buildings in GB before 1 April 2022 and in NI before 1 April 2022 until 30 April 2023 (from 1 April 2027, the 5% rate will apply again in NI and GB)
  Building materials for certain residential conversions
- Sanitary protection products
- Children's car seats
- Smoking cessation products
- Grant-funded installation of heating appliances and qualifying security goods
- Certain larger holiday caravans
- Small, cable-based passenger transport systems

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Betting and gaming
- Education
- Finance
- Insurance
- Land and buildings (in most cases)
- Postal services (in most cases)
- Human blood products
- Medical services
- Shared service arrangements in circumstances in which two or more organizations (whether businesses or otherwise) with exempt and/or nonbusiness activities join together on a cooperative basis to form a separate, independent entity (a cost-sharing group), to supply themselves with certain services at cost (the VAT cost-sharing exemption applies only in very specific circumstances and does not cover all shared-service arrangements)

Option to tax for exempt supplies. The UK operates an option to tax in respect of land and buildings. However, certain supplies of land and buildings are not affected by an option to tax (generally buildings intended for residential use or a qualifying charitable use).

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The "basic" tax point under UK law is the point when the goods are either removed from the supplier's premises or made available to the customer, or when the services are performed.

The basic tax point may be overridden by the creation of what is termed an "actual" tax point. An "actual" tax point occurs in the following circumstances:

- Before the basic tax point: if the supplier issues a VAT invoice or receives payment with respect to a supply, a tax point is created to the extent covered by the invoice or payment (whichever is earlier).
- After the basic tax point: if an invoice is issued within 14 days after the basic tax point, the date of the invoice becomes the tax point. Taxable persons may request permission to extend this 14-day invoicing tax point up to a maximum of 30 days after the basic tax point.

When the amount of VAT to be charged on a supply goes up or down, UK law allows businesses to choose to charge VAT using the basic tax point (i.e., for discrete supplies the date at which the goods are removed, or services performed) rather than the actual tax point (for discrete supplies the date payment has been received or a VAT invoice issued). If a tax invoice has been issued and a lower VAT rate is applied, a credit note must be issued within 45 days of the VAT rate change.

For continuous supplies, there is a tax point every time a VAT invoice is issued, or a payment is received, whichever happens first, so opportunities for using the basic tax point when there is a VAT rate changes may be more limited.

Deposits and prepayments. The receipt of a deposit or prepayment normally creates an actual tax point if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

The unfulfilled supplies prepayment rules mean that all prepayments for goods and services are brought into the scope of VAT where customers have failed to collect what they have paid for and have not received a refund.

Continuous supplies of services. If services are supplied continuously and payment is made periodically, a tax point is created each time a payment is made or a VAT invoice is issued, whichever occurs earlier.

Goods sent on approval or for sale or return. The tax point for goods sent on approval or sale or return is the earlier of the date on which the goods are accepted by the customer or 12 months after the removal of the goods from the supplier. However, if a VAT invoice is issued before these dates, the invoice creates an actual tax point, up to the amount invoiced.

Reverse-charge services. The tax point for reverse-charge services is governed primarily by when the service is performed, and a distinction is made between single and continuous supplies. For single supplies, the tax point is the earlier of the date of completion of the service or the date of payment for the service. For continuous supplies, the tax point is the end of each billing or payment period (or the date of payment, if earlier). For continuous supplies that are not subject to billing or payment periods, the tax point is 31 December each year unless a payment has been made before that date, in which case the payment creates a tax point.

Leased assets. Under current UK VAT law, operational and finance asset leases are treated as continuous supplies of services (see above), provided that legal title to the goods does not pass to the recipient and there is no express contemplation that title will transfer at some point in the future. Goods supplied on terms that expressly contemplate that title will transfer at some point in the future (e.g., under hire-purchase or conditional sale agreements) are treated in the same way as a normal sale of goods where title passes at the outset. Unless a VAT invoice is issued, the time of supply will be linked to the basic tax point (see above). This means that the full amount of VAT will become payable up front, instead of being due as and when installment payments are made.

Imported goods. The time of supply for imported goods is the date of importation or the date on which the goods leave a duty suspension regime. Postponed import VAT accounting may be used for GB and NI imports by UK VAT-registered businesses.

Intra-Community acquisitions. The time of supply for an intra-Community acquisition of goods in NI (not applicable in GB) is the 15th day of the month following the month in which the goods are removed (that is, sent to, or taken away by, the customer). However, if the supplier issues an invoice before this date, the tax point is when the invoice is issued.

Intra-Community supplies of goods. For intra-Community supplies of goods in NI (not applicable in GB) the time of supply is the earlier of the 15th day of the month following the month in which the goods are removed or the date of issuance of a VAT invoice.

Distance sales. The time of supply for supplies of distance sales in NI (not applicable in GB) is the 15th day of the month following the month in which the goods are removed (that is, sent to, or taken away by, the customer). However, if the supplier issues an invoice before this date, the tax point is when the invoice is issued.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. Where input tax exceeds output tax in any period, the taxable person will receive a refund.

Input tax includes VAT charged on goods and services supplied in the UK, VAT paid on imports of goods into the UK and VAT self-assessed on the intra-Community acquisition of goods (NI) and reverse-charge services (*see the chapter on the EU*).

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

A monthly Postponed Import VAT Statement (MPIVS) available online will form the primary evidence for input tax recovery for imports when using the Customs Declaration Service (CDS).

The MPIVS will be published online via the taxable person's tax account and the UK VAT-registered importer will have access to the statement as soon as it is published. If the business used the Customs Handling of Import and Export Freight (CHIEF) service, a C79 certificate will be sent to the business in the post. The last day to make import declarations through CHIEF was 30 September 2022.

See the section above for goods sold between GB and NI (no import VAT certificate is required).

The time limit for a taxable person to reclaim input tax in the UK is four years. The time limit for deducting input tax starts to run from the due date for the return that the business is liable to make after it has both incurred the input tax and received the VAT invoice. If the taxable person does not account for input tax in the appropriate period, this is an error, and the taxable person may be required to make an error correction notification. Input tax cannot be claimed more than four years after the date by which the return for the first period in which input tax could be claimed is required to be made (arguably this restriction does not apply unless the taxable person holds the invoice or the document that may be considered to serve as an invoice).

Special rules apply to the recovery of input tax on expenditure incurred before registration and after deregistration.

Nondeductible input tax. Input tax may be recovered only on purchases of goods and services that are used for business purposes (this excludes, for example, goods acquired for private use by an entrepreneur). However, input tax may not be recovered on some items of business expenditure.

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

Examples of items for which input tax is nondeductible

- Purchase of a car (unless the car is available exclusively for business use)
- 50% of VAT incurred on the rental or lease of a car used for mixed business and private purposes
- Private expenditure
- Business entertainment and hospitality (except if provided to overseas customers)
- Import VAT where the taxable person is not the owner of the relevant goods

Examples of items for which input tax is deductible (if related to a taxable business use)

- Conferences, exhibitions, training and seminars
- Taxi services
- Restaurant expenses for employees
- Accommodation
- Motoring expenses and fuel for business purposes (subject to specific rules)
- Business use of a home telephone

Partial exemption. Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover its input tax in full. This situation is referred to as "partial exemption."

A UK taxable person that makes both taxable and exempt supplies may calculate the amount of input tax it may recover in several ways. The standard partial exemption calculation method consists of the following two-stage calculation:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as taxable supplies for these purposes.

- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The amount of recoverable VAT is determined by making a pro rata calculation based on the respective values of taxable and exempt supplies made.

If the standard calculation method gives an unfair or distortive result, a special calculation method may be agreed with the UK VAT authorities. Approval from the tax authorities is not required to use the partial exemption standard method in the UK. A business must use the standard method, unless HMRC has given approval to operate a special method. However, in some cases, the UK VAT authorities may impose the use of a special calculation method.

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

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

- Land and buildings and related property expenditure valued at GBP250,000 or more: adjusted over a period of 10 years
- Computer hardware valued at GBP50,000 or more: adjusted over a period of five years
- Ships and aircraft valued at GBP50,000 or more: adjusted over a period of five years

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax incurred (1/10 for land and buildings and 1/5 for computer hardware, ships and aircraft). The adjustment may result in either an increase or a decrease of deductible input tax, depending on whether the ratio of taxable supplies to total supplies made by the business has increased or decreased compared with the year in which the capital goods were originally acquired.

In the UK, the capital goods adjustment does not apply to any services.

Refunds. If the amount of VAT recoverable exceeds the amount of VAT payable in a period, a refund may be claimed. This is done automatically by submitting the periodic VAT return. A taxable person that receives regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

Pre-registration costs. Where a business buys goods or services before registering for VAT to support its taxable business activities, it can recover the VAT provided that certain conditions are met. In the case of goods, they must remain on hand at the date of registration and must be used in the newly registered business. These goods must also have been bought no more than four years before the date of registering for VAT. Different rules apply to capital goods within the capital goods adjustment scheme (see the subsection on *Capital goods* above). In the case of services, they must have been bought no more than six months before the date of registration.

Bad debts. Where a business has made supplies to its customers and has not been paid, it can claim relief for the VAT on bad debts provided a number of conditions are met. The main conditions for claiming VAT bad debt relief are that the business must already have accounted for the VAT on the supplies and paid it to the UK VAT authorities, the business must have written off the debt in its VAT accounts, and the debt must have remained unpaid for a period of six months after the date of the supply and the date payment was due, whichever is later.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in the UK.

VAT incurred on purchases that are used partly for business purposes and partly for nonbusiness purposes must normally be apportioned between economic and noneconomic use before dealing with any partial exemption calculation.

Government bodies, local authorities and similar organizations can recover VAT incurred on certain costs relating to their nonbusiness activities under s41 and s33 of the VAT Act 1994.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in the UK is recoverable. The UK VAT authorities refund VAT incurred by businesses that are neither established nor registered (or required to be registered) for VAT in the UK. Non-established businesses may reclaim UK VAT to the same extent as VAT-registered businesses.

EU businesses. Businesses established in NI that incur VAT on goods in the EU, and EU businesses that incur VAT on goods in NI, will be able to recover this VAT through the electronic cross-border refund system. This enables a business to recover that VAT directly from that country (the UK or EU Member State of refund), provided that it is not established in the country of refund and makes no supplies there. For VAT incurred on services in NI, the rules for non-EU businesses making claims must be followed (see below). For EU established businesses incurring UK VAT in GB, the rules for non-EU businesses making claims must be followed (see the *Non-EU businesses* subsection below).

GB businesses that have incurred VAT in the EU can claim refunds of VAT from the EU but need to refer to the local EU Member State, as each EU Member State has its own process for refunding VAT to non-EU businesses. *For full details, see the chapter on the EU.*

Non-EU businesses. Businesses established outside the EU, need to follow these rules in the UK for VAT refunds, which are similar to the rules under the 13th Directive.

The UK does not generally exclude businesses from any country from eligibility.

Find below specific rules for the UK:
- Refunds are based on a "prescribed year" running from 1 July to 30 June. Applications for a VAT refund based on the EU 13th Directive must be submitted within six months after the end of the prescribed year in which the VAT was incurred (that is, before 1 January).
- Claims must be submitted in English.
- The minimum claim period is three months, while the maximum claim period is one prescribed year. The minimum claim for a period of less than a year is GBP130. Where a claim covers the full 12 months of the prescribed year, the minimum VAT claim is GBP16.
- When submitting a claim, businesses must apply for a certificate of status showing that it is registered for business purposes in its own country and send this to HMRC before the relevant claim deadline.

Applications for refunds of UK VAT must be sent to the following address:

HM Revenue and Customs
Compliance Centers
VAT Overseas Repayment UnitS1250
Benton Park View
Newcastle Upon Tyne
NE98 1YX
United Kingdom

Late payment interest. For refunds of UK VAT for EU businesses incurred on or before 31 December 2020 or NI VAT incurred on goods by EU businesses, HMRC will communicate the date the application was received. Within four months of that date, the business will be told if the application is accepted; is partly or completely rejected; or needs more information. If more information is needed, this must be supplied within one month of the date on which the request is received. HMRC has eight months in which to tell a business of its decision about an EU cross-border refund claim (provided the supplier sends all the necessary information within that time). Unless an application has been rejected, payment should be made within 10 working days of HMRC's decision. If payment is late, interest will be paid at the same rate applied to taxable persons within the UK from the date payment was due until the date it is made.

For refunds of VAT for non-EU businesses, the refund should be made within six months of receiving a satisfactory application. If the application is in order, the invoices showing that VAT has been paid will be returned as soon as the application is authorized for payment. Late payment interest may be due if payment is late.

H. Invoicing

VAT invoices. A UK taxable person must generally provide a VAT invoice for all taxable supplies made to other taxable persons, including exports and intra-Community supplies (*see the chapter on the EU*). Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is required to support a claim for input tax deduction.

Credit notes. A VAT credit note may be used to reduce the amount of VAT charged on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply.

Where a change in consideration is agreed by a supplier and customer (e.g., faulty goods) after the original date of supply and VAT has been accounted for in an earlier period, a VAT adjustment can only be made where a credit/debit note is issued within 14 days and, in the case of a reduction in consideration, a "payment" has been made. Where a VAT invoice is not required to be issued in the first place (e.g., retail customer), a debit/credit note will not be required. The credit note should also refer to the number and date of the original VAT invoice.

Electronic invoicing. Electronic invoicing is allowed in the UK, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in the UK. This is in line with EU Directive 2010/45/EU and 2014/55/EU *(see the chapter on the EU)*. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in the UK. The requirements related to electronic invoicing are the same as those for paper invoicing.

For the EU VAT in the Digital Age (ViDA) proposals, refer to the chapter on the European Union.

Simplified VAT invoices. There is no requirement to issue a VAT invoice for retail supplies to unregistered businesses. Retailers may assume that no VAT invoice is required unless a customer asks for one in which case, if the charge made for the individual supply is:

- GBP250 or less (including VAT), an invoice can be issued showing the retailer's name, address and VAT registration number, the time of supply (tax point), a description that identifies the goods or services supplied, and for each VAT rate applicable; the total amount payable, including VAT shown in GBP and the VAT rate charged. Exempt supplies must not be included on this type of VAT invoice
- More than GBP250, then either a full VAT invoice or a modified VAT invoice must be issued, showing VAT inclusive rather than VAT exclusive values

If the taxable person is not a retailer, and the total value of the supply does not exceed GBP250, the supplier may issue the customer with a simplified invoice. If the charge made for the individual supply is:

- GBP250 or less (including VAT), an invoice showing the supplier's name, address and VAT registration number, the time of supply (tax point), a description that identifies the goods or services supplied, and for each VAT rate applicable, the total amount payable, including VAT shown in GBP and the VAT rate charged. Exempt supplies must not be included on this type of VAT invoice
- More than GBP250, then either a full VAT invoice or a modified VAT invoice must be issued, showing VAT inclusive rather than VAT exclusive values

Self-billing. Self-billing is allowed in the UK. Self-billed invoices may only be issued by a customer to a supplier if:

- The supplier has agreed to this method of accounting
- A self-billing agreement has been set up
- Certain rules have been followed including:
  - The raising of self-billed invoices for all transactions with the supplier named on the document for the period of the agreement/contract
  - The completion of self-billed documents showing the supplier's name, address and VAT registration number, together with all the other details that make up a full VAT invoice and should also be clearly marked with "Self-Billing." HMRC following statement on each self-billed invoice raised: "The VAT shown is your output tax due to HMRC"
  - The customer keeps the names, addresses and VAT registration numbers of the suppliers with whom a self-billing agreement is held

HMRC authorization is not required to operate self-billing as long as all the relevant conditions are met.

Proof of exports and intra-Community supplies. After the end of the post-Brexit transitional period, the UK is no longer required to harmonize its VAT legislation with the EU VAT system. However, for NI a dual/mixed VAT regime exists that follows EU VAT rules for goods and UK VAT rules for services as a result of the Northern Ireland Protocol. See the above subsection, *Northern Ireland,* for further details.

- From a GB perspective, all movements out of GB to any country other than NI will be treated as exports and follow export rules rather than intra-Community rules
- Movements out of NI to EU countries will continue to be treated as intra-Community supplies.
- Movements out of NI to non-EU countries will continue to follow export rules
- Supplies between GB and NI should be considered imports and exports from a VAT perspective. For goods sold between GB and NI, the seller of the goods will charge customers VAT and should show this on the invoice. The seller will not be able to claim this back as input tax. Where the customer receives an invoice from the seller showing that VAT has been charged, it may use this as evidence to reclaim the VAT as input tax, subject to the normal rules
- Where own goods are moved from GB to NI, import VAT should be self-accounted for through the UK VAT return
- Where own goods are moved from NI to GB there are no reporting requirements, unless these goods have been subject to a sale or supply

UK VAT is generally not chargeable on intra-Community supplies of goods, except distance sales (*see chapter on EU*). Distance sales no longer apply in GB from 1 January 2021. An EU-wide distance selling threshold applies in NI (and across the EU) from 1 July 2021. From 1 January 2020, the VAT Quick Fixes came into effect across the EU and aim to harmonize certain requirements. NI retains the EU VAT Quick Fixes.

The Quick Fixes introduce two material conditions that the supplier must comply with to zero-rate the supply:
- The supplier must obtain the customer's VAT number and include it on their invoices
- The supplier must include the supply of goods in its EC Sales List

The Quick Fixes also introduced rules on harmonizing the proof required for the intra-EU transport of goods.

A business can either rely on the EU Quick Fixes proof of dispatch requirements or follow national rules on the proof of dispatch requirements if they prefer.

No special documentation applies in NI for evidencing the application of the Quick Fixes. Normal intra-Community documentation rules apply.

For intra-Community supplies, the UK proof of dispatch rules require a range of commercial documentation, such as customer orders, sales invoices, transport documentation and packing lists. The evidence must clearly identify the supplier, the customer, the goods, the mode of transport and route of movement of the goods, and the destination. The evidence must be obtained within three months after the time of supply and be retained for at least six years. The proof of dispatch conditions under the Quick Fixes requires the seller to hold two documents evidencing dispatch, this is enough to prove that the goods have been transported. The evidence must not be contradictory, and the tax authorities may still disapply the zero-rating if they find evidence to the contrary.

The evidence should be issued by two different parties that are independent of each other, as well as independent of the seller and the customer.

If the buyer arranges the transport, they will also need to provide the supplier with a written statement giving details of the transport and Member State of arrival. The buyer must provide this written statement to the supplier by the 10th day of the month following the supply.

For further information on the Quick Fixes, see the *Quick Fixes* subsection above.

Foreign currency invoices. If a VAT invoice is issued in a foreign currency, the domestic currency, which is British pound sterling (GBP), equivalent of the VAT amount must also be stated on the invoice. Suppliers may use any of the following acceptable exchange rates:
- The UK market selling rate at the time of the supply (rates published in UK national newspapers are acceptable as evidence of the rates in force at the relevant time)
- The UK VAT authorities' published period rates of exchange
- Any other acceptable rate that is used for commercial purposes (and not covered by the two alternatives above), subject to agreement in writing with the UK VAT authorities

Supplies to nontaxable persons. In the UK, a taxable person is not required to provide a VAT invoice for B2C (e.g., retail) supplies of goods and services. In practice, this will normally mean issuing a VAT invoice to any customers who ask for one.

Supplies of digital services to EU consumers are subject to VAT in the Member State where the customer belongs. Although the vast majority of EU Member States, and the UK, do not require VAT invoices to be issued for cross-border B2C supplies, UK taxable persons making B2C supplies of digital services to customers in other EU Member States should check invoicing requirements in the customer's Member State. *For further details of the VAT rules on digital services in the EU, see the EU chapter*.

Distance selling. For intra-Community distance sales made B2C, a full VAT invoice must be issued. However, if the supplier operates the OSS regime, then no full VAT invoice is required unless requested.

Records. In the UK, the records that must be held for VAT purposes include the following:
- Copies of all invoices issued
- All invoices received (originals or electronic copies)
- Self-billing agreements
- Name, address and VAT number of any self-billing suppliers
- Debit or credit notes
- Import and export records
- Records of items VAT cannot be claimed on – for example business entertainment
- Records of goods given away or taken from stock for private use
- Records of all the zero-rated, reduced or VAT exempt items bought or sold
- A VAT account

General business records, such as bank statements, cash books, cheque stubs, paying-in slips and till rolls must also be kept.

In the UK, VAT books and records can be kept outside of the country. HMRC practice is not to specify where the records must be kept, but they expect them to be accessible to them when required and follow Making Tax Digital (MTD) rules (see *Digital tax administration* subsection for further details).

Record retention period. VAT records must be kept for at least 6 years (or 10 years if you used the VAT Mini-One-Stop-Shop (MOSS) service pre-Brexit). All taxable persons (as per the MTD regime, see the subsection *Electronic filing* below) must keep VAT records digitally, as well as a number of other digital records, including business name, address and VAT registration number, any VAT accounting schemes used, the time of supply, the net value of the supply and VAT on everything bought and sold. All transactions must be added to the digital records, but paper records like invoices or receipts do not need to be scanned. Additional records must be kept if digital services are supplied in the EU and the VAT MOSS scheme was used.

Electronic archiving. Electronic archiving is allowed in the UK. However, it is not mandatory. If records are kept digitally, for example, under MTD, these should be archived electronically. However, records not required to be kept digitally can be archived in paper format.

I. Returns and payment

Periodic returns. VAT returns are generally submitted quarterly. VAT return quarters are staggered into three cycles to ease the UK VAT authorities' administration. The following are the cycles:
- March, June, September and December
- February, May, August and November
- January, April, July and October

Each taxable person is notified at the time of registration of the return cycle it must use. However, the UK VAT authorities will consider a request to use VAT return periods that correspond with a taxable person's financial year. In addition, a taxable person whose accounting dates are not based on calendar months may request permission to adopt nonstandard tax periods.

Taxable persons that receive regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

VAT returns must generally be submitted by the last day of the month following the end of the return period. However, in most cases, taxable persons that submit their VAT returns electronically have an additional seven calendar days after the normal due date in which to file their returns and make payment. Businesses that use the annual accounting scheme or are required to make payments on account do not qualify for this seven-day extension.

Periodic payments. Payments of VAT due must be made electronically. Payment must generally be made by the last day of the month following the end of the return period. However, in most cases, taxable persons that submit their VAT returns electronically have an additional seven calendar days after the normal due date in which to file their returns and make payment (businesses that use the annual accounting scheme or are required to make payments on account do not qualify for this seven-day extension and must make a number of payments throughout the period).

VAT returns must be completed in GBP but return liabilities may be paid in GBP or euros (EUR).

Electronic filing. Electronic filing is mandatory in the UK for all taxable persons. This is in line with the Making Tax Digital (MTD) requirements and applies to all VAT registered businesses.

However, the rules do not apply to Government Information and National Health Trusts, which have been advised that MTD will not apply until April 2025 at the earliest. MTD requires that the nine-box VAT return is submitted using an application programming interface (API), i.e., MTD-compatible software (see the subsection on *Digital tax administration* below). Digital links must also be in place. VAT records may be archived electronically in any location, provided that the authenticity, integrity and legibility of the content of source documents (invoice data) is protected and any records can be produced in a readable form (within a reasonable period of time) upon request by the UK VAT authorities.

Payments on account. Payments on account are generally not required in the United Kingdom, except for certain taxable persons. Taxable persons that have an annual VAT liability of greater than GBP2.3 million must make payments on account, which are interim payments made at the end of the second and third months of each VAT quarter. The VAT return is due at the normal time together with a balancing payment for the period. The level of the payments on account is generally calculated as 1/24th of the taxable person's VAT liability for the preceding 12 months. Electronic transfers must be used for all payments on account.

Special schemes. *Cash accounting.* Businesses with an annual taxable turnover (excluding VAT) of less than GBP1.35 million are eligible to use the cash accounting scheme, which allows VAT to be accounted for on the basis of cash or other consideration paid and received. However, if their annual taxable turnover (excluding VAT) subsequently exceeds GBP1.6 million, they must stop using the scheme.

Annual accounting. Businesses with annual taxable turnover (excluding VAT) of less than GBP1.35 million may apply to complete an annual VAT return. Businesses that use annual accounting must make either three quarterly or nine monthly interim VAT payments. Any balancing payment must be made with the annual return. The annual return is due on the last day of the second month following the end of the taxable person's annual VAT accounting period. However, if their annual taxable turnover (excluding VAT) subsequently exceeds GBP1.6 million, they must stop using the scheme.

Special accounting. A special accounting scheme (known as the Flat Rate Scheme (FRS)) exists for small businesses with VAT-exclusive annual taxable turnover of up to GBP150,000. The business must also not be eligible to be registered for VAT in the name of a group, registered for VAT in the name of a division or associated with another person. Under the FRS, eligible businesses calculate the amount of VAT due based on a fixed percentage of their total (VAT-inclusive) turnover. The VAT flat rate used usually depends on the business type, but a different rate may apply if the business only spends a small amount on goods. A business is a "limited cost business" if goods cost less than either 2% of turnover or GBP1,000 a year (if costs are more than 2%). In that case, the business pays a higher rate of 16.5%. If a business is not a limited cost business, the business type is used to work out the flat rate with the percentage ranging from 4% to 14.5%. Businesses also get a 1% discount the first year as a VAT-registered business. A business ceases

to be eligible for the FRS if their annual taxable turnover (including VAT) exceeds GBP230,000 in the period of 12 months ending with the anniversary of their certification for the AFRS or is expected to in the next 12 months; or total income in the next 30 days alone is expected to be more than GBP230,000 (including VAT) at the end of a month; as well as if the person becomes eligible to be registered for VAT in the name of a group, registered for VAT in the name of a division or associated with another person.

Retailers. A retail business with an annual VAT-exclusive turnover over GBP130 million must agree a bespoke scheme with HMRC. For other retail businesses there are five standard retail schemes available to choose from, provided conditions are met and HMRC has not disallowed its use:

- Point of Sale scheme – VAT due is calculated by identifying the correct VAT liability of supplies at the time of sale, e.g., by using electronic tills
- Apportionment Scheme 1 – designed for small retail businesses with an annual VAT-exclusive turnover not exceeding GBP1 million. Each VAT period, the retailer must work out the value of purchases for resale at different rates of VAT and apply the proportions of those purchase values to sales
- Apportionment Scheme 2 – a retailer must calculate the expected selling prices of standard-rated and reduced-rate goods received for retail sale. The retailer must then work out the ratio of these to the expected selling prices of all goods received for retail sale and apply this ratio to takings
- Direct Calculation Scheme 1 – for retailers with an annual VAT-exclusive turnover not exceeding GBP1 million. To work the scheme, a retailer must calculate expected selling prices (ESPs) of goods for retail sale at one or more rates of VAT so that the proportion of takings on which VAT is due can be calculated
- Direct Calculation Scheme 2. This scheme works in exactly the same way as Direct Calculation Scheme 1 but requires an annual stock-take adjustment

Secondhand goods. To avoid double taxation on goods that have previously borne VAT when sold as new, a business can opt to charge VAT on the profit margin on supplies of works of art, antiques or collectors' items; motor vehicles; secondhand goods; and goods through a person who acts as an agent, but in their own name, in relation to the supply.

The UK also offers a Global Accounting Scheme in the UK under which VAT is accounted for on the difference between the total purchases and sales of eligible goods in each VAT period rather than on an item-by-item basis.

Tour operators. The Tour Operators' Margin Scheme (TOMS) is a special scheme for businesses that buy in and resell travel, accommodation and certain other services as principals or undisclosed agents (i.e., that act in their own name). In many cases, it enables VAT to be accounted for on travel supplies without businesses having to register and account for VAT in every EU Member State in which the services and goods are enjoyed. The rules are complex.

Post transitional period, the UK introduced a UK version of TOMS that applies in a similar way to EU TOMS, except the scope of the zero rate has been extended so the margin on all travel services enjoyed outside the UK will be zero-rated. This puts travel services enjoyed in EU Member States in the same position as travel services enjoyed in the rest of the world.

Other schemes. There are also special schemes for gold traders and farmers.

Annual returns. Annual returns are not required in the UK.

Supplementary filings. *Intrastat.* Intrastat declarations apply to businesses registered for VAT in the UK dispatching goods from NI to EU Member States or receiving arrivals of goods in NI from EU Member States, with a value exceeding the following thresholds:

- GBP500,000 for arrivals (NI acquisitions from EU)
- GBP250,000 for dispatches (NI dispatches to EU)

An NI taxable person whose intra-Community trade in goods exceeds GBP24 million (for either arrivals or dispatches) must also provide additional information concerning the terms of delivery on the supplementary declaration.

Intrastat declarations must be submitted electronically on a monthly basis and be filed in GBP. The deadline for the submission of Intrastat declarations is the 21st day of the month following the end of the reference period (normally a calendar month) to which they relate.

EU Sales Lists (ESLs). VAT-registered businesses in the UK supplying goods from NI to VAT-registered customers in an EU Member State (including transfer of own goods) or an intermediary identified as trading/operating under the protocol in triangular transactions between VAT-registered business in EU Member States must complete an EC Sales List to show:
- Details of EU customers
- The GBP value of the supplies made to them
- The customer's country code
- The VAT number of the new intended acquirer if call-off stocks are reassigned to a new intended acquirer.

The ESL reporting period for intra-Community supplies of goods is per calendar month for supplies over GBP35,000 (excluding VAT) in the current or four previous quarters. For supplies under GBP 35,000 in the current or four previous quarters, the ESL reporting period is each calendar quarter ending 31 March, 30 June, 30 September, and 31 December but businesses may choose to submit monthly if preferred.

Businesses that submit annual VAT returns can contact HMRC to apply for approval to submit an EC Sales List once a year if total annual taxable turnover does not exceed GBP145,000; the annual value of supplies of goods from NI to EU Member States is not more than GBP11,000; and sales do not include new means of transport. Businesses not submitting annual VAT returns can apply to submit an annual EC sales list if goods supplied from NI are valued at GBP11,000 or less, the supplies do not include new means of transport and the total taxable turnover does not exceed GBP93,500.The following are the deadlines for submitting ESLs to the UK VAT authorities, for all frequencies of submission with respect to both goods and services:
- For paper ESLs: 14 days from the end of the reporting period
- For electronic ESL submissions: 21 days from the end of the reporting period

Businesses only making low-level supplies of goods from NI to VAT-registered customers in an EU country may not need to fill in the full EC Sales List. Businesses can contact HMRC to ask if to send in a simplified annual EC Sales List, if:
- The value of total taxable turnover in a year is not more than the VAT registration threshold, plus GBP25,500
- Supplies of goods from NI to VAT-registered customers in EU countries are not more than GBP11,000 a year
- Sales do not include new means of transport

Movements of call-off stock cannot be reported on a simplified annual EC sales list.

Correcting errors in previous returns. VAT errors can be adjusted on the next VAT return if the net value of the error on the VAT return for the period of discovery is GBP10,000 or less; or the error is up to 1% of the box 6 (net sales) figure (subject to a maximum of GBP50,000).

Taxable persons must separately disclose errors in writing to HMRC (i.e., they cannot be adjusted on the next VAT return) if they are above the reporting threshold (see above); or an error has been made deliberately.

To make a separate error correction in writing, form VAT652 must be completed and sent to the VAT Error Correction Team. Taxable persons must keep details about the inaccuracy, for example, the date it was discovered, how it happened, the amount of VAT involved and the value of the inaccuracy.

Penalties and interest may be due if an error is due to careless or dishonest behavior (see *Section J, Penalties* below for further details).

Digital tax administration. *Making Tax Digital for VAT.* HMRC's Making Tax Digital (MTD) program applies to VAT and other taxes. It came into effect for VAT from 1 April 2019 for businesses registered for VAT in the UK, with a taxable turnover above the VAT registration threshold limit (currently GBP85,000). From 1 April 2022, the regime was extended to businesses with taxable turnover below the VAT registration threshold, with the exception of Government Information and National Health Trusts (GIANT) users, who have until 1 April 2025 at the earliest before MTD becomes mandatory.

Businesses that fall within the MTD rules must keep their records digitally (for VAT purposes only), evidence a digital journey from source systems through to submission of the VAT return and submit the VAT return to HMRC using MTD-compatible software.

J. Penalties

Penalties for late registration. A penalty is assessed for late VAT registration. This penalty is calculated as a percentage of the VAT due (output tax less input tax) for the "relevant period." The "relevant period" begins on the date on which the business is required to be registered and ends on the date on which the UK VAT authorities became fully aware of this liability. The penalty rate that applies may range from 30% (in most cases) to 100% (with respect to deliberate and concealed acts) of the VAT due. However, measures exist for the reduction of such penalties if the business voluntarily discloses the failure to register to the UK VAT authorities. The degree of mitigation of the penalties depends on the "quality" of the disclosure. No penalty arises where there is a "reasonable excuse" for the late registration.

Penalties for late payment and filings. For VAT accounting periods beginning on or after 1 January 2023, a new VAT penalty regime applies to the late submission of VAT returns and late payments. The regime replaces the default surcharge regime. There are also changes to the way in which VAT interest is calculated.

For each VAT return submitted late, one late submission penalty point is awarded. Once a penalty threshold is reached, a GBP200 penalty will be issued unless a reasonable excuse applies, in which case points and penalties can be appealed. A further GBP200 penalty will be issued for each subsequent late submission. The penalty points threshold will vary according to VAT return submission frequency:

Submission frequency	*Penalty points threshold*	*Period of compliance*
Annually	2	24 months
Quarterly	4	12 months
Monthly	5	6 months

Points can be reset to zero if VAT returns are submitted on or before the due date for the period of compliance and all outstanding returns due for the previous 24 months have been received by HMRC.

Late payment penalties. For late payment penalties, the sooner the payment is made, the lower the penalty rate will be:

- A penalty will not be charged if the VAT owed is paid in full or a payment plan is agreed with HMRC on or between days 1 and 15.

- A first penalty calculated at 2% on the VAT owed at day 15 if the VAT due is paid in full or a payment plan is agreed with HMRC on or between days 16 and 30.
- A first penalty calculated at 2% on the VAT owed at day 15 plus 2% on the VAT owed at day 30 where the VAT is paid in full, or a payment plan is agreed on or after day 31.
- If the VAT is more than 31 days overdue, a first penalty will be calculated at 2% on the VAT owed at day 15 plus 2% on the VAT owed at day 30. A further penalty will be calculated at a daily rate of 4% per year for the duration of the outstanding balance.

To provide time to get used to the changes, HMRC will not charge a first late payment penalty for the first year from 1 January 2023 until 31 December 2023, if the VAT owed is paid in full within 30 days of the payment due date.

Interest. When an amount of VAT is not paid by the due date, late payment interest will be charged to the taxable person from the date that payment was due up until the date the payment is received by HMRC. Late payment interest will apply to VAT returns, VAT amendments, assessments and payments on account. Late payment interest is calculated at the Bank of England base rate plus 2.5%.

Repayment interest. A repayment supplement will be withdrawn for accounting periods starting on or after 1 January 2023. From that date, HMRC will instead pay repayment interest on any VAT owed. This will be calculated from the day after the due date or the date of submission (whichever is later) until the day HMRC pays the repayment VAT amount in full. Repayment interest will be calculated as the Bank of England base rate minus 1%. The minimum rate of repayment interest will always be 0.5% even if the repayment interest calculation results in a lower percentage.

Intrastat and ESL penalties. Penalties may be imposed if a taxable person's Intrastat declarations (NI only) are persistently late, missing or inaccurate. The penalty regime is a criminal one and could result in proceedings in a magistrate's court. This could lead to a maximum fine of GBP2,500 being imposed for each offense. There could be the opportunity to "compound" any proceedings that involve the offer of an administrative fine in lieu of any court proceedings.

Penalties may be assessed for the late submission of ESLs (NI only) and for material inaccuracies in ESLs. If an ESL is late, HMRC may serve a notice confirming that there is a default but will usually take no further action if the default is remedied within 14 days of the notice. The notice may also state that the person will become liable, without further notice, to penalties if any more defaults are committed before a period of 12 months has elapsed without there being a default. Where such a notice is served, the person will become liable to a penalty of the greater of GBP50 or GBP5 for each day the default continues after the 14-day period (up to a maximum of 100 days). In respect of any other ESL in relation to which there is a default, the last day for submission of which is after the service and before the expiry of the notice, a penalty of the greater of GBP50 or, GBP5, GBP10 or GBP15 for each day the default continues up to a maximum of 100 days. The daily fine is GBP5, GBP10 or GBP15 depending upon whether the ESL in question is the first, second or third or subsequent ESL.

Where a person has submitted an ESL containing a "material inaccuracy" and within six months of discovering that inaccuracy, HMRC has issued a written warning identifying the statement and stating that future inaccuracies might result in the service of a notice under these provisions, subsequent material inaccuracies could lead to a penalty of GBP100.

Penalties for errors. If a business makes an error on a VAT return despite taking "reasonable care," it should not be liable to a penalty. Otherwise, the penalty rate depends on the behavior giving rise to the error (rather than the size of the error) and may range from 30% (for "careless" errors) to 100% (for "deliberate and concealed" acts) of the VAT due. However, provisions exist for the reduction of such penalties if the business makes an unprompted (voluntary) disclosure

to the UK VAT authorities. The degree of mitigation also depends on the "quality" of the disclosure.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a range of potential penalties. The amount would depend on the nature of any regulatory breach and the business's compliance history. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A penalty for participating in VAT fraud will be applied to businesses and company officers who "knew or should have known" that their transactions were connected with VAT fraud. The penalty is a fixed rate penalty of 30%.

Disclosure of tax avoidance schemes. Scheme promoters are primarily responsible for disclosing indirect tax avoidance schemes to HMRC. The scope of the current regime includes all indirect taxes and moves the responsibility for disclosing VAT avoidance schemes to HMRC from scheme users to scheme promoters. The measure affects those who promote schemes.

In addition to these rules, the corporate criminal offense of failing to prevent the facilitation of tax evasion, concerns when an "associate person," such as an employee, agent, contractor or subsidiary, facilitates the evasion of tax of a third party while acting on behalf of the business. The intention of the legislation is to attribute criminal liability to businesses for the criminal acts of employees, agents or those that provide services for or on their behalf.

If that business (defined as "relevant body") cannot evidence that it had reasonable preventative procedures in place to prevent the facilitation of tax evasion by persons acting on its behalf, then it could be subject to a corporate criminal conviction and an unlimited fine. While this is UK legislation, the impact is far reaching and could result in overseas businesses being prosecuted because the definition of a relevant body is "a body corporate or partnership (wherever incorporated or formed)."

Personal liability for company officers. Company officers may have to pay some or all of the company's penalty if the penalty is due to their actions and one or more of the following applies:

- They have gained or attempted to gain personally from a deliberate inaccuracy
- The company is or considered to be about to become insolvent – even if the officer did not gain personally from the deliberate inaccuracy

If the company pays the penalty, HMRC will not ask the individual officers to pay. A company officer is a director, shadow director, company secretary or manager of a company, or a member of a limited liability partnership.

If a company officer is nominated as a senior accounting officer (SAO) under the SAO regime (which covers VAT, as well as a number of other taxes), the SAO can be held personally liable for a penalty of up to GBP5,000 for failure to provide a certificate or providing a certificate that contains a careless or deliberate inaccuracy, if the SAO does not have a reasonable excuse. The SAO is responsible for taking reasonable steps to ensure that the company and each of its subsidiaries establishes and maintains appropriate tax accounting arrangements, takes reasonable steps to monitor these accounting arrangements and to identify any respects in which the arrangements are not appropriate.

In addition, in certain cases of tax evasion, if it appears to HMRC that conduct, in whole or part, is attributable to the dishonesty of a person who is (or at the material time was) a director or "managing officer" (the named officer) of the body corporate, HMRC may serve a notice on the named officer proposing to recover all or part of the penalty from them. The portion specified is then assessable and recoverable as if the named officer were personally liable to that part of the penalty. The body corporate is then only assessed on the balance, if any, and is discharged from liability on the amount assessed on the named officer.

Statute of limitations. The statute of limitations in the UK is four years. The time limit for tax authorities and taxable persons in respect of careless errors or errors made despite taking reasonable care is:

- Four years from the end of the prescribed accounting period in which the error occurred in respect of underdeclared and overdeclared output tax and overclaimed input tax
- Four years from the due date of the return for the prescribed accounting period in which the error occurred in respect of underclaimed input tax

In cases of deliberate inaccuracies, the time limit is 20 years.

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A. General

The United States (US) does not impose a national-level sales or value-added tax. Instead, sales taxes and complementary use taxes are imposed and administered at the state (subnational) and local (substate) levels. Currently, 45 of the 50 US states, the District of Columbia and Puerto Rico impose some form of sales and use tax (*see the chapter on Puerto Rico*). Only Alaska, Delaware, Montana, New Hampshire and Oregon do not impose such state-level taxes (note that several localities within Alaska do impose a sales and use tax at nonuniform rates up to 9.5%). Taking into account both the state-level and local-level aspects of sales and use taxes, approximately 13,000 taxing jurisdictions exist in the US.

The laws, rules and procedures with respect to US state and local sales and use taxes are not uniform among these jurisdictions, and issues such as tax-base calculation, taxability of specific items and tax rates vary considerably among the jurisdictions. Sales and use taxes are generally imposed on transactions involving the sale of tangible personal property. However, several states also tax certain specified services and digital property (for example, electronically delivered software).

B. Tax rates

Sales and use tax rates vary among the states. For each state that imposes a sales and use tax, most apply one uniform rate at the state level. However, several states impose a lower rate on certain items, such as food, clothing, selected services and medicine, instead of exempting such items outright, while some also impose higher rates on items such as alcohol. Excluding additional local sales and use taxes, US state-level sales and use tax rates range from 2.9% (Colorado) to 7.25% (California). The highest combined state and local tax rate is 10.75% (Alameda, Calif.).

Local rates, if authorized within a state, may vary significantly. In addition, a single situs within a state may lie within several different local taxing jurisdictions. For example, sales made in one store may be subject to city, county and district taxes, in addition to the state-level tax, while sales made from a store in a different geographic location may be subject only to a county tax, in addition to the state-level tax. As a result, it is possible that two identical transactions within the same state may be taxed at substantially different rates based solely on the local sourcing of the transaction. In certain states, local rates may approach 10% and constitute a greater portion of the total sales tax due than the state-level rate.

Not all states authorize the imposition of local sales and use taxes, while some states that do not impose a state-level sales tax (e.g., Alaska) allow localities to impose the tax. Others require rate uniformity across the state or minimum local rates (e.g., California).

C. Imposition of tax

Sales taxes are transaction-based taxes imposed on intrastate retail transactions (sales made between a buyer and seller located within the same state) and are calculated as a percentage of the receipts derived from the transaction. The legal incidence of state sales tax laws may be on the buyer ("consumer" taxes) or on the seller ("vendor" or "privilege" taxes). However, regardless of the form of the tax, the consumer generally will bear the actual cost of the tax, while the vendor will bear the compliance cost.

Use taxes, which complement sales taxes, are imposed on the use, storage or consumption in a state of property or taxable services that have not been subjected to a sales tax. Essentially, use taxes are designed to prevent the avoidance of sales taxes on interstate retail transactions (sales made between a buyer and seller located in different states) by taxing goods and services procured in one state but intended for use or enjoyment in another state. To the extent that sales tax is paid in one state on such interstate transactions, a credit is allowed against any use tax that is ultimately owed.

D. Jurisdiction to tax

The key issue with respect to US state and local sales and use taxation is the jurisdiction to tax, or what is commonly referred to as "nexus." This concept deals with the power of one state or local taxing jurisdiction to compel a seller to collect and remit the sales or use tax due on a transaction. Prior to the ruling rendered by the U.S. Supreme Court (the Court) on 21 June 2018 in *South Dakota v. Wayfair Inc. (Wayfair)*, nexus was deemed to exist only if the seller had some physical presence within the taxing state or local jurisdiction (either by itself or through an agent or affiliate that had "established and maintained" an in-state market for the seller) and if such presence was more than de minimis.

Direct physical presence. Even if unrelated to a seller's sales activity, direct physical presence automatically created (and still creates even after the *Wayfair* ruling) a registration and collection or payment obligation. Physical presence may be deemed to exist based on the ownership of real or tangible personal property, the in-state presence of employees, the temporary storage of inventory or any other entry into the state by the seller or its employees (for example, delivery of goods sold in the seller's own vehicles). Physical presence may also be attributed to a seller based on activities conducted by third parties in the state on the seller's behalf. Essentially, if an agent or affiliate of a seller that does not have nexus with a state enters the state and conducts activities on the seller's behalf that serve to "establish and maintain a market" for the seller's goods (for example, soliciting sales, providing repair or installation services or providing training services), the seller may be deemed to be physically present in the state and be subject to the state's sales and use tax jurisdiction.

It is worth noting that, during the height of the COVID-19 pandemic, a number of states adopted temporary policies of not asserting nexus based on the in-state presence of teleworkers. By the end of 2023, these emergency provisions have lapsed in all states, and the presence of teleworkers may again create nexus for sales and use tax purposes.

Remote sellers. Between 1999 and 2018, several states enacted laws that required remote sellers with no in-state physical presence to register for sales and use tax purposes, and to collect and remit tax on sales to in-state customers based on their in-state sales volume. These laws, which many considered unconstitutional under the case law at the time, were challenged in each jurisdiction where they were enacted. In April 2018, the Court heard an appeal of the challenge to the

state of South Dakota's law, which imposed a registration and collection obligation on any remote seller that had annual sales of USD100,000 or that entered into at least 200 transactions with South Dakota customers. On 21 June 2018, the Court issued its ruling in the Wayfair case, concluding that the physical presence standard established under earlier precedent was "incorrect and unsound" under the Commerce Clause of the U.S. Constitution and was no longer applicable. The Court further held that states were free to compel remote sellers to collect and remit tax so long as their mechanism for doing so did not unduly burden or discriminate against interstate commerce. As of May 2020, every state that imposes a sales and use tax has enacted new laws or adopted formal positions that apply an economic nexus standard based solely on sales directed to customers in the state.

Marketplaces. Also, in response to the *Wayfair* decision, and as of May 2021, every state that imposes a sales and use tax has extended collection responsibilities to marketplace facilitators and providers (i.e., businesses that operate and maintain a platform to allow sellers to market and sell their goods and services). In most instances, the states have required that the marketplace facilitator or provider have a physical presence in the state or meet the state's economic nexus sales threshold. A few states (e.g., Colorado, Hawaii, Maryland), however, have remained silent on whether such stand-alone nexus is required. In these states, sales and use tax collection and filing responsibilities with respect to any transactions made through the marketplace are with the marketplace facilitator or provider. These new laws have created significant complexities, given that the state definitions of "marketplace facilitator" and "marketplace provider" vary considerably and can be broad, pulling in a number of businesses that would generally not be perceived as operating "traditional" marketplace forums.

Businesses that are not physically present in the US should be aware that the US states hold the view that their remote seller economic nexus and the marketplace facilitator/provider provisions apply equally to businesses that lack any US presence or permanent establishment. Moreover, while enforcement by the states may present a challenge, noncompliance creates potentially significant accounting and financial statement implications, pursuant to Accounting Standards Codification (ASC) 450, for non-US companies that do not comply with these collection and registration requirements.

Third parties. In addition to these economic nexus provisions, more than 30 states have also enacted laws that specifically attribute certain activities of in-state third parties on behalf of remote sellers to such remote sellers, thereby creating a presumption of an in-state physical presence. These laws operate parallel to the new economic nexus standards and present a separate consideration. In many states, certain affiliate relationships with in-state entities also will create a presumption of an attributional physical presence for a remote seller. Finally, since 2010, more than 10 states have adopted a requirement for remote sellers that lack nexus with a state but make sales to in-state customers to provide notice to their customers that use tax is due and is the responsibility of the customer, and to provide the state revenue agency with a list of in-state customers and the value of their annual purchases. Despite the historic ruling in *Wayfair*, which drastically expanded the reach of states to enforce sales or use tax compliance by remote sellers, these provisions remain in effect and apply in the event nexus is not otherwise established (either through direct physical presence, meeting one or more state-specific sales or transactions thresholds, or by way of attributional or affiliate presumptions).

If a seller does establish nexus with a state for sales and use tax purposes through one of these means, the seller is generally required to register in that state for sales and use tax purposes, and the seller is required to collect and remit sales and use taxes due on its taxable transactions with customers in the state. The seller is also required to file monthly, quarterly or annual sales and use tax returns (depending on state law) and remit the taxes collected. Failure to comply with the specific state requirement may result in the seller becoming liable for any tax due on a transaction, plus penalties and interest.

E. Retail sales

State sales and use taxes apply to receipts from taxable property and services sold and purchased at retail. A "retail sale" generally is defined as the transfer of title and possession of property from the seller to the ultimate consumer in exchange for consideration. Wholesale sales (discussed below), also referred to as "sales for resale," are exempt from sales and use tax in all states that impose a traditional sales and use tax scheme. However, Hawaii, whose sales and use tax effectively is a gross receipts-based tax on "doing business in the state," imposes a 0.5% wholesale sales tax rate on resale transactions.

Taxation of services that are ancillary to the sale of taxable tangible personal property, such as delivery and installation, varies among the states. Most states have explicit statutory or regulatory provisions dealing with the treatment of such services. In many cases, such treatment is determined based on the state's specific definition of "receipts" for sales and use tax purposes.

Drop shipments. Retail sales involving three parties (retailer, buyer and supplier), in which title to the property sold passes from the retailer directly to the buyer, but possession is transferred from a third-party supplier directly to the buyer, are classified as "drop shipment" transactions. In a drop shipment transaction, the retailer is generally responsible for sales and use tax collection. However, if the retailer does not have nexus with the buyer's state, state law may determine that a supplier with nexus in the state may be held liable for sales and use tax collection on the transaction. Alternatively, states may attempt to assert nexus over the out-of-state retailer under a "flash title" theory (that is, by asserting that the retailer takes title to the property for an instant while the property is within the state and, accordingly, has physical presence in the taxing state) or assess use tax liability directly against the buyer.

Lease transactions. Leases are treated as taxable retail sales in most states. The tax generally applies separately to each lease payment. However, certain states, such as Illinois and New Jersey, require lessors of tangible personal property to pay the sales tax in full on acquisition and before any subsequent lease or rental. In these states, tax is not charged on the subsequent lease. Complications can arise when regularly leased property is brought in from a state that allows a lessor to purchase such property exempt from sales tax. In such cases, the state into which the property is brought may assert that use tax is due on the entire original purchase price or value of the property that is subsequently leased in the state. Careful consideration of the origin of leased property and the relevant and varied state approaches is recommended.

Lease transactions that are deemed to constitute "financed sales" (i.e., arrangements under which total lease payments approximate the sales price, with the lessor having the option to purchase the leased item for a nominal price at the end of the lease term) are generally treated as straight sales in most states and are subject to immediate sales and use tax. Thus, if a lease is reclassified as a financed sale, in virtually all states, sales or use tax is due in full at the time of inception of the lease, generally at the original purchase price of the leased property.

Taxable base. Sales and use taxes are imposed on receipts derived from taxable retail sales transactions. In most states, taxable receipts may be reduced by the value of any goods traded in by the purchaser as part of the transaction and by any coupons, rebates or discounts issued by the vendor.

F. What is taxable

State sales and use taxes generally apply to sales of tangible personal property, which is defined by statute in most states as personal property that can be seen, touched, measured and weighed or is otherwise perceptible to the senses. On the other hand, services are generally not broadly subject to sales and use taxes unless the state's sales tax law specifically enumerates such services as taxable. The sales tax treatment of both sales of tangible property and services is not uniform across the states.

Real property. Real property (e.g., land, buildings and fixtures) is not considered to be tangible personal property, and the sale or lease of real property is not subject to sales and use taxation (except in certain limited circumstances, the leasing of real property is subject to sales and use tax in Arizona, Hawaii (general excise tax) and Florida while in New York City a specialized lease transaction tax applies). State and local jurisdictions may, however, impose transfer taxes on real property that are administered separately and apart from the state or local sales or use taxes. Among the oldest taxes levied in the US, these tax laws vary widely from state to state and even within some states can vary not only as to rates but also applicability from locality to locality.

Intangible property. The sale of intangible personal property, such as securities and intellectual property, is generally not subject to sales and use taxation. However, the sale of certain intangible digital goods (such as computer software and electronically delivered photographs, music and video files) may be subject to tax, depending on the specific state's laws. For example, items such as music downloaded from the internet and canned (non-custom) computer software that is delivered electronically may be considered to be tangible personal property in several states and are subject to tax. California sales and use tax law, on the other hand, continues to treat any such goods delivered electronically as intangible property not subject to tax. Similarly, depending upon the jurisdictions involved, cloud-based software (software-as-a-service, or SaaS) may be classified as taxable tangible personal property, nontaxable intangible property or a service (that may or may not be taxable).

Many states classify utility services, such as the sale of natural gas or electricity, as the sale of taxable tangible personal property. In such states, sales of these utility services may be subject to sales and use tax in addition to any applicable utility transmission fees or excise taxes that may be applied and collected separately.

In recent years, the number of states that have introduced legislation that would extend the sales and use tax to cover certain digital products and services has grown significantly. In early 2021, Maryland became the first state to adopt a broad-based excise tax (separate from the state's sales and use tax regime) on revenue from Maryland-sourced sales of digital advertising services. The tax became effective on 1 January 2022 and was almost immediately the subject of two lawsuits challenging its validity. In October 2022, a Maryland state court struck down the tax as being both unconstitutional and violative of federal law (namely, the Internet Tax Freedom Act, or ITFA). However, the Maryland state attorney general challenged the ruling and in May 2023, the Maryland Supreme Court vacated that ruling on grounds that the taxable persons had not exhausted their administrative remedies before filing suit in the courts (the ruling did not reach the merits of the case and is expected to be refiled in the Maryland Tax Court, which is an administrative body). The uncertainty surrounding the legal validity of the tax has led several other states to pause the process of enacting identical legislation until the matter is resolved. Nevertheless, a number of other states have moved toward expanding their existing sales and use taxes to cover digital advertising and other related transactions, such as the selling of customer data. Still more states have proposed a flat per-user fee on entities that operate as "social media companies." While none of these measures have been enacted – apart from Maryland's – it is expected that more proposals will be introduced and acted upon in 2024.

G. Situs of sales

Where a sale is deemed to take place is crucial in determining which jurisdiction's tax laws and rates apply. For intrastate sales, the situs of the sale determines which local sales and use taxes (if any) are imposed in addition to the state-level tax and which locality receives the revenue. For interstate transactions, the situs of the sale determines which state's laws have control and which state is entitled to the tax revenue.

In general, sales are sourced based on the nature of the transaction. For example, if a sale occurs at a fixed location, such as an over-the-counter sale at a store, the sale is sourced to that location. For intrastate remote sales that involve a buyer and seller (and possibly the goods sold) at separate locations, the transaction may be sourced to where the goods are received by the buyer, where the order is accepted by the seller or from where the goods are shipped.

For interstate remote sales, tax generally is imposed at the destination (that is, where the goods are received by the buyer), regardless of where title passes to the ultimate customer. In such cases, use tax, rather than sales tax, is due, and it must be collected and remitted by the seller if the seller has nexus with the destination state. To the extent that the seller lacks nexus with the destination state, the purchaser must self-assess and pay use tax to the state. The elimination of the physical presence requirement by the *Wayfair* decision is expected to make such use tax transactional obligations much less frequent.

Sourcing for intrastate sales varies among the states. Most states apply local taxes on a destination basis, which means that local sales and use taxes at the customer location will apply. Others apply local taxes on an origin basis, which means that local sales and use taxes at the vendor or shipper location will apply.

Sourcing of intangible goods (e.g., digital products, software) or services that may be used in multiple locations present unique challenges. Many states will allow a purchaser to allocate the sales tax due based on usage, either by providing the seller with a use allocation schedule at the time of sale or by filing refund claims subsequent to the purchase and payment of tax. The appropriate procedures and methodology for dealing with such transactions will vary from state to state.

H. Tax exemptions

Exemptions from state sales and use taxes is a significant component of the sales and use tax system in the US. Many of these exemptions are largely driven by tax policy and they may be based on federal or state law.

Federal exemptions. Exemptions based on federal law include excluding from state and local sales and use tax transactions that involve Indian tribes or occur on Indian reservation lands (although many Indian tribes may separately impose and collect their own sales and use taxes independent of the states in which such reservations are located). Moreover, sales made to the federal government may be expressly exempt from state and local sales and use tax and also would be excluded under precedent issued by the U.S. Supreme Court.

State and local exemptions. Other state- and local-level exemptions vary by jurisdiction, but may be grouped into the following four distinct categories:
- Entity based
- Property based
- Use based
- Transaction based

Like other aspects of state and local taxation, the availability and operation of sales and use tax exemptions and the procedures for claiming the exemptions vary widely among the states and, in some cases, even among the local taxing jurisdictions in the same state that impose such a tax.

Entity-based exemptions. Sales made to entities that qualify for exemption in a state (for example, religious or charitable organizations and state and federal governmental agencies) are not subject to tax. Issues may arise with respect to contractors performing work for or on behalf of such exempt entities. In general, contractors must pay tax on items purchased in fulfilling a contract with an exempt entity. However, tax is generally not due if the contractor is acting as an

agent for the entity in procuring items for the entity's own use. Wide variations in these exemptions exist among the states and, in some cases, certifications of the exemption may be required.

Property-based exemptions. Many states deem certain specific items to be exempt from tax as a matter of policy. For example, several states do not tax the purchase of grocery food, clothing or medicine, or they provide for a reduced tax rate on such items. Certain states set thresholds for such items. For example, Massachusetts exempts clothing purchases up to USD175 per item. With the recent trend toward taxing digital products, including SaaS, at least one state (Maryland) has enacted a broad exemption for customization of SaaS and software, in addition to an exclusion for SaaS and software used for commercial purposes in an enterprise environment.

Use-based exemptions. Items that otherwise are subject to the tax may be exempt based on their actual use by the purchaser. Most notably, items used in manufacturing, research and development and pollution control typically are eligible for exemption. In addition, many states provide specific exemptions for enumerated items purchased and used in designated enterprise and economic development zones in the state.

Transaction-based exemptions. The most common sales and use tax exemptions are based on the type of transaction involved. In the retail context, the "sale for resale" or "wholesale sale" exemption is most often claimed. Such exemptions are a structural component of the sales tax in the US intended to generally provide that tax only applies to the ultimate retail sale to the consumer.

Sales for resale. To avoid multiple taxation and maintain the general objective of only imposing tax on the last transaction involving the ultimate consumer, most states that impose a sales and use tax regime provide an exemption for wholesale sales. To claim this exemption, the purchaser must purchase the taxable items with the intention of reselling or leasing the items at retail. Any subsequent use by the purchaser of the items purchased under a resale exemption (e.g., taking items from inventory and distributing them as samples to customers) results in use tax becoming due. However, the seller is not required to collect such tax unless it knew at the time of sale that the purchaser intended to use the items.

Occasional sales. Most states provide an "occasional sale" exemption, also referred to as the "casual sale" or "isolated sale" exemption. This exemption typically applies in the context of business restructurings, mergers and acquisitions, and infrequent sellers, such as individuals selling personal property in single, limited transactions such as a garage or yard sale. Again, as with other exemptions, the occasional sale exemption rules vary widely among taxing jurisdictions.

The theory underlying this exemption is that the sales tax is meant to apply to retail transactions only, and one-time sales are not sufficiently systematic to indicate that the seller is in the business of engaging in such transactions. In states that do not provide specific exemptions for business reorganizations (for example, incorporations, mergers and spin-offs), the occasional sale exemption may apply to limit the application of sales and use taxes to transactions that involve the transfer of assets.

Temporary storage. Several states allow an exemption from use tax for property that is not used in the state but is stored temporarily in the state and is intended for ultimate shipment outside of the state. This exemption typically applies to items fabricated or produced in a state and to items purchased and warehoused in a state but intended for ultimate transport outside of the US.

Claiming exemptions. The process for claiming any of the exemptions described above varies depending on the type of exemption claimed and the state or states involved. In most instances, to claim an exemption, purchasers must provide the seller with a valid exemption certificate or statement in the form prescribed by law. In a number of states, the parties to the transaction must be registered for sales and use tax purposes in order to validly claim the exemption.

If the seller takes an exemption certificate in good faith (that is, the seller does not know of any reason why the exemption does not apply), the seller is relieved of any tax collection requirement with respect to the transaction. "Good faith" standards are not uniform among the states. If a seller does not accept such a certificate and if the seller is otherwise required to collect tax but does not do so, the seller may be personally liable for any tax due on the transaction. In several states, a seller making an exempt sale must be registered for purposes of that state's sales and use tax to be able to accept an exemption certificate from a purchaser in good faith. This requirement may present a challenge for sellers not based in the US that are making sales for resale, or sales under some other exemption to customers located in the US, because registration often requires that the seller first obtain a federal employer identification number. In recent years, several states have greatly increased their scrutiny of the exemption certification process.

Exclusions, whereby an item or transaction is per se deemed not to be taxable, do not require an exemption certificate, but should be documented internally.

I. Local (substate)-level sales and use taxes

Local sales and use taxes are authorized in 37 states (including Alaska and Montana, which have no state-level sales and use tax). In most of these states, the local sales and use tax base mirrors the state-level sales and use tax base. On the other hand, rates may differ significantly among the localities within a particular state and multiple local taxing jurisdictions (such as counties, municipalities and special taxing districts) may impose separate rates. Thus, as indicated above, a single address within a state may fall within multiple local taxing jurisdictions for determining the applicable rate to apply to a specific transaction.

In most states, local sales and use taxes are administered at the state level. However, in a limited number of states, such as Alabama, Colorado and Louisiana, such taxes may be administered by the locality imposing the tax. Thus, separate registrations and filings may be required in addition to registrations and filings with the state. In these states, not only may rates differ but so may the applicable tax base (i.e., transactions exempt from state tax may nevertheless be subject to local sales and use taxes). Sellers that have nexus with a state are generally considered to have nexus with every locality within that state, regardless of whether they maintain any physical presence within a specific locality, but this position is not universal (e.g., Colorado's Department of Revenue recently declared that despite the decision in *Wayfair*, physical presence was still required to collect local sales and use tax by those few jurisdictions in the state that exercised home rule authority).

J. Registration, filing and compliance issues

Sellers that have nexus with a state (see *Section D*) must register with the state taxing agency for sales and use tax purposes. Registered sellers must collect and remit sales and use tax on all taxable transactions and maintain exemption certificates received from their customers. Sales and use tax returns are due on a monthly or quarterly basis, depending on the specific state's laws. Sellers that do not make any taxable sales for a given period may be relieved from filing regular returns, or they may be required to file "zero" returns indicating that no taxable sales occurred.

Most states impose successor liability on the purchasers of substantially all of the assets of a business for any sales or use tax deficiencies of these businesses. This liability may be avoided if the seller complies with certain bulk sales and notice requirements, the rules for which vary between states, and they often are required in addition to the general requirements applicable to commercial transactions generally under the applicable commercial law of the state.

K. Penalties

All states impose penalties for failure to file returns and pay sales and use taxes as required by law. Penalty rates vary among the states. With respect to cases not involving fraud, the penalties range from 5% to 25% of the tax due. In cases involving the failure to file or pay as a result of fraud, penalties can exceed USD100,000 and result in imprisonment for any officers deemed responsible for the willful failure. The penalties here are not based on percentages but are applied as a fixed penalty amount and/or prison time limit. In both instances – civil and criminal – company directors may be held personally liable for the payment of any taxes due by the business entity to the state, but not remitted.

Similarly, all states impose interest on tax determined to be due that was not paid. In general, interest is assessed from the due date for any tax determined to be payable until the date of payment. The interest rate charged varies among the states. In general, interest rates vary from 1% to more than 15% annually. Some states determine their interest rates based on the prime rate, plus some additional percentage. Other states set rates legislatively. Rates set legislatively change less frequently, while those tied to the prime rate generally change quarterly, semiannually or annually, depending on market conditions.

Uruguay

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	29 December 1972
Trading bloc membership	MERCOSUR
Administered by	Directorate General of Taxes (http://www.dgi.gub.uy)
VAT rates	
Standard	22%
Reduced	10%
Other	Zero-rated (0%) and exempt
VAT number format	Tax identification number (RUT), which contains 12 digits
VAT return periods	Monthly (small taxable persons, as determined by the VAT authorities, must file annually)
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods or services made in Uruguay by a taxable person
- The importation of goods from outside Uruguay, regardless of the status of the importer

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Uruguay the following services are subject to the "use and enjoyment" provisions (B2B/B2C):

- The provision of services through the Internet, technological platforms, computer applications, or similar, when they are destined for, are consumed, or used economically in the country, are considered to be carried out entirely within the country.

The services to which it refers are those of production, distribution and intermediation of cinematographic films and "tapes," as well as those derived from direct television transmissions and transmissions of any audiovisual content, including those carried out through the Internet, technological platforms, computer applications, or other similar means, such as accessing and downloading movies, will be considered entirely from Uruguayan sources, provided that the applicant is in national territory. For further details see the subsection below *Digital economy*.

Transfer of a going concern. Transfer of going concern rules do not apply in Uruguay. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Uruguay, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

A VAT taxable person is any taxable person for corporate income tax purposes that makes taxable supplies of goods or services in the course of doing business in Uruguay. Additionally, taxable persons of personal income tax for independent activities are subject to VAT as well as nonresidents rendering services in Uruguay or performing business activities. No registration threshold applies. The definition of a VAT taxable person applies to a permanent establishment of a foreign business in Uruguay.

Exemption from registration. The VAT law in Uruguay does not contain any provision for exemption from registration. Registration before the tax authority is always mandatory for residents and nonresidents with permanent establishments in Uruguay. For other nonresidents, registration is not mandatory, as long as the foreign VAT taxable person is subject to withholding for the obligations.

Voluntary registration. The VAT law in Uruguay does not contain any provision for voluntary VAT registration, as there is no registration threshold.

Group registration. Group VAT registration is not allowed in Uruguay.

Fixed establishment. A fixed establishment for VAT purposes in Uruguay is defined (within Article 10 of Title 4 of IRAE) as when a nonresident carries out all or part of its activity through a fixed place of business in Uruguay, it will be understood that there is a fixed establishment of the nonresident. The term fixed establishment includes, among others, the following cases: headquarters, branches, offices, factories, workshops, mines, oil or gas wells, quarries or any other place of extraction of natural resources. The term fixed establishment also includes:

- Construction or installation works or projects, or related supervision activities, whose duration exceeds three months
- The provision of services, including consulting services, by a nonresident through employees or other personnel hired by the company for such purpose, provided that such activities are carried out (in relation to the same or a related project) during a period or periods that in total exceed six months within any 12-month period.

The term permanent establishment does not include:

- The use of facilities for the sole purpose of storing or displaying goods or merchandise belonging to the nonresident
- The maintenance of a warehouse of goods or merchandise belonging to the nonresident, with the sole purpose of storing or displaying them

- The maintenance of a warehouse of goods or merchandise belonging to the nonresident, with the sole purpose of transforming them by another company
- The maintenance of a fixed place of business for the sole purpose of purchasing goods or merchandise, or collecting information, for the nonresident
- The maintenance of a fixed place of business for the sole purpose of carrying out for the nonresident any other activity of an auxiliary or preparatory nature
- The maintenance of a fixed place of business for the sole purpose of carrying out any combination of the activities mentioned above, provided that the overall activity of the fixed place of business resulting from that combination retains its auxiliary or preparatory character

When a person acts in Uruguay on behalf of a nonresident, this nonresident shall be deemed to have a fixed establishment in Uruguay with respect to the activities that said person carries out for the nonresident, if that person:

- Holds and habitually exercises in Uruguay powers that empower it to conclude contracts on behalf of the nonresident, unless the activities of that person are limited to those mentioned above under the fourth point and, if they have been carried out through a fixed place of business, would not have determined the consideration of said fixed place of business as a fixed establishment in accordance with the provisions of that subsection
- It does not hold said powers, but habitually maintains in Uruguay a warehouse of goods or merchandise from which it regularly makes deliveries of goods or merchandise on behalf of the nonresident

The nonresident is not considered to have a permanent establishment by the mere fact that they carry out their activities in Uruguay through a broker, a general commission agent or any other independent agent, provided that said persons act within the ordinary framework of their activity. However, when the activities of such agents are carried out exclusively, or almost exclusively, on behalf of said nonresident, and the conditions accepted or imposed between the nonresident and the agent in their commercial and financial relations differ from those that would exist between independent entities, that agent shall not be considered an independent agent within the meaning of this subsection.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Uruguay. To register as a taxable person, a non-established business must have an address in Uruguay.

Tax representatives. To register as a taxable person, a non-established business must have an address in Uruguay and must appoint a tax representative to undertake its VAT obligations (such as filing returns).

Reverse charge. In Uruguay, there is no reverse-charge mechanism, but imports of goods by the acquiring taxable person are taxed and the provision of services from abroad when the nonresident comes to Uruguay to provide them. Therefore, the importer entity should pay VAT on the taxed goods, no matter if it is a local or foreign entity.

Regarding services, when a Uruguayan taxable person acquires a service from abroad, it will not pay VAT unless the nonresident comes to Uruguay to provide the service. In this case, the Uruguayan taxable person will account for the service plus VAT and in turn will withhold VAT from the foreign company for not being a registered taxable person.

Domestic reverse charge. Even though in Uruguay there is no reverse charge, there are some withholding agent regime measures related to VAT that are regarding goods and services that apply in the following cases:

- In the case of security, surveillance and cleaning services rendered to CIT payers for amounts higher than UYU40,000 excluding VAT (approx. USD1,005), withholding would be 90% of the VAT
- Moreover, if a taxed service is rendered in Uruguayan territory by a nonresident, a 22% VAT should be withheld by the CIT taxable person client

Also, some public bodies are appointed as VAT withholding agents for purchases of goods and services. In general, the withholding amount should be 60% of the total VAT.

Digital economy. Income derived from mediation and intermediation services related to the supply and demand of services rendered through the internet, technological platforms, computer applications or other similar means are considered to be Uruguayan-sourced income and, therefore, they are subject to VAT when both parties are located in Uruguay. Intermediation services means all services that are automated, require minimum human intervention and are not available outside of an application or similar software.

To determine whether the service provider is local, the provider will have to verify if the main business is located in Uruguay. To determine whether the acquirer is local, the location of the IP address of the device used for contracting the main service will have to be considered. If the provider's address or acquirer's IP address cannot be verified, regulations will treat the acquirer as located in Uruguay whenever the service is paid by electronic means administered from Uruguay. For mediation and intermediation activities, the withholding obligations are suspended. These provisions will be applicable exclusively when such activities are performed by nonresident entities that do not have a permanent establishment in Uruguay.

Nonresident providers of electronically supplied services for both business-to-business (B2B) and business-to-consumer (B2C) supplies are required to register and account for VAT on their supplies in Uruguay.

There are no other specific e-commerce rules for imported goods in Uruguay.

Online marketplaces and platforms. For VAT purposes, audiovisual services provided directly through the internet, technological platforms, computer applications or similar means are considered entirely Uruguayan-sourced, as long as the acquirer is located in Uruguayan territory. Additionally, the service acquirer is considered as located in Uruguayan territory when the IP address of the device used to contract the service, or the billing address, is located in Uruguay. In the case of continuous services (e.g., subscriptions), the determination of the acquirer's location must be performed at the time the service is contracted. If the IP or billing address cannot be verified, the acquirer will be deemed as located in Uruguay whenever the service is paid for by electronic means that are administered from Uruguay (e.g., electronic currency, credit or debit cards, and bank transfers).

The aforementioned does not apply to income derived from publicity, promotion and technical services (including distant learning), even if rendered through the internet.

Uruguayan corporate income taxable persons, state and local governments, and others are appointed as withholding agents responsible for collecting VAT on payments or credits for electronic services. Unless the income obtained by the foreign entity is all subject to withholdings, entities are required to register locally, assess their tax and pay, as well as comply with formal requirements locally (e.g., advance payments, tax returns).

Registration procedures. Two printed copies of form 0351 should be submitted to the tax office. Additionally, form 0352 (individuals) or 0353 (legal entities) may have to be submitted in order to register representatives. The registration should be done when operations would take place. Additionally, a notary certification in Spanish would be needed containing information of the company and the representatives. If all documents are duly provided, the registration is finished on the same day the form is submitted. The corresponding representatives of the company submit the registration. The form should be signed by a person authorized by the company, but the submission to the tax office can be done by a third party. In general, the procedures are carried out in person at the tax authority's office, but there are certain cases (for example, sole proprietorships, or foreign companies that provide digital services) that can be registered through the tax authority's website.

Deregistration. Deregistration is accomplished by submitting form 0355, establishing that the entity is no longer a taxable person. To deregister, the business should stop carrying on the activity that was taxed by VAT.

VAT taxable persons include, among others, CIT taxable persons who perform taxed activities, personal income taxable persons for self-employed activity and nonresident income tax (NRIT) payers, except when their activities are related exclusively to obtaining capital gains or yields of capital.

Changes to VAT registration details. Any change in the taxable person's registration data (for example: name, address, activity carried out) must be communicated to the tax administration within 30 days from the date of the change.

The procedure can be done online or in person. If it is online, the data in the online services system must be changed, modifying what corresponds. In case of being in person, form 351 must be submitted.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 22%
- Reduced rate: 10%
- Zero-rate: 0%

The standard rate applies to all supplies of goods or services, unless a specific measure provides for the zero-rate, the reduced rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods

Note that the supply of goods and services to final consumers who pay for such supplies with debit cards or similar electronic instruments, benefit from a reduction in the VAT rate. This measure has been extended from 31 December 2022 to 31 December 2023. This is not a reduced rate as such, but a benefit for using a certain payment method.

Examples of goods and services taxable at 10%

- Basic foodstuffs
- Soap
- Medicines
- Services supplied by hotels in "high season" to resident individuals
- Tourist services
- Health services

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Foreign currencies, securities, bonds, stocks and other financial transactions
- Milk
- Books, newspapers, magazines and educational material
- Water supply (unbottled) for basic family consumption
- Services supplied by hotels in "low season" to resident individuals

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Uruguay.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply is either when the goods are transferred or when the services are performed. The invoice for the transaction must be issued at the time of supply.

Deposits and prepayments. In principle, the taxable event for the supply of goods and services is deemed to have taken place on the date of the invoice. However, the tax authority is empowered to establish another date whenever there is an omission, anticipation or delay in the billing.

In addition, it is important to note that the tax authority may authorize generally, for all the taxable person's transactions, that the tax determination should be based on the date of the contracts.

Therefore, deposits and prepayments are not taxed if the taxable event does not ultimately take place (that is, if the services are not rendered or the delivery of goods does not happen) as the payments could not be considered to be the taxable event in themselves.

Continuous supplies of services. For ongoing supplies of services, the taxable event established in the Uruguayan VAT regulations is determined on a monthly basis.

Goods sent on approval for sale or return. The time of supply rules provide that for VAT purposes, the taxable event occurs whenever goods are delivered and property rights are transferred (i.e., the owner can economically dispose of them at its will).

If goods are sent for "approval" or "for sale or return," the transfer of property on these goods would not happen. Therefore, no VAT is accounted for.

Reverse-charge services. Even though a VAT for reverse-charge regime for supplies of goods and services does not exist in Uruguay, if services are rendered in Uruguayan territory by a nonresident, the service provider is considered to be a VAT taxable person and, thus, a withholding obligation arises for the taxable person.

Leased assets. In Uruguay there are two types of leasing: operative and financial. Both are treated as continuous supplies of services from a time of supply perspective (see above).

In accordance with Uruguayan law, by operative leasing includes a contract that gives the purchase option to the client at the end of the contract, but as long as such option implies a small amount (under certain circumstances determined on local regulations). Otherwise, it would be a financial leasing.

Leasing of real estate property in accordance with the Civil Code is exempt from VAT. Other operational leases are subject to VAT. Financial leasing is considered as sales and is subject to VAT depending on the goods supplied.

The tax treatment for "leasing" transactions with financial institutions is exempt from VAT. The leasing charge is exempted from VAT in the following circumstances:

- The contract must last at least three years
- The goods subject to the contract must comply with the definition of a utility vehicle given by the Uruguayan law and cannot be a real estate property affected to housing
- The user must be a taxable person of one of the following taxes: CIT, farming CIT or transfer of agricultural and livestock assets tax

If any of the circumstances outlined above is not met, the VAT applicable to the leasing would be calculated by the total amount of the payments expected in the contract, including the price of the asset and the accessory services.

Imported goods. The time of supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of VAT by taxable persons

A taxable person may recover input tax (or credit VAT), which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax (or debit VAT), which is VAT charged on supplies made.

The time limit for a taxable person to reclaim input tax in Uruguay is one fiscal year. Once the tax return is filed at the end of the fiscal year, if the tax authority considers that there was an excess in the payment of VAT, it will allow that amount to be deducted in the following fiscal year.

Input tax includes VAT charged on goods and services supplied in Uruguay and VAT paid on imports of goods.

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

Credit VAT would be recovered only if related, directly or indirectly, to sales subject to VAT or exports.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or for other business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

Examples of items for which input tax is nondeductible

- Purchase of a car, van or truck by professional individuals

Examples of items for which input tax is deductible (if related to a taxable business use)

- Business gifts
- Purchase, lease or hire of cars, vans and trucks, except by professional individuals
- Advertising and sponsorship
- Parking
- Travel expenses
- Attendance at conferences and seminars
- Business use of home telephones and mobile telephones

Partial exemption. A taxable person generally recovers input tax by deducting it from output tax. If purchases of goods and services are not used for making taxable supplies or for business purposes, input tax may not be recovered. Input tax related to both taxed and exempted income (other than exports), should be apportioned and recovered based on the taxable person's taxable and exempt income.

Approval from the tax authorities is not required to use the partial exemption standard method in Uruguay. Special methods are not allowed in Uruguay. The taxable person must make the apportionment based on the structure of its income, taking into account that the information presented by the accounting is reliable. The tax administration can question it in case it is inspected.

Capital goods. There are no special input tax recovery rules for capital goods. As such, the normal input tax recovery rules apply.

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

the following tax period. Nevertheless, input tax related to export sales can be recovered through credit certificates issued by the tax authorities.

For annual VAT returns, if the annual purchase VAT is greater than the annual sales VAT, the VAT credit is carried forward to the next fiscal year until it has been absorbed by VAT on sales.

Pre-registration costs. Input tax incurred on pre-registration costs in Uruguay is not recoverable.

Bad debts. A bad debtor is considered to exist in the following situations:
- 18 months after the expiration of the payment obligation
- A check payment without funds
- Other similar situations

When the bad debt is recognized, the VAT that was accounted for by the supplier is reduced in the current VAT period. If the debtor subsequently pays, the company must recompute the VAT deducted previously.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Uruguay.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Uruguay is not recoverable.

H. Invoicing

VAT invoices. A VAT taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. A separate invoice is not required to be issued for an amount of less than UYU190, but all sales made in amounts lower than UYU190 must be recorded together in a general invoice prepared at the end of each business day. A VAT invoice is necessary to support a claim for an input tax credit.

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

Electronic invoicing. Electronic invoicing is mandatory in Uruguay for certain taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for certain taxable persons in Uruguay.

Mandatory electronic invoicing is based on the size and category of certain taxable persons. Where it is mandatory for a taxable person to use electronic invoicing, it must apply to do so from the tax authorities. The tax authorities have established a calendar detailing mandatory reporting deadlines according to the amount of sales made by each taxable person. According to this calendar, the taxable persons whose sales exceeded 305,000 indexed units (approx. UYU1,775,000) at the end of their fiscal year in the first semester of 2023, must adhere to electronic invoicing by 1 February 2024. If their fiscal year ends in the second semester of 2023, and by then they exceed the same amount, they must adhere to electronic invoicing by 1 August 2024.

Even though the system is not mandatory for all taxable persons, any taxable person can voluntarily request to be included in the system.

There is no need for an agreement between the issuer of the e-invoice and its customers when a taxable person becomes an electronic issuer. When a taxable person becomes an electronic issuer or wants to become an electronic issuer, it should start the reporting process established by tax authorities, which includes complying with a number of mandatory requirements.

An agreement between the electronic issuer and its customers could be necessary in the following scenario: for documents issued by the company to taxable persons who are not included in the electronic invoicing system or to final consumers, for which the issuance of the hard copy of the document involved is required. A hard copy may not be issued if the transaction does not involve the transfer of goods and the recipient expressly authorizes the receipt of the document through other means (e.g., email). This authorization must be obtained separately from the main agreement.

Additionally, a number of modifications were implemented in December 2023. The tax authority has issued a number of resolutions (No. 2,389/023 and 2,548/023) that extend to all taxable persons the obligation for the mandatory use of electronic invoices, via the electronic invoicing system. According to the resolutions, taxable persons registered for VAT as of 31 July 2023 and between 1 August 2023 and 30 April 2024 are required to issue electronic invoices (and as such obtain the status of electronic issuer) before 1 January 2025. This provision also applies to taxable persons who restart their activities or become VAT payers in this period, or between 1 May 2024 and 31 December 2024. For taxable persons who exclusively provide personal services as a freelancer, the deadline to acquire the status of electronic issuers is before 1 January 2025.

This provision does not apply to taxable persons who meet any of the following conditions:
- Exclusively perform agricultural activities and whose income is below 4,000,000 indexed units (IU4m) during the fiscal year (approx. USD584,000) (note this threshold is determined using the IU value on the last day of the corresponding fiscal year)
- Solely carry out value-adding activities in the construction of real estate with no commercial purposes
- Subject to nonresident income tax
- Exempt from taxes on all their transactions, except for direct and indirect users of Free Trade Zones
- Included in the Monotributo, Monotributo Social Mides or Aporte Social Único PPL

When taxable persons included in the first bullet item above exceed the income threshold, the taxable persons must obtain electronic-issuer status starting from the first day of the fifth month following the closing of the fiscal year in which the taxable persons' income exceeded the threshold.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Uruguay. Nevertheless, a separate invoice is not required to be issued for sales to final customers (i.e., for B2C not B2B sales) amounting to less than UYU170. In such cases, a general invoice should be issued at the end of each business day, including all sales that were not documented due to this exception.

Self-billing. Self-billing is not allowed in Uruguay.

Proof of exports. Uruguayan VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents confirming that the goods left Uruguay (called a DUA – *"Documento Único Aduanero"* – which is a single administrative document).

Foreign currency invoices. If an invoice is issued in a foreign currency, the amounts may be converted to the domestic currency, which is the Uruguayan peso (UYU), using the buyer exchange rate bill used between banks on the day before the transaction.

Supplies to nontaxable persons. Taxable persons are always required to issue invoices for transactions. Documentation related to sales should also include separately the tax to be paid and the applicable tax rate. However, this last requirement does not exist when invoices are printed in the form of tickets using cash registers or electronic tickets (e-tickets).

Records. In Uruguay, examples of what records must be held for VAT purposes include the following:
• Inventory book (which contains the balance sheets of the company)
• Diary book (which contains the accounting entries of the company)

Special accounts for VAT should also be kept and 22%-rate and 10%-rate transactions should be separated.

In Uruguay, VAT books and records must be held within the country. These records must be kept at the address recorded by the tax authorities.

Record retention period. The general statute of limitations for tax obligations in Uruguay is 5 years, which may be extended to 10 years in cases of tax fraud, or other periods may apply for promoted investment projects.

Electronic archiving. Electronic archiving is allowed in Uruguay. Physical records should be kept physically (e.g., books), and electronic records should be kept electronically (e.g., accounting system).

I. Returns and payment

Periodic returns. VAT returns are generally submitted monthly for "medium and large taxable persons." "Small taxable persons" must submit returns annually. The mentioned classification of taxable persons is determined by the tax authorities.

Monthly VAT returns are due in the month following the month in which the transactions are reported. The deadline is published by the tax administration at the beginning of each year.

Small VAT taxable persons must file annual tax returns in the fourth month following the end of the taxable person's fiscal year. For example, if a small VAT taxable person closes its fiscal year in December, its annual VAT return is due in April. The exact date for payment depends on the taxable person's registration number.

In case of professional individuals, VAT returns must be submitted annually (between June and August of the following year, depending on the calendar issued by the tax authority). But payments would be done bimonthly and paid the month following the end of the bimonthly period. For example, the January to February bimonthly period would be due in March.

Periodic payments. All VAT taxable persons must make VAT payments monthly. Monthly payments are due in the month following the month in which the transactions are reported. The exact date for payment depends on the taxable person's registration number (RUT). VAT return liabilities must be paid in Uruguayan pesos (UYU).

Payment is made by submitting the VAT affidavit monthly for taxable persons included in the medium or large taxable person group. Once that tax return is presented, the tax administration's website will show that the company has an amount to pay for VAT. By following the steps on the page, the taxable person will proceed with payment (either by bank debit or with credit certificates if available).

For taxable persons included in the small taxable person group, since VAT is filed annually, they must anticipate the difference between VAT on sales and VAT on purchases for the current month on a monthly basis. The procedure is the same as the aforementioned, except that instead of submitting an affidavit, they will make a ticket payment (form found on the website) where the data will be completed indicating what will be paid.

Digital economy taxable persons (i.e., those who have income derived from the digital economy, such as those supplies mentioned in the above subsection *Digital economy*) may choose to file their tax returns (and execute their tax payment) in USD as long as:

- All transactions are documented in that currency
- The taxable person does not carry out other taxed activities in the country, or if they do, they are subject to withholding

If taxable persons choose this option, it must be maintained for at least three fiscal years, provided the conditions to access the option are still met.

For annual VAT returns, if the annual purchase VAT is greater than the annual sales VAT, the VAT credit is carried forward to the next fiscal year until it has been absorbed by VAT on sales.

Electronic filing. Electronic filing is mandatory in Uruguay for all taxable persons. There are, however, some exceptions, for example, if a tax return is reassessed and it includes a fiscal credit.

Payments on account. Payments on account are generally not required in Uruguay, except for certain taxable persons. In certain situations, taxable persons must perform payments in advance before their annual tax return, depending on the company and its activities. The total advanced payments could cover the actual tax due for the whole fiscal year, and therefore, the taxable person could benefit from filing a provisional annual tax return, filed prior to the compulsory date in which it should be submitted, obtaining as a result fiscal credit (see the *Annual returns* subsection below).

Special schemes. *VAT for small enterprises.* Small taxable persons that have not exceeded certain revenue thresholds in the previous fiscal year (approx. UYU1,775,000) can opt to account for VAT through a special regime called "VAT for small enterprises." Taxable persons using the scheme make reduced and fixed VAT payments on a monthly basis.

Annual returns. A VAT taxable person can submit a provisional annual tax return with the sole purpose of requesting fiscal credits with the tax administration. This is because in certain situations taxable persons must perform payments in advance before their annual tax return, depending on the company and its activities (see the *Payments on account* subsection above). The taxable person could benefit from filing a provisional annual tax return, filed prior to the compulsory date in which it should be submitted, obtaining as a result fiscal credit. This must be analyzed on a case-by-case basis to verify that the company is in a position to request a tax credit from the tax authority to, for example, cover the payment of other taxes.

Supplementary filings. There are several supplementary filings that apply, depending of the type of business, the type of VAT regime and the type of operation. Examples include:

- Informative form 2181, including details of VAT on sales and purchases, which is applicable only to relevant or large taxable persons
- Informative form 2183, including details of some VAT withholdings

Correcting errors in previous returns. In case of errors or omissions in previous returns, what must be done is to resubmit the affidavit. To do this, the taxable person must present the tax return again entering all data that had been presented at the time and fixing the error or omission.

If an amount to be paid arises, the amount must be paid with fines and surcharges calculated, taking into account the date on which the amount should have been declared and the date on which it will actually be paid (see the *Penalties for errors* subsection below). Otherwise, if the result is a tax credit, it may be requested through credit certificates and it may be used later for the payment of other taxes collected by the tax administration.

Digital tax administration. *Electronic invoicing.* The only transactional reporting requirement in Uruguay is that electronic invoices are sent digitally in real time through the tax authorities' system. To do this, the taxable person hires an electronic invoicing provider that develops personalized software for the taxable person and invoicing is carried out through it. In this software, the

taxable person can obtain different reports that are useful to control their billing with what is subsequently declared in the VAT affidavits. For further details, see the subsection *Electronic invoicing* above.

J. Penalties

Penalties for late registration. The penalty for late registration established by the tax authority is an economic fine of UYU1,050.

Penalties for late payment and filings. A penalty of 5%, 10% or 20% is imposed for late payment of VAT, and a penalty of UYU730, UYU760 or UYU830 is imposed for late submission of the VAT return. The penalty rate depends on the date of payment. In addition, interest is charged on late payments of tax at a rate that varies.

Penalties for errors. There are no specific penalties in Uruguay for errors. If taxes are not paid, irrespective of whether or not this arises as a result of an error, the penalties that can be imposed are those outlined above in *Penalties for late payment and filings* and below in *Penalties for fraud*.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details will generate fines for breach of formal duties, the amount of which depends on the delay in communication, as outlined below:
- Within 90 days – UYU720
- Within the next year – UYU2,840
- More than a year – UYU4,050

In the case of individuals, sole proprietorships, de facto partnerships and undivided successions, the maximum fine for omission of communication of the modifications will be UYU720. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. In cases of tax fraud, fines could total from 1 to 15 times the amount of unpaid taxes due to the infraction and the offense could be punished with a penalty of six months to six years in prison.

Personal liability for company officers. Entities will be sanctioned for the infractions they commit without the need to establish the responsibility of a person.

Notwithstanding to the pecuniary responsibility of the person, their representatives, directors, managers, administrators or agents will be sanctioned for their personal actions in the infraction. Therefore, company directors can be held liable in the event they have not acted with the due diligence for the position they represent.

Penalties will depend on the particular case, not being able to exceed the value of the assets they have, as long as it has not acted with fraud.

Statute of limitations. The statute of limitations in Uruguay is five years. The tax authority's right to claim payment of taxes expires five years from the end of the calendar year in which the taxable event occurred.

The statute of limitations shall be extended to 10 years when the taxable person or responsible party has incurred in fraud, does not comply with the obligations to register, does not comply with reporting the occurrence of the taxable event, does not comply with filing tax returns, and, in cases where the tax is determined by the tax authority, when the latter was not aware of the taxable event.

Penalties and interest have the same statute of limitations corresponding to the penalized event, except in case of contravention penalties and those related to public instigation not to pay taxes, in which case the period shall always be five years. These terms will be calculated from the end of the calendar year in which the violations were committed.

In case of surcharges and interest, the terms will be calculated as from the end of the calendar year in which they were generated.

Uzbekistan

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Qo'shilgan qiymat solig'i (QQS)/Налог на добавленную стоимость (НДС)
Date introduced	1992
Trading bloc membership	None. Observer status at Eurasian Economic Union (EAEU)
Administered by	State Tax Committee (www.soliq.uz)
	Ministry of Finance (www.mf.uz)
VAT rates	
Standard	12%
Other	Zero-rated (0%) and exempt
VAT number format	12-digit number (XXXXXXXXXXXX), where X is a digit between 0-9
	9-digit for nonresident VAT payers supplying electronic services
VAT return periods	Monthly/Quarterly (nonresident VAT payers supplying electronic services)
Thresholds	
Registration	None (nonresident providers of electronically supplied services)/UZS1 billion (other businesses)
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT is levied on turnover derived from the supply of goods and services in Uzbekistan (based on place of supply rules), including imports, unless they are zero-rated or specifically exempt. Any excise taxes paid are included in the taxable base for VAT purposes.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from

being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Uzbekistan, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Transfer of going concern rules do not apply in Uzbekistan. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Uzbekistan, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the direct tax rules for transfer pricing can be applied for VAT and to transactions with both related and unrelated parties. If the tax authorities identify a deviation from the market/arm's-length price on transactions, they may assess additional taxes (including VAT) and tax penalties of 40% of understated tax liabilities. Taxable persons should maintain the appropriate documentation supporting the prices used in related-party transactions which should be available upon the tax authorities' request. In addition, taxable persons should file the notification on transactions with related parties not later than the deadline for submission of annual financial reports.

C. Who is liable

A taxable person is a person or legal entity that carries out a taxable transaction. A taxable transaction is a transaction involving the sale or importation of goods or services that is subject to VAT even if such transaction occurs only once. A person liable to VAT in Uzbekistan must register with the local tax service. In addition, the state authorities can be recognized as taxable persons based on the decision of the President of Uzbekistan or the Cabinet of Ministers of Uzbekistan.

Uzbek legal entities, individual entrepreneurs with an annual turnover more than UZS1 billion, as well as permanent establishments of foreign legal entities must register with tax authorities for VAT purposes. Importers of goods must register with tax authorities for VAT purposes regardless of the annual turnover.

Exemption from registration. The tax law in Uzbekistan does not contain any provisions for exemption from VAT registration, except for the threshold for Uzbek legal entities and entrepreneurs (see the *Voluntary registration and small businesses* subsection below).

Voluntary registration and small businesses. Uzbek legal entities and individual entrepreneurs with an annual turnover less than UZS1 billion (except importers of goods and certain other organizations) are eligible to pay revenue-based tax under simplified tax regime instead of CIT and VAT. There is no requirement for them to register for VAT; however, they may voluntarily register for CIT and VAT.

Group registration. Group VAT registration is not allowed in Uzbekistan.

Fixed establishment. In Uzbekistan, there is no legal definition of a fixed establishment for VAT purposes. However, direct tax rules for a permanent establishment (PE) apply for all tax purposes, including VAT. PEs in Uzbekistan do not have any organizational or legal form – a PE is a pure tax concept in the form of tax registration only and is not a legal vehicle. Under a general rule, a PE is determined as a permanent/fixed place of activity through which a nonresident carries out its business in Uzbekistan through an authorized person, dependent agent either fully or partially. A PE includes, inter alia, a place of management, office, bureau, room, agency, place of production, processing, packing, as well as special types of PEs, established as a result of carrying out special types of activities:

- Construction site, construction, assembly or assembly facility or related supervisory (control) activities, provided that such site, facility or activity exists or continues for more than 183 days during any consecutive 12-month period

- Provision of services, including consulting services, performed by this foreign legal entity through its employees or other personnel hired by it for these purposes, provided that such activities continue (for the same or related project of a person or a related party of a foreign legal entity) for at least 183 days during any consecutive 12-month period
- A foreign legal entity carrying out insurance activities, except in cases of reinsurance, if it collects insurance premiums in Uzbekistan or insures against risks through a dependent agent
- A person acting in Uzbekistan on behalf of a foreign legal entity and usually concluding contracts or playing a major role in concluding contracts for the transfer of ownership (provision of services) or granting the right to use property on behalf of this foreign legal entity, etc.

Non-established businesses. Non-established businesses or foreign individuals registered as entrepreneurs in accordance with the law of the foreign jurisdiction, selling goods or services in the territory of Uzbekistan are subject to VAT if the place of supply is deemed to be Uzbekistan. The basic place of supply rule for services is where the recipient of the service is located. There are some exceptions to the general place of supply rule, for example, for advertising services and immovable property (located in Uzbekistan).

If the recipient of services supplied by a non-established supplier is registered for VAT in Uzbekistan, the recipient is responsible for accounting for the respective VAT (via the reverse-charge mechanism).

For supplies made by non-established businesses or foreign individuals registered as entrepreneurs in accordance with the law of the foreign jurisdiction, where the contract states VAT, the recipient in Uzbekistan withholds VAT at source. If the contract does not state VAT, the recipient accounts for VAT by way of the reverse-charge or withholding mechanism.

Tax representatives. Tax representatives are not required as the concept of tax representatives is not used in Uzbekistan. However, the rules for VAT on digital services were introduced from 1 January 2020. As such for non-established businesses supplying digital services to individuals in Uzbekistan, i.e., business-to-consumer (B2C), digital services are subject to VAT, and the non-established business must register for VAT in Uzbekistan. For further details, see the subsection *Digital economy* below.

When registering for digital VAT in Uzbekistan, a non-established business must indicate its officer (i.e., an authorized person/tax representative) who will be provided with the access details for the online platform for filing electronic VAT tax returns and interacting with the tax authorities.

Reverse charge. For supplies of services made by non-established businesses or foreign individuals registered as entrepreneurs in accordance with the law of the foreign jurisdiction, to businesses in Uzbekistan, i.e., business-to-business supplies (B2B), where the contract does not state VAT, the recipient must self-account for VAT by way of the reverse charge. However, this does not apply to supplies of digital services supplied to consumers (B2C). See the *Digital economy* subsection below for more details.

Domestic reverse charge. There are no domestic reverse charges in Uzbekistan.

Digital economy. Nonresident providers of electronically supplied services for B2C supplies are required to register and account for VAT in Uzbekistan (if place of supply is deemed to be Uzbekistan).

Digital services subject to the rules outlined above do not include the following:
- Supply of goods, if the goods are delivered without using the internet, even if they are ordered through the internet
- Supply (transfer of rights of use) of software for computers (including computer games) and databases, if the transfer is carried out on tangible data storage mediums
- Supply of consulting services via email

• Provision of internet access services

Nonresident providers of electronically supplied services for B2B supplies are not required to register and account for VAT on supplies in Uzbekistan. Instead, the customer is required to self-account for the VAT due by way of the reverse charge (or withholding (depending on contractual terms) (see the *Reverse charge* subsection above).

The import of goods is subject to import VAT at customs. There are no other specific e-commerce rules for imported goods in Uzbekistan.

Online marketplaces and platforms. The definition of digital services includes rendering services on provision of technical, organizational, informational and other opportunities, via the internet, carried out with the implementation of information technologies and systems for the purposes of establishing contacts and deals between sellers and purchasers (including the provision of a trade platform or marketplace, operating online where potential customers bid their price through the automated procedures, and parties are informed about sales by automatically generated messages).

Hence, services of online marketplaces and platforms may be subject to Uzbek VAT (if rendered to Uzbek private individuals, i.e., B2C). If digital services are provided by a non-established business to Uzbek private individuals through intermediary nonresidents that are collecting money from Uzbek private individuals based on commission, assignment, agency and other similar agreements with the supplier, then such foreign intermediary organization may be considered as a taxable person for Uzbek VAT purposes, and it would have an obligation to independently calculate and pay the VAT due.

Registration procedures. For Uzbek-established businesses, registration for VAT is completed by submitting an online application. In special circumstances, registration for VAT can be carried out by filing a paper application.

For non-established business supplying B2C digital services, the relevant notice for registration for VAT should be submitted to the tax authorities via the online platform (website http://tax.uz/en) or by an application in a written form. Based on using the platform, the following information is required to be filled in the application form for VAT registration:
• Company's name
• Address
• Website
• Official email address
• Country of registration
• Other identifying information
• Information about the services provided
• Information about the authorized person

Additionally, an application must include an extract from the register of legal entities of the respective country where the non-established business is registered (or another document confirming the legal status of the non-established business in its home country).

There are no established rules for the process of registration for non-established businesses that do not supply B2C digital services. As outlined in the subsection *Non-established businesses* above, B2B supplies of services made by a non-established business are subject to the reverse charge or withholding (depending on contractual terms), and there is no requirement for the non-established business to register. Import of goods is subject to import VAT at customs.

Deregistration. Taxable persons may deregister for VAT if their turnover falls below the registration threshold (only for those taxable persons to whom the threshold may apply). Taxable persons for whom the threshold does not apply (such as foreign legal entities with a permanent establish-

ment in Uzbekistan or rendering B2C digital services) may deregister in the same way as a general taxable person or when they cease to have taxable turnover (whichever is applicable).

Changes to VAT registration details. When there is a change in the name of a taxable person, re-regigtration for VAT purposes is made automatically by the tax authorities based on the changes in the database of Center of State Services (where re-registration of the business name is applied for by the business) with subsequent notification to the taxable person.

Where there is a change in other details of a taxable person (e.g., address, bank details, etc.), the taxable person is required to file special forms to the tax authorities (generally online) informing them about the respective changes.

The procedure of notification can be done online via the personal portal of the taxable person (https://my.soliq.uz), by attaching and submitting the changing registration data of a taxable person. Alternatively, the forms can also be submitted manually, on paper.

A change of location (postal address) must be reported within 10 days from the date of the change; other changes generally must be reported within 30 days from the date of the change.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 12%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

The standard rate of VAT was reduced from 15% to 12% with effect from 1 January 2023.

Examples of goods and services taxable at 0%

- Exports of goods
- International transportation services
- Utility services provided to private consumers *(until 1 April 2024)*

The term "exempt" refers to supplies of goods and services that are not liable to VAT and do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Financial services (e.g., certain types of banking and insurance services)
- Sale of pharmaceuticals (e.g., drugs and medicines) *(until 1 April 2024)*
- Sale of prosthetic and orthopedic products, inventory for persons with disabilities, as well as services provided to persons with disabilities in orthopedic prosthetics, repair and maintenance of relevant products and inventory
- Educational services
- Veterinary services *(until 1 April 2024)*
- Passenger transportation services provided by the government (i.e., the public transport system)
- Turnover on the sale of goods and services purchased by state-funded organizations, state-owned enterprises and companies with a state share of 50% or higher within the framework of projects that are fully or partially implemented at the expense of public external debt from international financial institutions and foreign government financial institutions (excludes borrowed funds refinanced or refinanced through banks) (*until 1 January 2028*)

Option to tax for exempt supplies. The option to tax exempt supplies is not available in Uzbekistan.

E. Time of supply

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

The basic time of supply for goods is the earlier of when the goods are shipped, the invoice is issued, or the ownership title is transferred to the purchaser.

The basic time of supply for services is the earlier of the issuance of the invoice or other document confirming the delivery of the service. There is no payment or performance tax point for services. When services are rendered on a free-of-charge basis (i.e., no payment), the tax point is determined as per the general rule – earlier of the issuance of a VAT invoice or other document.

Deposits and prepayments. There are no special time of supply rules in Uzbekistan for deposits and prepayments (that are deductible from the total consideration for the supply). As such, the general time of supply rules apply (as outlined above).

However, deposits and prepayments that are not deducted from the total consideration for the supply are generally not within the scope of VAT, and as such, no time of supply rules apply for such payments.

Continuous supplies of services. The time of supply rule in Uzbekistan for the supply of continuous supplies of goods and services (e.g., sale of electricity, heating, water, gas, utilities, communication services, goods transported through pipes and other continuous supplies) is the last day of the month in which supplies are provided.

Goods sent on approval for sale or return. There are no special time of supply rules in Uzbekistan for supplies of goods sent on approval for sale. As such, the general time of supply rules apply (as outlined above).

However, the time of supply rule in Uzbekistan for the supply of goods that are returned is the time the VAT is corrected in the invoice issued by supplier.

Reverse-charge services. There are no special time of supply rules in Uzbekistan for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above).

Leased assets. The time of supply rule in Uzbekistan for the supply of leased assets (i.e., transferring assets on financial leasing) is the date of transfer of the assets to the lessee as per the act of acceptance signed by the lessor and lessee.

Imported goods. The time of supply rule in Uzbekistan for the supply of imported goods is the date of formalization of the import cargo custom declaration.

F. Recovery of VAT by taxable persons

Input tax is VAT charged on goods and services acquired by an entity for business purposes. A taxable person generally recovers input tax by deducting it from output tax (VAT charged on supplies made). Input tax consists of VAT charged on goods and services purchased in Uzbekistan, VAT paid on imports of goods and reverse-charge VAT paid.

VAT payable to the budget is generally determined as output tax charged less allowed input tax paid on purchases.

The time limit for a taxable person to reclaim input tax in Uzbekistan is the reporting month for which the invoice is dated.

Nondeductible input tax. Input tax incurred on purchases used to make supplies of exempt goods and services and on nonbusiness costs cannot be offset against output tax.

Examples of items for which input tax is nondeductible

- Input tax incurred in connection with the purchase of goods, services and fixed assets used to make exempt supplies
- Input tax incurred by nontaxable persons
- Input tax incurred from the purchase of representation and nonbusiness expenses
- Input tax incurred from the purchase of cars, motorcycles, helicopters, ships, airplanes and fuel for those vehicles, as well as alcohol and tobacco products, unless the purchase of those goods is related to the taxable person's business activity

Examples of items for which input tax is deductible (if related to a taxable business use)

- Input tax incurred on purchased goods, services and fixed assets used to make taxable supplies (including zero-rated supplies) and in connection to which a proper electronic VAT invoice or another equivalent document is received
- Import VAT paid on goods and reverse-charge VAT paid on services supplied by non-established businesses

Partial exemption. Input tax directly related to the making of exempt supplies is, as a rule, not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. The amount of input tax that a partially exempt business may recover is calculated using the general pro rata method or the direct allocation method. The method that is used is based on the tax accounting policy of the taxable person.

For the direct allocation method, all input tax incurred that relates directly to taxable turnover can be offset in full. Then the input tax incurred for overheads is recoverable based on the distributed ratio of turnover (total taxable turnover over total nontaxable turnover).

For the proportionate method, the taxable person calculates the ratio of total taxable and nontaxable turnovers. That ratio is then applied to all input tax incurred.

Approval from the tax authorities is not required to use the chosen partial exemption method in Uzbekistan. A taxable person must, however, indicate the method used in its tax accounting policy. Special methods are not allowed in Uzbekistan.

Capital goods. Input tax incurred on capital goods (i.e., fixed assets) can be offset against output tax. This is, however, provided capital goods are used to make taxable supplies, the purchase price and the respective amount of VAT has been paid (they were not received free of charge), and a full VAT invoice is received.

Refunds. The excess of qualifying input tax to be offset against the amount of output tax for the reporting period is accounted toward future output tax (to following tax periods) or can be refunded to the taxable person. The refund option is available with effect from 1 July 2020. Before this date, excess input tax over output VAT could only be refunded for amounts related to zero-rated supplies, such as exports.

To request a refund, the taxable person must notify the tax authorities when filing a respective tax return, requesting the refund to the tax authorities. Then an in-house (desktop) tax audit is carried out on the refund amount requested. If, based on the results of the in-house (desktop) tax audit, the tax authority decides to fully or partially refund the tax amount claimed for refund, the indicated tax amount is returned to the taxable person no later than 30 days from the date of filing the tax refund application.

A "desktop tax audit" is a limited tax audit conducted remotely (i.e., without a physical visit to the premises of the taxable person) by the tax authorities to check the correctness and fullness of payment of a particular tax with regard to a specific issue/question, based on the tax returns,

information, documents available to the tax authorities and obtained by the request from the taxable person.

Pre-registration costs. Input tax incurred on pre-registration costs in Uzbekistan is generally not recoverable. However, in relation to input tax on inventory (purchased in the 12 months prior to VAT registration) and fixed assets accounted in the balance sheet as of the date of registration for VAT, the taxable person is eligible for offset in certain cases. This is provided that all other criteria for offset are also met (e.g., presence of full VAT invoice).

Bad debts. A taxable person can adjust the amount of output tax in relation to the write off of bad debts (as defined by the Tax Code in certain cases) within a limited time period of not later than one year after the event occurred. A bad debt is defined as a debt that cannot be settled due to cessation of liability as per a decision of court, bankruptcy, liquidation, death of the debtor or due to expiration of the statute of limitations. A bad debt is eligible for write off and subsequent offset/deduction only based on statutory documents confirming the occurrence of the above events.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Uzbekistan.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Uzbekistan is not recoverable. This is, however, subject to certain potential exceptions, for example, for diplomatic missions, consular offices of foreign states and organizations equated to them, accredited in Uzbekistan.

H. Invoicing

VAT invoices. There is a specific VAT invoice format in Uzbekistan, which is considered as a strictly accountable document based on which VAT is assessed. There are general invoicing rules, which must be used. Invoices should be issued upon completion of the services or upon transfer of the goods. Invoices must be retained for input tax to be offset. If the services are rendered on an ongoing basis, the invoice should be issued at the end of the month.

Credit notes. If there are changes in the terms of the supply (e.g., change in the volume of supply, a price change or if there is a return of the goods) the supplier may issue a correcting (adjusting) a VAT invoice that serves as the basis for the VAT adjustment (i.e., a credit note).

Electronic invoicing. Electronic invoicing is mandatory in Uzbekistan for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Uzbekistan. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Uzbekistan.

As of 1 January 2023, it is obligatory for VAT-registered taxable persons to issue full VAT invoices in electronic form using the tax authorities' special electronic invoicing online system, unless otherwise stipulated by the legislation for exceptional cases. For transactions with customers or suppliers that do not have access to the electronic invoicing system (for example nonresidents), taxable persons may issue VAT invoices unilaterally.

There are no mandatory software providers for electronic invoicing, while taxable persons may use different platform operators for such purposes. Data from the electronic VAT invoicing platform is absorbed automatically as data for output and input tax to draft VAT returns.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Uzbekistan. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Uzbekistan.

Proof of exports. Proof of exports to support zero-rated VAT (exemption with credit) are the commercial and transportation documents related to export sales, e.g., export customs declaration. Export customs declarations should have the mark of the customs authorities where the goods have been exported from. Depending on the type of activity carried out by a taxable person, other documents may be required to be submitted to confirm the export of goods (the list of documents and the procedure for their submission are approved by the Cabinet of Ministers of Uzbekistan).

Foreign currency invoices. Hard copy invoices issued to foreign customers can also be issued in USD or EUR, depending on the commercial terms of the agreement. However, electronic VAT invoices specifically issued for tax purposes to reflect supplies to foreign customers can only be issued in the domestic currency, which is the Uzbekistan so'm (UZS). If supplies are made within Uzbekistan, the invoices must be issued only in UZS. The Central Bank exchange rates must be used for the conversion, which are published on a weekly basis.

Supplies to nontaxable persons. In certain cases, such as retail B2C sales, taxable persons are required to issue unilateral electronic VAT invoices (i.e., an invoice issued by the taxable person in the system that does not have to be accepted by the counterparty of supply), to record such cases for VAT reporting purposes.

Records. In Uzbekistan, examples of what records must be held for VAT purposes include accounting records and supporting documents, invoices, contracts and transportation documents. Generally, all business transactions conducted by Uzbek legal entities should be supported by documents (e.g., agreements, VAT invoices, acts of acceptances).

In Uzbekistan, VAT books and records can be held outside of the country. However, there is no provision in the Uzbek tax law outlining where records should be held, and in practice, records are usually held in Uzbekistan. If held outside of Uzbekistan, records must be readily available to the tax authorities upon their request. There may be certain restrictions in accordance with the legislation on personal data.

Record retention period. Records must be retained for at least three years.

Electronic archiving. Electronic archiving is not allowed in Uzbekistan. Archiving must be made in paper form. However, as electronic invoicing is mandatory for all taxable persons in Uzbekistan, new rules may be issued by the tax authorities for electronic archiving. *At the time of preparing this chapter, no rules on the implementation of electronic archiving have been issued. As such, physical records must be kept for now.*

I. Returns and payment

Periodic returns. The filing of VAT returns is on a (calendar) monthly basis in Uzbekistan. Filing is due before 20th day of the month following the reporting period.

Tax reports (including returns and calculations) must be compiled and submitted by the taxable person to the local tax authority with which the entity is registered.

Periodic payments. Taxable persons must make VAT payments before 20th day of the month following the reporting period. Taxable persons must make VAT payments in UZS via wire transfer from their bank accounts to special treasury accounts of the budget. Non-established business registered for VAT in Uzbekistan can pay VAT in any foreign currency from a bank account.

Electronic filing. Electronic filing is mandatory in Uzbekistan for all taxable persons. VAT returns must be filed electronically, via the tax authority's website (https://my.soliq.uz). To file VAT returns electronically, the taxable person must have an electronic signature from the tax authority's website to submit files online. However, if there is no possibility to submit VAT returns electronically, paper filing is still allowed (in special cases).

To file all applicable tax returns and tax reports electronically using the tax authorities' online system, the taxable person should obtain an electronic digital key (i.e., an "electronic digital signature" or "e-key").

Payments on account. Payments on account are not required in Uzbekistan.

Special schemes. No special schemes are available in Uzbekistan.

Annual returns. Annual returns are not required in Uzbekistan.

Supplementary filings. *VAT invoice register.* A VAT invoice register must be submitted with the VAT return by the same deadline (see the *Periodic returns* subsection above). The VAT invoice register must include details of all VAT invoices issued and received in the VAT reporting period.

Correcting errors in previous returns. To correct errors in previously filed returns, a taxable person is required to file an additional VAT return correcting such errors, including any omissions in the original returns. Additional VAT returns are normally submitted online, in the same manner as a normal VAT return (as outlined under the subsection *Electronic filing* above).

Digital tax administration. *Electronic invoicing reporting.* Electronic invoicing is mandatory for all taxable persons in Uzbekistan. There are no mandatory software providers for electronic invoicing, while taxable persons may use different platform operators for such purposes. Data from the electronic VAT invoicing platform is used automatically as the data for output and input tax to automatically create draft VAT returns. For further details, see the subsection *Electronic invoicing* above.

J. Penalties

Penalties for late registration. The penalty for late registration of VAT is 5% of the revenue subject to VAT, the penalty applies from the date when the VAT registration was due, until the actual date of registration. The penalty cannot be less than UZS5 million (approx. USD405).

Penalties for late payment and filings. For nonpayment or late payment of VAT or for incomplete payment, a penalty is due of 20% of the amount underpaid or paid late.

For late or non-filing of the VAT return, the official representatives of the taxable person may be liable under the code of administrative liability.

Late payment interest is calculated 1/300th of the Central Bank's interest rate of the amount due, for each day of delay.

Penalties for errors. If an error leads to an understatement of VAT, late payment interest is due.

If an error leads to an overstatement of VAT, no penalties are due. An updated VAT return is required to be submitted to the tax authorities.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in administrative penalties. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. A range of penalties may be applicable in the case of VAT fraud, but there is no specific fine for fraud.

For the concealed understatement of the tax base, a penalty is due of 20% of the concealed understated amount (i.e., a deliberate evasion). In addition, criminal sanctions and administrative fines may be imposed if the amount in question is significant.

Personal liability for company officers. Company officers may be held personally liable for errors and omissions in VAT declarations and reporting in Uzbekistan. Penalties may be charged for

failure to meet administrative responsibilities, intentional evasion of taxation, criminal penalties and sanctions.

Statute of limitations. The statute of limitations in Uzbekistan is three years. This is with effect from 1 January 2024. This is from the end of the tax period under examination. Before 1 January 2024, the statute of limitations was five years.

Venezuela

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	1 October 1993
Trading bloc membership	MERCOSUR
Administered by	Ministry of Finance (http://www.mppef.gob.ve/) Tax Administration (SENIAT) (http://declaraciones.seniat.gob.ve)
VAT rates	
Standard	16%
Other	Additional rates (5%–25%); zero-rated
VAT number format	Tax ID number (known as RIF) J-XXXXXXXX-X (numbers established by the tax administration)
VAT return periods	Monthly for VAT ordinary taxable persons/fortnightly for special taxable persons (high level of income taxable persons)
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The sale of tangible movable goods
- The final importation of goods
- The export of goods and services
- The provision of independent services performed or used in the country, including those coming from abroad

The definition of "services" includes the following activities:
- Any independent activity in which an obligation "to do something" is a principal element
- The provision of water, electricity, telephone and garbage collection services
- Civil works contracts, including personal and real property
- The lease of personal and real property intended to be used for purposes other than residential use
- The assignment of use of rights included in and regulated by the laws on industrial property (patents and marks) and intellectual property (copyrights) for valuable consideration

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Venezuela, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. A transfer of a going concern (TOGC) is the sale of a business or part of a business capable of separate operation including assets. In Venezuela for a TOGC, the transfer of immovable property and intangible goods (e.g., intellectual property rights, goodwill, contracts) are outside the scope of the tax. There are no conditions to be met for such transfers. However, tangible movable assets transferred as part of the TOGC will be subject to VAT at the standard rate.

Transactions between related parties. In Venezuela, there are no specific rules that indicate the value for VAT purposes for transactions between related parties.

C. Who is liable

Taxable persons are ordinary taxable persons such as habitual importers of goods, manufacturers, traders, service providers, and, in general, individuals or legal entities that as part of their business activities carry out activities classified as taxable for VAT purposes.

Financial leasing companies and banks are ordinary taxable persons with respect to the portion of the tax payable on the amortization of the price of tangible movable property, excluding interest.

Recipients of imported goods and services purchased from non-domiciled persons or entities are responsible for the tax due. As the "party responsible for the tax," the service recipient must declare and pay the VAT due on the imported goods or services. The tax paid by the recipient is treated as input tax for the responsible party and must be included in the tax return corresponding to the tax period in which the taxable event occurs.

Occasional taxable persons are non-habitual importers of tangible movable property.

Formal taxable persons are persons that exclusively carry out activities or operations that are exempt or exonerated from VAT.

Exemption from registration. The VAT law in Venezuela does not contain any provision for exemption from registration.

Voluntary registration and small businesses. The VAT law in Venezuela does not contain any provision for voluntary VAT registration, as there is no registration threshold (i.e., all entities that make taxable supplies are obliged to register for VAT). The only exception would be a non-domiciled entity, which is not subject to registration, but still can file for a voluntary registration.

This will be applicable unless the foreign entity is conducting direct business in Venezuela and carries out VAT-taxable transactions on a permanent basis, in which case the VAT registration is mandatory.

Group registration. Group VAT registration is not allowed in Venezuela.

Fixed establishment. In Venezuela, there is no legal definition of a fixed establishment for VAT purposes. However, the permanent establishment rules for direct taxation may apply for VAT.

Subsequently, according to Article 7 of Income Tax Law, it defines a PE as any of the following:
- Fixed place through which the business of a foreign enterprise is wholly or partly carried on, either directly or indirectly through a representative or an employee. It specifically encompasses a place of management, a branch, an office, offices, factories, workshops, installations, warehouses, stores or other establishments; works of construction or installation, when its duration extends for more than six months, agencies or representations with the authority to bind the corporation in the country, a mine or any other form of extraction of natural resources (hydrocarbon, agricultural, farming, forestry, livestock farms)
- The undertaking of professional or artistic activities through a fixed place of business either by itself or through its employees, agents, representatives or other personnel hired for that purpose also trigger the creation of a PE
- Agents acting independently are excluded from this definition, unless they have the power to conclude contracts on behalf of the principle

Non-established businesses. Entities that conduct business in Venezuela are required to register and obtain a taxable person identification number even if they are not domiciled in the country. The non-domiciled taxable persons must request a temporary taxable person ID (RIF) from the tax authority, which is issued online.

Tax representatives. Appointing a tax representative is mandatory in Venezuela. Part of the required process for becoming a VAT-registered entity is to appoint a tax representative. Tax representatives are responsible for the companies in front of the tax administration. Said representatives can be directors, managers, administrators or legal representatives of the entities who will be appointed through the website of the tax administration (SENIAT).

Reverse charge. As a result of the "reverse-charge mechanism," the obligation to self-assess the VAT is switched to the recipient of the service. The law states the tax is self-assessed by the recipient "responsible" and "on behalf of the provider," but the input tax belongs to the recipient (the Venezuelan entity).

Domestic reverse charge. There are no domestic reverse charges in Venezuela.

Digital economy. No specific VAT rules apply for digital economy transactions. For business-to-business (B2B) digital transactions, the customer is required to self-assess the corresponding VAT using the reverse-charge mechanism, only when the provider is not domiciled in Venezuela.

For business-to-consumer (B2C) digital transactions, since individual consumers are unlikely to be registered taxable persons, no VAT is anticipated. As such, non-established businesses that provided electronically supplied services (B2C) do not need to register for VAT. There are no other e-commerce rules for imported goods.

Online marketplaces and platforms. No special rules exist for online marketplace and platforms in Venezuela.

Registration procedures. Individuals, corporations and entities, domiciled or not domiciled in the country, that conduct business in Venezuela are required to obtain a taxable person identification number (RIF). Registration must be submitted online. Having an RIF is not a per se condition for being considered a taxable person.

The documents required by the tax administration for VAT registration are as follows:
- Datasheet of the tax administration (SENIAT), download from the website, which must be signed by the legal representative
- Bylaws of the company
- Identification of the legal representative and the document that proves their capacity
- Receipt of any public service or document that proves the fiscal address

The registration of the information should be online through the website of SENIAT; however, the formalization of the registry is required to be in person to file the documents and that the tax administration can validate the information provided in the datasheet.

Deregistration. This occurs upon notification to the tax administration. This applies when taxable persons are liquidated or merged within another entity, in which cases the taxable person ID of the entity that is absorbed or eliminated shall be deregistered.

Changes to VAT registration details. Taxable persons have the obligation to inform the tax administration, within a maximum period of one month of the event, the following events:
- Change of directors, administrators, reason or social denomination of the entity
- Change of fiscal domicile
- Change of the main activity
- Cessation, suspension or halt of the habitual economic activity of the taxable person

The change of any information should be made online and must be formalized in person with the file of the notification before the tax administration.

Withholding of VAT. The tax administration in Venezuela (SENIAT) has designated taxable persons qualified as "special taxable persons" as the persons responsible for the payment of VAT in their capacity as withholding agents. Special taxable persons must serve as withholding agents of the VAT generated by the purchase of personal property, or the provision of services provided by suppliers who are ordinary taxable persons.

The term "special taxable persons" is a category created by the tax administration referred to specific taxable persons that due to their high level of income or its business sector (i.e., oil and gas) are appointed as such by SENIAT and therefore are subject to additional obligations and formalities (specific calendar of compliance with tax returns/obligations as VAT withholding agent/VAT tax return made on a fortnightly basis).

The amount to be withheld is calculated by multiplying the price invoiced for the goods or services provided by 75% of the proportional tax rate (currently 16%). As a result, the effective withholding rate is 12%.

The VAT withheld is treated as an advance payment for the supplier and may be deducted from the tax liability in the period in which the withholding is made or in the period in which the withholding receipt was received, whichever is later.

If the tax withheld is higher than the VAT proportional rate in the relevant fortnightly period, the excess tax paid may be carried forward to the following periods until it has been deducted in full. If three periods expire and the excess has not been deducted, the taxable person may choose to request a refund of the amount from the tax authorities.

If the withholding is made in the period from the 1st to the 15th day of the month, the tax withheld must be submitted by the withholding agent to the national treasury within the following five working days. If the withholding is made from the 16th to the last day of the month, the tax withheld must be paid to the national treasury within the first five working days of the following month. For taxable persons who have been qualified by the SENIAT as "special taxable persons," a different due date applies in accordance with the calendar issued by the SENIAT.

The VAT withheld must be submitted on a fortnightly basis, considering the calendar issued by the tax administration.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 16%
- Additional rates: 5%–25%
- Zero-rate: 0%

VAT law indicates that the minimum rate is 8% and the maximum rate is 16.5%. The National Executive also has the authority to determine the respective VAT rate (general rate and luxury consumption rate) within ranges provided in the VAT law. The luxury consumption (additional rate) is currently 15%. The 15% rate also applies to the sale or import of certain goods specified in the VAT law and specific services.

The standard rate of VAT applies to all supplies of goods and services unless a specific measure provides for a different rate.

The additional rate between 5% and 25% applies to goods and provision of services paid in foreign currency, cryptocurrency or crypto assets other than those issued and backed by Venezuela (e.g., petro, a cryptocurrency created by the Venezuelan government).

At the time of preparing this chapter, the additional rate has not entered into force, considering that the National Executive has not established what the corresponding additional rate is.

Examples of goods and services taxable at 0%

- Exports of tangible personal property and tangible movable property
- Exports of services

Exempt goods and services are not liable to tax. The Venezuelan VAT law provides for the exemption and exoneration from VAT. Exemption is the entire or partial exemption of the payment of the tax obligation, granted by the special tax law. Exoneration is the entire or partial exemption of the payment of the VAT obligation, granted by the executive power.

Examples of goods and services taxable at 15%

- Membership and maintenance fees of restaurants, nightclubs and bars with restricted access
- The rental of ships or aircraft for civilians, among others, for recreational activities or sports
- Services provided by third parties through text messaging or other technological means
- Cars imported or manufactured in the country with a value equal to or higher than USD40,000
- Motorcycles imported or manufactured in the country with a value equal to or higher than USD20,000
- Airplanes used for exhibitions, advertisement, recreation or sports purposes
- Ships and vessels for recreation and sports purposes or for particular use of its owner
- Gaming machines that use coins or cards
- Caviar
- Lease of ships for recreation and sports purposes or airplanes used for exhibitions, advertisement, recreation or sports purposes
- Services rendered on behalf of third parties, through text messages or other technological means

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Food and goods for personal consumption such as bread, rice, salt, sugar, coffee, milk, pasta and margarine
- Books, newspapers and magazines
- Education provided by institutions registered in the Ministry of Education, Culture and Sports and the Ministry of Superior Education
- Public transportation of passengers by land or sea
- Tickets to national parks, museums and cultural centers
- Banking and insurance services
- Imports made by diplomatic agents, in accordance with international treaties subscribed to by Venezuela
- Medical assistance services
- Residential electricity
- Fertilizers

Option to tax for exempt supplies. Option to tax for exempt supplies is not allowed in Venezuela.

E. Time of supply

VAT generally becomes due when the taxable event occurs.

For sales of tangible personal or tangible movable property the following is the time of supply:
- For sales to public entities: when the payment order is authorized
- For all other sales: when the invoice or the necessary documents are issued, or when the payment is due or made, or the tangible property is delivered, whichever is earlier

For supplies of services, the following is the time of supply:
- For supplies of electricity, telecommunications and broadcasting and television services: when the invoice is issued
- For services rendered to public entities: when the payment order is authorized
- For services rendered on a recurrent basis: when invoice is issued, payment is due or made, whichever is earlier
- For other services: when the invoice or equivalent document is issued, when the payment occurs or when the service is provided, whichever is earlier
- For services received from abroad that are not subject to customs procedures: when the service is received

For all other supplies, the time of supply is when the invoice or equivalent document is issued, when payment is made or when the property is received, whichever is earlier.

Deposits and prepayments. There are no special time of supply rules in Venezuela for deposits and prepayments. As such, therefore the general time of supply rules apply (as outlined above). This establishes that for all other supplies not listed in the VAT law, the time of supply is when the invoice or equivalent document is issued, when payment is made or when the property is received, whichever is earlier.

Continuous supplies of services. VAT becomes due in cases of services rendered on a recurrent basis when invoice is issued, payment is due or made, whichever is earlier.

Goods sent on approval for sale or return. There are no special time of supply rules in Venezuela for supplies of goods sent on approval for sale or return. As such, the general time of supply rules apply (as outlined above). This establishes that for all other supplies not listed in the VAT law, the time of supply is when the invoice or equivalent document is issued, when payment is made or when the property is received, whichever is earlier.

Reverse-charge services. There are no special time of supply rules in Venezuela for supplies of reverse-charge services. As such, the general time of supply rules apply (as outlined above). This establishes that for all other supplies not listed in the VAT law, the time of supply is when the invoice or equivalent document is issued, when payment is made or when the property is received, whichever is earlier.

Leased assets. There are no special time of supply rules in Venezuela for supplies of leased assets. As such, the general time of supply rules apply (as outlined above). This means that VAT must be accounted for upon issuance of the invoice, payment or when the consideration is enforceable.

Imported goods. The time of supply for imports is when the registration of the customs return is due.

F. Recovery of VAT by taxable persons

Input tax (tax credit) is tax paid on supplies of goods and services acquired in the course of a taxable business activity. Input tax is deducted from the amount of output tax, which is the tax charged on the taxable person's operations during the tax period. Input tax credit arises from the tax paid on the purchase and import of personal property or the receipt of services that are related to costs or expenses properly incurred in the habitual economic activity of the taxable person. Under the VAT law, input tax is considered to be effectively paid by the recipient of the goods or services when the taxable event occurs.

If the input tax is higher than the output tax in the relevant monthly/weekly period as the case may be, the difference may be carried forward to the following periods until it has been fully deducted.

There is no set time limit for a taxable person to reclaim input tax in Venezuela. This means that effectively the input tax (VAT credit) may be carried forward indefinitely until its complete recovery. If the input tax is reflected in the VAT return, it can be used at any time to be offset with output tax.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies. Input tax may not be recovered if no documentation supports the transaction or if one or more formal invoice requirements are not fulfilled.

Examples of items for which input tax is nondeductible

- Goods acquired for private use by an entrepreneur

Examples of items for which input tax is deductible (if related to a taxable business use)

- Input tax is deductible on every item that complies with the requirements (subject to VAT and related to a taxable business use)

Partial exemption. In Venezuela, partial exemption is not applicable. There are, however, exonerations (total or partial exemption from the payment of the tax obligation, granted by the Executive Power in the cases authorized by the law) that are temporary and can last up to one year. In case of input tax partially associated to taxable transactions, it can be recognized as input tax only on a pro rata basis, in cases where no separate accounts are used to discriminate both taxable and nontaxable transactions.

Capital goods. There are no specific input tax recovery rules for capital goods. As such, the general input tax rules apply. The acquisition and sale of tangible movable assets will be taxable for VAT purposes whether or not such goods are referred to capital goods. In cases where acquisition of goods is used for both taxable and exempted activities, the attribution of the input tax shall be on a pro rata basis, in cases where it is not separately recognized. Regarding the use of the input

tax from acquisition of goods note that such right is applicable for 12 months after issuance of invoice. This is the general rule to be observed under VAT law.

Refunds. If the amount of the deductible input tax is greater than the total tax payable in a tax period, the resulting difference is treated as a tax credit in favor of the taxable person, which may be carried forward to the next or subsequent tax periods.

The right to offset tax paid (tax credit) against the tax payable on sales (tax debit) is a personal right of each ordinary taxable person. This right may not be transferred to third parties, except in the following cases:

- Drawback of tax credits related to the purchase and acquisition of goods and services in the normal course of export activities (see *Drawback of tax credits for exporters*)
- Merger or absorption of companies; in a merger, the resulting company enjoys the remaining balance of the tax credit that corresponded to the merged companies

Drawback of tax credits for exporters. Ordinary taxable persons that export domestic goods or services are entitled to a drawback of the tax credits paid for the acquisition and receipt of goods and services with respect to their export activities.

Application for drawback. To obtain the drawback of credits, the exporter must file an application with the SENIAT, stating the amount of the tax credit claimed. The SENIAT must give its opinion on the admissibility of the application within 30 business days. If the SENIAT does not express its opinion with respect to the application in the period of 30 business days, the taxable person may choose to wait for the decision or consider the expiration of the period to be equivalent to the rejection of the application. In the latter case, the taxable person may take the appropriate judicial action.

The drawback becomes effective on the issuance of special tax drawback certificates (*Certificados Especiales de Reintegro Tributario*, or CERT), with a face value equal to the amount approved by the SENIAT with respect to the claim. The exporter may use this amount to offset its own tax payments due to the National Treasury or it may transfer the credit to third parties.

Suspension of tax credits. A taxable person that is involved with the development of an industrial project that takes more than six tax periods to be developed may suspend the use of the tax credits generated during the preoperational stage of the project. The taxable person may use domestic and imported capital goods and purchase services that add value to the goods or that are necessary for the goods to perform the function for which they are designed, until the tax period in which they begin to generate taxable income. The tax credits are adjusted taking into account the consumer price index for the Caracas metropolitan area published by the Central Bank of Venezuela, from the period when the tax credits arose until the tax period in which the first tax payment is generated.

With the approval of the SENIAT, taxable persons that are involved in industrial projects aimed essentially towards exporting or generating foreign currency may choose to be refunded the tax paid during the preoperational stage.

Recovery of tax credits for special taxable person. In the case where the withheld tax is higher than the tax quota of the respective tax period, the surplus that has not been discounted can be carried forward to the next tax period or the following ones, until its total discount. If after three tax periods there is a surplus that has not been discounted, the taxable person can request the full or partial recovery of the accrued amount.

Recovery of tax credits for exporters. Taxable persons that carry out export activities related to goods or services of national production are entitled to recover the tax credits supported by the acquisition and reception of goods and services for their export activities.

Recovery of tax credits for oil industry. Mixed companies (*empresas mixtas*) that carry out activities related to oil and gas. Such companies are entitled to the recovery of tax credits related to the sale of natural hydrocarbons created in the country to Petroleos de Venezuela, S.A. or its subsidiaries.

Pre-registration costs. Input tax incurred on pre-registration costs in Venezuela is not recoverable.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Venezuela.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Venezuela.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Venezuela is not recoverable.

H. Invoicing

VAT invoices. Taxable persons must provide VAT invoices for all sales of goods and supplies of services. Invoices may be replaced by other documents authorized by SENIAT after such authorization is granted.

Credit notes. The VAT ruling establishes that the exchange or return to the seller of goods, merchandise or products purchased, made because they are in poor condition, expired, damaged, for not matching quality or characteristics to those actually acquired, or other causes will not constitute a new sale, but will give rise to the issuance of credit notes or the issuance of new substitute invoices of the previously issued ones, which will be annulled.

If the merchandise is returned only in part, the tax credit will be limited to the part of the price corresponding to such part. The credit notes must be registered with a negative sign in the invoice column of the sales book. When substitute invoices are issued, it must be recorded in the sales book, in the same column where the amount of the voided invoice was recorded.

Electronic invoicing. Electronic invoicing is allowed in Venezuela, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Venezuela. In Venezuela, electronic invoicing is only permitted for taxable persons that are large services providers (usually utilities) and can be private or public legal entities, as per the following operations:

- Electricity
- Travel agencies and similar
- Airlines.
- Insurance companies
- Cargo courier and messaging
- Issuance of vouchers, coupons, tickets and electronic cards for food, health, toys and other social benefits
- Drinking water
- Domestic gas
- Urban cleaning
- Basic telephone services
- Mobile telephone services
- TV by subscription
- Internet

In addition to executing business activities identified above, taxable persons must comply with the following requirements:

- Issue more than 10,000 monthly invoices
- The database has an activity record in which all actions carried out for the issuance, modification or cancellation of invoices and other documents are electronically recorded
- Have technical capacity or hire the services of a third party to back up on a daily, weekly and monthly basis the information contained in invoices

Electronic invoices must be stored in a database and have the technical capacity to be able to safeguard and support all the information contained in the digital invoices (in accordance with the provisions of number 3 of Article 4 of Administrative Order No. SNAT/2014/0032 of 2014).

Simplified VAT invoices. Simplified invoices issued by tax machines (tickets) are allowed for ordinary VAT taxable persons, duty free shops and those that are not considered ordinary taxable persons, when the annual gross income is higher than 1,500 tax units (1 tax unit is equivalent to VE0.9/USD0.25 and/or where businesses mainly execute transactions with customers that will not be using the invoice to support an expense claim, among other conditions.

Self-billing. Self-billing is allowed in Venezuela. However, it is only allowed for supplies under the reverse-charge mechanism (i.e., the import of services).

Proof of exports. The document (e.g., commercial invoice, bill of lading, custom/export return) filed before the customs authority would be sufficient proof of export for VAT purposes. The sale made to a qualifying exporter would be subject to VAT. There is no legislation in respect of any special wording or legislative references required on a VAT invoice relating to an export sale.

Foreign currency invoices. A VAT invoice can be issued in foreign currency, but it must also indicate the value of the supply in the domestic currency, which is the Venezuelan bolivar (VES), using the exchange rate published by the Venezuelan Central Bank on its website for the date of the transaction.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Venezuela. As such, full VAT invoices are required.

Records. In Venezuela, examples of what records must be held for VAT purposes include books, invoices and other accounting documents, such as magnetic media, discs, tapes and the like or other elements, which have been used to make the corresponding entries and records. In Venezuela, VAT books and records must be held within the country.

Record retention period. Records must be kept during the statute of limitation. Under Master Tax Code, the statute limitation is a period between 6 and 10 years. The 10-year record retention period is limited to taxable persons that do not comply with the obligation to declare taxable events or file the corresponding tax returns on time. For further details see the *Statute of limitations* subsection below, under *Section J. Penalties*.

Electronic archiving. Electronic archiving is allowed in Venezuela. Records must be kept and archived in hard copy and electronically. Records must be available in case of any requirement from the tax administration.

I. Returns and payment

Periodic returns. The tax is assessed for monthly tax periods. Tax returns must be submitted within the first 15 days following the tax period. It should be filed online.

In the case of special taxable persons, the VAT return shall be filed on a fortnightly basis after the taxable events occur. The due date is established by the tax administration on a special calendar. "Special taxable persons" is a category created by the tax administration that refers to specific taxable persons that, due to their high level of income or their business sector (i.e., oil

and gas), are appointed as such by SENIAT and therefore are subject to additional obligations and formalities (specific calendar of compliance with tax returns/obligations as VAT withholding agent/VAT and income tax advance tax return made on a fortnightly basis).

Periodic payments. The payment of any tax due must be submitted within the required timing, i.e., for ordinary taxable persons – 15 days after monthly period concludes or special taxable persons one week after the fortnightly period concludes, based on calendar issued by tax administration. It should be filed online and should be paid before any bank institution that is appointed as tax collector (major banks and public banking institutions).

Electronic filing. Electronic filing is mandatory in Venezuela for all taxable persons. Electronic filing should be made through the portal website of SENIAT (http://declaraciones.seniat.gob.ve/portal/page/portal/PORTAL_SENIAT).

Payments on account. Payments on account are not required in Venezuela.

Special schemes. *Special taxable persons.* The taxable persons qualified as "special" (high level of income) by the tax administration will act as withholding agents for the VAT invoiced by their suppliers of goods or services. The tax administration defined high level of income for entities and corporations to those who have obtained gross income equal to or greater than the equivalent of 30,000 tax units, as indicated in their last annual affidavit filed, in the case of taxes that are settled for annual periods, or that have been made sales or provision of services for amounts equal to or greater than the equivalent of 2,500 tax units per month, as indicated in any one of the six last returns filed, in the case of taxes that are settled by monthly periods.

Annual returns. Annual returns are not required in Venezuela.

Supplementary filings. No supplementary filings are required in Venezuela. However, there is an obligation to maintain a sales book, among other books (i.e., a daily book, inventory book, mayor book (ledger), shareholder book, shareholders meeting minutes book). Nevertheless, these books must be provided to the tax authority only when it is required through a legal procedure. In this sense, it is not considered a supplementary filing.

Correcting errors in previous returns. In accordance with the VAT law, a substitute tax return will only be required to be filed for the periods subject to adjustments when these originate a difference in tax payable, taking into account the payment made in a substituted declaration, if applicable, and without prejudice to the interest and corresponding penalties.

Digital tax administration. There are no transactional reporting requirements in Venezuela.

J. Penalties

Penalties for late registration. The penalty for late registration is closure of the office (when applicable) for 5 days and a fine of the equivalent of 50 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela.

Penalties for late payment and filings. The penalty for late payment and filings will be:

- Less than one year from the expiration date
  - Late filing: a fine of the equivalent of 100 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela
  - Late payment: a fine of 0.28% of the amount due for each day of delay up to maximum of 100%
- After one year but less than two years from the expiration date
  - Late filing: closure of the office (when applicable) for 10 days and a fine of the equivalent of 150 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela
  - Late payment: an additional fine than previously indicated equivalent to 50% of the amount due

- Delay exceeding two years from the expiration date
  - Late payment: an additional fine to what was previously indicated equivalent to 150% of the amount due

The penalty for nonpayment of VAT is a fine between 100% and 300%.

Failure to withhold VAT may result in the following penalties:
- For not withholding, a penalty equivalent to 500% of the tax not withheld will be applicable
- For applying a withholding in a lower amount, 100% of the 100% of the tax not withheld will be applicable
- For late payment of the withholding tax (WHT), a penalty equivalent to 5% of the amount withheld for each day of delay up to a delay up to a maximum of 100 days will be applicable delay up to a maximum of 100 days will be applicable
- For nonpayment of WHT, a penalty of 1,000% of the WHT due and possible imprisonment between six months to seven years will be applicable

Supplementary VAT returns (substitutive) are allowed when there is a VAT amount to be paid (output tax higher than input tax). Submission of substitutive (rectifying) declarations is subject to fines only after the file of the second substitution or when the first substitute declaration is submitted after the 12 months following expiration of the deadline for the presentation of the substituted declaration. In these cases, a fine equivalent to 50 times the official exchange rate of the currency of greater value published by the Central Bank of Venezuela will apply.

In case of failing to notify the tax authorities of a change in VAT status, the taxable person will be sanctioned with closure of 5 continuous days of the office or establishment, in case is applicable, and a fine of the equivalent of 100 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela.

In those cases, in which more than one substitute tax return is filed or the first substitute tax return is filed after the term established in the respective regulation, a fine equivalent to 50 times the official exchange rate of the currency of greater value published by the Central Bank of Venezuela will apply.

Penalties for errors. Noncompliance of formal duties are sanctioned as follows:
- Filing of the declaration in a form not authorized by the SENIAT
  - Penalty: fine equivalent to 50 times the official exchange rate of the currency of greater value published by the Central Bank of Venezuela will apply.
- Failure to exhibit accounting books when ordered to by the SENIAT
  - Penalty: closure of the office (when applicable) for 5 days and a fine of the equivalent of 100 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela.
- Providing the SENIAT with false information
  - Penalty: fine equivalent to 100 times the official exchange rate of the currency of greater value published by the Central Bank of Venezuela will apply.
- Breaching the SENIAT's requirements for purchases and sales books
  - Penalty: closure of the office (when applicable) for 5 days and a fine of the equivalent of 100 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela.
- Failure to issue invoices or required documents
  - Penalty: closure of the office (when applicable) for 10 days and a fine of the equivalent of 150 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela.

- Issuing invoices that do not comply with tax requirements
  - Penalty: closure of the office (when applicable) for 5 days and a fine of the equivalent of 100 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela.
- Failure to notify changes
  - Penalty: closure of the office (when applicable) for 5 days and a fine of the equivalent of 100 times the official exchange rate of the highest value currency, published by the Central Bank of Venezuela. See the subsection *Changes to VAT registration details* above.

Penalties for fraud. The penalty for tax fraud is a term of imprisonment, ranging from six months to seven years.

Personal liability for company officers. The directors, managers, administrators or representatives of entities and corporations are jointly liable for the taxes, fines and accessories derived from the assets they administer.

In cases of commission of illicit punishments with restrictive penalties of freedom, their directors, managers, administrators, representatives or trustees who have personally participated in the execution of the illicit will be responsible.

Statute of limitations. The statute of limitations in Venezuela is 6 or 10 years. These two limitations apply to different actions, as outlined below.

- Six-year limit:
  - The action to verify, supervise and determine the tax obligation with its accessories
  - The action to impose tax sanctions, other than the restrictive penalties of freedom
  - The action to demand the payment of tax debts and definitive financial penalties
  - The right to the recovery of taxes and the refund of undue payments
- Ten-year limit:
  - The taxable person does not comply with the obligation to declare the taxable event or to file the corresponding tax returns
  - The taxable person does not comply with the obligation to register in the control registers established by the tax administration for the purposes
  - The tax administration has not been able to know the taxable event, in the cases of verification, tax audit and determination ex officio
  - The taxable person has extracted from the country the goods subject to the payment of the tax obligation or in the case of taxable events linked to acts carried out or to goods located abroad
  - The taxable person does not keep accounting or records of the operations carried out, does not keep them during the established period, or keeps double accounting or records with different contents

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Thue Gia tri gia tang (GTGT)
Date introduced	1 January 1999
Trading bloc membership	Association of Southeast Asian Nations (ASEAN)
Administered by	Ministry of Finance (http://www.mof.gov.vn)
VAT rates	
Standard	10%, 8% *(a short-term VAT rate reduction policy applies at 8% for all standard-rated supplies, apart from certain qualified goods/services that remains at 10%, and this is in place until 30 June 2024)*
Reduced	5%
Other	Zero-rated (0%) and exempt
VAT number format	Tax ID number - 9999999999 (10 digits)

VAT return periods	Monthly or quarterly
Thresholds	
Registration	None
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to goods and services used for production, business and consumption in Vietnam, including goods and services purchased from foreign suppliers, except for those specifically identified as not subject to VAT.

VAT on imported goods is payable by the importer within the same time limit for declaring and paying import duty.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment" rules that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in every jurisdiction where it has customers that are not taxable persons. In Vietnam, no services are subject to the "use and enjoyment" provisions.

Transfer of a going concern. Normally the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be outside the scope of the tax under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Vietnam, a TOGC is treated as outside the scope of VAT where the certain conditions are met. When transferring assets upon division, separation, consolidation, merger, or transformation of an enterprise, the enterprise is not required to issue an invoice as well as declare and pay VAT, provided that the enterprise having the transferred assets must have an asset-transfer order, enclosed with a set of documents on the origin of assets. In addition, the transfer of an investment project to produce VAT taxable goods or services in accordance with the Law on Investment is not subject to VAT.

Transactions between related parties. In Vietnam, under the general rules, the value for VAT purposes for transactions between related parties must be based on the market price, except for where fixed assets are in use. Specifically when such assets are depreciated when transferring at the carrying value between an enterprise and its 100%-owned units or between its 100%-owned units to serve the production and business of goods and services subject to VAT, then such parties are not required to issue invoices as well as declare and pay VAT. Enterprises with fixed assets to be transferred must have an asset-transfer order enclosed with a set of documents on the origin of assets.

C. Who is liable

Organizations and individuals that produce and trade in taxable goods and services in Vietnam or who import taxable goods and services from overseas (referred to in this chapter as "businesses") are liable to pay VAT. Businesses for these purposes include the following:

- Business organizations with business registrations issued under Vietnamese laws
- Economic organizations of political, social and professional organizations and units of the people's armed forces

- Enterprises with foreign-owned capital incorporated under Vietnamese laws, foreign party to a business cooperation contract under the investment law, and foreign corporations and individuals conducting business in Vietnam that have not established a legal entity in Vietnam
- Individuals, family households, partnerships and other forms of businesses conducting production, trading or import activities in Vietnam
- Organizations and individuals conducting production and business in Vietnam and purchasing services (including services attached to goods) from foreign organizations without a permanent establishment in Vietnam or foreign individuals who are nonresidents of Vietnam
- An Export Processing Enterprise (EPE) and its branches (if any) that are established to trade in goods and do the tasks related to goods trading in Vietnam in accordance with the laws of Vietnam
  - An EPE imports goods for manufacturing and then re-exports the goods. An EPE is generally not subject to the requirement of VAT filing in Vietnam. However, under current regulations an EPE is also allowed to do some trading activities that are indicated in an EPE's business license. To perform trading activities, an EPE is required to separately account and declare relevant expenses/revenues from its manufacturing operations. Accordingly, an EPE is liable to register, declare and make payment of VAT for its trading activities. This means that trading activities conducted by an EPE and its branches (if any) shall be treated similarly to transactions of local entities

No VAT registration threshold applies in Vietnam.

In certain cases, VAT declaration and payment are not required. Examples of cases where tax declaration and payment are not required:

- Organizations and individuals that receive revenues from compensation (including compensation for land and land-attached assets upon land recovery under decisions of competent state agencies), bonus, support, transfer of emission rights and other financial revenues (except for compensation/cash supports received for the purpose of performing service of repair, warranty, sales promotion or advertising to supporters, in which case VAT declaration and payment are required)
- Services provided by foreign organizations that do not have a permanent establishment in Vietnam, limited to the following: repair of vehicles, machinery and equipment (including supplies and spare parts); advertising and marketing; investment and trade promotion; goods sale and service provision brokerage; training; and sharing of charges for international post or telecommunications services provided outside Vietnam between Vietnamese and foreign partners, and lease of communication and transmission lines and foreign satellite frequency bands in accordance with law
- Assets sold by nonbusiness individuals or organizations (which do not have to pay VAT when selling their assets)
- Organizations/individuals that transfer investment projects on production or trading of goods or services liable to VAT to enterprises and cooperatives
- Assets used for capital contributions

Exemption from registration. The VAT Act in Vietnam does not contain any provision for exemption from registration. Notwithstanding, EPEs and suppliers of nontaxable supplies are exempted from VAT filings (see detail above in respect of EPEs).

Voluntary registration and small businesses. Ongoing enterprises and business cooperatives that (1) adopt full Vietnamese Accounting Standards, as well as accounting books (together with invoices) under Vietnamese regulations and (2) generate revenue less than VND1 billion per year from the supply of goods and services subject to VAT, may apply to register voluntarily to deduct VAT.

A foreign individual or corporation doing business in Vietnam may also register if it satisfies the following conditions:
- It has a contract with a Vietnamese entity for 183 days or more or is a resident of Vietnam
- It has a permanent establishment in Vietnam
- It adopts full Vietnamese Accounting Standards or keeps accounting books in accordance with Vietnamese accounting laws

Group registration. Group VAT registration is not allowed in Vietnam.

Fixed establishment. In Vietnam, there is no legal definition of a fixed establishment for VAT purposes. However, the corporate income tax (CIT) law's definition of permanent establishment for a foreign enterprise also applies for VAT. This is defined as a permanent place of business where the activities of the enterprise take place in part or in full.

Non-established businesses. Foreign contractors that have a permanent establishment in Vietnam, that conduct business in Vietnam for 183 days or more and that adopt the Vietnamese Accounting Standards/Hybrid Method pay VAT in accordance with the tax credit method and pay their tax liabilities directly to the tax office. Otherwise, they must pay VAT on a withholding basis.

As outlined above, there are two methods for VAT calculation (under the current VAT regulations) in Vietnam:
- Credit method: declare the input and output tax and pay to authority the offset amount between output and input tax
- Withholding method/direct method: fixed tax rate on added value/revenue

A foreign contractor will elect the most suitable method for its VAT filings in Vietnam, subject to fulfillment of relevant conditions. For example, if it anticipates that it will incur a lot of local input tax, it will apply credit method.

The tax authority will issue a tax number for each foreign contractor (FC) when they register directly with the tax authority. Otherwise, the Vietnamese contracting party will be responsible for registering and declaring the tax liability for the FCs on their behalf.

Foreign nonresident entities selling goods and services in Vietnam via digital and e-commerce platforms must directly register and pay taxes in Vietnam or authorize a Vietnamese party to do so on their behalf. Tax liabilities are determined based on fixed tax rates on revenue. Detailed guidance on tax registration, declaration and payment has been issued and took effect from 1 January 2022. The tax authorities' online portal went live on 21 March 2022, and foreign nonresident entities are required to submit their tax registration and declarations via the portal.

If foreign nonresident entities fail to register to declare and pay taxes, relevant parties, including Vietnamese contracting parties or commercial banks/intermediary payment service providers, will be responsible for registering and declaring the tax liabilities on their behalf. For further details, see the *Digital economy* subsection below. In addition, non-established businesses are required to retain all related information used for determining their Vietnam-sourced income in accordance with the Law on Tax Administration in the event of a future tax audit by the Vietnamese tax authority.

Tax representatives. Tax representatives are not required in Vietnam.

Reverse charge. Reverse-charge services relate to foreign contractors who apply the foreign contractor tax (FCT) declaration under the deemed method. Upon making the payment, the Vietnamese purchasers must self-assess and withhold the FCT amount (including VAT and corporate income tax).

Domestic reverse charge. There are no domestic reverse charges in Vietnam.

Digital economy. For business-to-business (B2B) transactions, the supply of a lease/rent/license for the right to use intellectual property (IP) may be subject to VAT, since it is not considered as a transfer of ownership right in accordance with the Vietnam law on intellectual ownership rights. If the supplier is a nonresident business and does not register to declare and pay taxes in Vietnam, the customer should withhold, declare and pay VAT via the withholding tax regime. The applicable VAT rate for the payment of such activities is 5%.

For business-to-consumer (B2C) transactions, the individual customer makes payment directly to the nonresident business (e.g., by way of credit card). By regulations, there would be a FCT of 5% VAT on the payment. The withholding parties would be commercial banks/intermediary payment service providers. Nonresident business must register to declare and pay taxes directly to the tax authority.

Regulations on the import/export procedure for e-commerce goods are being developed. *At the time of preparing this chapter, such regulations are at the drafting stage.*

Online marketplaces and platforms. New rules came into effect 1 July 2020 for cross-border business activities based on digital intermediary platforms. The foreign parties must register for VAT directly with the tax authority or authorize a representative in Vietnam to do so on their behalf. Otherwise, VAT will be withheld by Vietnamese counterparties, commercial banks or payment service providers who facilitate the offshore payment. Detailed guidance on the implementation of these new rules has been issued and took effect from 1 January 2022. The tax authorities' online portal went live on 21 March 2022, and foreign suppliers are required to submit their tax registration and declarations via the portal.

Registration procedures. For newly established businesses that have completed incorporation procedures and received an incorporation license, the incorporation number shown on the license serves as the tax registration number. No separate registration procedures are required. The local business registration office/authority shall – internally – inform the local tax office where a newly established business is located. The application for new enterprise can be submitted online or by paper, including the following documents:

- Enterprise registration request form
- Enterprise charter
- List of investors/members and identification documents of individual investors, business registration certificate of organization investors
- Decision on enterprise establishment
- Investment registration certificate for foreign investors as stipulated under the Law on Investment

When a newly established business has an office, factory, branch or outlet engaging in direct sales in another province, different from the locality of the headquarters, such office, factory, branch or outlet must separately pay VAT to the local tax office where it is located, except for certain cases in which the head office can declare and pay VAT. However, there is no need to register with the local tax office of such office, factory, branch or outlet. When the headquarter sets up an office, factory, branch or outlet in another province, it shall need to update its tax registration information with a local business registration office/authority in the locality where its office, factory, branch or outlet is located. This registration office/authority shall internally inform the local tax office the number of this newly licensed office, factory, branch or outlet, which is also the tax number.

Other businesses (e.g., foreign contractors having a permanent establishment in Vietnam) must register for tax purposes within 10 working days from the date on which contract award agreements are signed. This registration requires the regulated form (i.e., Form 04-DK-TCT), a copy of contractor license (or the equivalent issued by competent authority) and a copy of the acknowledgment/confirmation of the registration of the project office establishment (or the equivalent

issued by the competent authority). Within three working days of receiving the sufficient dossier, the tax authority will issue the tax code for the taxable person.

Currently, there is no process for registering for a tax code online.

Deregistration. When the organization/individuals end their business in Vietnam, they need to proceed with the closure of the tax code after clearance of current tax liabilities (Article 14, Section 4, Circular 105/2020/TT-BTC).

Changes to VAT registration details. Upon any change to taxable person registration information (e.g., company name, address, type of business), taxable persons must notify the changes and apply for amendment of its business registration certificate (if required) to the licensing authority (i.e., Business Registration Division of local Department of Planning and Investment where the company's headquarters is located) within 10 working days with changes to business registration information as prescribed. The local business registration office/authority shall – internally – inform the local tax office where a newly established business is located.

D. Rates

The term "taxable supplies" refers to supplies of goods and services liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 10%, 8% *(a short-term VAT rate reduction policy applies at 8% for all standard-rated supplies, apart from certain qualified goods/services that remains at 10%, and this is in place until 30 June 2024)*
- Reduced rate: 5%, 8%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services, unless a specific measure provides for a reduced rate, the zero-rate or an exemption.

From 1 November to 31 December 2021, taxable persons in sectors heavily affected by COVID-19, such as transportation services (e.g., transport by railways, water, air, road), lodging services, food service, etc., could obtain a 30% reduction on VAT rates (i.e., the applicable VAT rates will be reduced by a third). For example, when a taxable person issues a VAT invoice with 10% VAT, it would indicate 10%*70% on the tax rate line.

Examples of goods and services taxable at 0%
- Exported goods and services, including goods and services sold to overseas organizations or individuals outside Vietnam, as well as goods and services supplied to organizations or individuals in non-tariff areas
- Construction and installation carried out overseas or within export processing zones
- International transportation

Examples of goods and services taxable at 5%
- Water (except for bottled water)
- Medicine and medical equipment (except for medicine included in medical service package)
- Teaching tools
- Agricultural products
- Residential housing for sale or lease

In 2022, the government issued a decree to introduce a 2% VAT reduction applicable to the goods and services subject to 10% (i.e., a reduced VAT rate of 8%). The 8% rate applies to all supplies except for supplies subject to a reduced rate (at 5%) or the standard rate (at 10%). Initially this 8% VAT rate was applicable from 1 February to 31 December 2022. On 30 June 2023, the government issued another decree to apply a 2% VAT reduction for the same scope of application

for the period from 1 July to 31 December 2023. *At the time of preparing this chapter, the National Assembly has just released a resolution to extend the above VAT reduction period for another six months, i.e., the concessional treatment shall be continued till 30 June 2024.*

Examples of goods and services taxable at 10%

- Telecommunications services
- Information technology services
- Financial activities, banking, securities and insurance services
- Real estate business services
- Metal production and manufacture of products from prefabricated metal
- Mining industry (excluding coal mining), production of coking coal, refined petroleum, production of chemicals and chemical products
- Goods and services subject to special consumption tax.

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Raw agricultural products
- Livestock
- Aircraft, oil rigs and ships that are not locally produced and that are leased from overseas
- Land-use rights
- Credit activities, credit guarantees, financial leases and financial derivative services
- Capital transfers
- Securities transfers
- Life insurance services
- Health services, veterinary medicine services, including medical examination and treatment services for humans and animals
- Care services for elderly people and disabled people
- Education and vocational training
- Publication of newspapers, magazines and certain kinds of books
- Public transportation by bus and electric car
- Reinsurance services
- Technology transfers
- Public sewage services
- Foreign currency trading
- Debt transfers
- Credit card issuance
- Factoring
- Exported natural resources that are not processed or cover 51% into other products inclusive of energy cost

Option to tax for exempt supplies. Option to tax for exempt supplies is not allowed in Vietnam.

Foreign contractors. Foreign contractors that supply goods and services to Vietnam are subject to the following deemed VAT rates:

- Trading goods (separate value from service in the contract): exempt
- Services: 5%
- Construction and installation with supply of materials and equipment: 3%
- Construction and installation without supply of materials and equipment, or if supply of materials and equipment is subcontracted: 5%
- Supply of machinery and equipment with installation, training, operation and trial operation services, if the value of each activity is not calculated separately in the contract: 3%
- Transport and production: 3%
- Other business: 2%

VAT is withheld at source by the Vietnamese party to the contract unless the foreign contractor has registered for tax.

Business individuals. Business individuals who have annual income of over VND100 million are subject to the following deemed VAT rates:
- Supply of goods: 1%
- Construction (without supply of materials) and services (including leasing of assets): 5%
- Construction (with supply of materials and equipment), manufacturing, transportation: 3%
- Other business: 2%

E. Time of supply

For goods, the time of supply for VAT purposes (the tax point) is when the ownership or use rights of the goods are transferred, regardless of whether the payment is made.

For services, the tax point is when the service is completely performed or when the invoice for the service is issued, regardless in both cases of whether the purchaser makes payment.

Deposits and prepayments. For deposits or advance payments that are made to ensure the execution of contracts for provision of accounting, audit, financial consulting, taxation services, valuation services, technical survey and design services, supervision consulting services, and investment construction project formulation services, the tax point is not determined at deposit payment or advance payment and no invoice issuance is required. As such, the general time of supply rules apply (as outlined above).

For all other deposits and prepayments, the tax point is when the prepayment is made, requiring an invoice to be issued.

Continuous supplies of services. There is no special time of supply rules in Vietnam for supplies of continuous supplies of services. As such, the general time of supply rules apply (as outlined above).

Goods sent on approval for sale or return. The time of supply rules for goods sent on approval for return is, in principle, the same as that for sale, i.e., when the transfer of the ownership has occurred. If goods are returned to the seller because the buyer finds that the goods are not in line with a previous agreement between the parties in respect of their quality, quantity and characteristics, etc., an adjustment invoice should be issued by the buyer or the seller that clearly states the reason for the return and the amount of VAT.

Reverse-charge services. Reverse-charge services relate to foreign contractors who apply the Foreign Contractor Tax (FCT) declaration under the deemed method. Upon making the payment, the Vietnamese purchasers must self-assess and withhold the FCT amount (including VAT and corporate income tax).

Leased assets. There is no special time of supply rules in Vietnam for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Imported goods. For supplies of imported goods, VAT becomes due at the time of registration of the customs declarations.

Installment sales. For supplies of installment sales, VAT becomes due when the purchaser possesses the right to use the goods.

F. Recovery of VAT by taxable persons

Businesses may claim input tax paid on goods or services used for the production or trading of goods or services that are subject to VAT. Businesses recover input tax by offsetting it against output tax (VAT on sales).

To be entitled to VAT credit, a document evidencing payment made through a bank is required except for the case where the purchase value is less than VND20 million. Bank payments must be made from the bank account of the buyer(s) to the bank account of the supplier(s).

In general, a valid tax invoice must be retained to support claims for input tax credits. The tax invoice must state the pretax price, the VAT and the total amount payable.

The basis for determining the amount of deductible input tax is the amount of VAT stated on the following:
- Valid tax invoice for the goods or services
- Documentation evidencing VAT payment at the stage of importation
- Documentation evidencing VAT payment on behalf of a foreign party

If a business establishment discovers that it has not deducted an amount of VAT in its declaration because the tax invoice or receipt of the tax payment was omitted, it may make an additional declaration requesting the credit. However, any additional VAT credit declaration must be made before the tax authority announces a decision about any tax inspections carried out at the premises.

The time limit for a taxable person to reclaim input tax in Vietnam is, in principle, the period during which the input tax is incurred, whether the products are used or still in storage. If the taxable person finds that the input tax is incorrectly declared, an adjustment may be made before the tax authority, or a competent authority, announces the decision on tax inspection at the taxpayer's premises.

Nondeductible input tax. Businesses may not claim input tax paid on goods or services used for producing or trading nontaxable goods or services. They also cannot claim the input tax of the unrelated expenses or incorrect payment method as regulations.

Examples of items for which input tax is nondeductible

- Golf expenses for employees
- House rental fees for foreign employees who have signed labor contracts with the company; in cases in which these expatriates are assigned to work in Vietnam by the foreign parent company but remain employees of the foreign parent company during their secondment period in Vietnam (i.e., they receive salaries and other benefits from the foreign parent company), and the Vietnamese entity and the foreign parent company enter into a written agreement that states that the Vietnamese entity shall bear all accommodation fees for these expatriates during their secondment period in Vietnam, input tax of these accommodation fees is creditable
- Expenses for invoices paid in cash with the value of more than VND20 million

Examples of items for which input tax is deductible (if related to a taxable business use)

- Expenses paid for raw materials, offices supplies, transportation, etc.

Partial exemption. Businesses that produce or trade taxable and nontaxable goods or services must maintain separate accounts for input tax paid on goods or services used for taxable and nontaxable goods or services. If no separate accounts are maintained, the deductible input tax is calculated using a ratio based on the proportion of taxable turnover compared with total turnover.

Approval from the tax authorities is not required to use the partial exemption standard method or special methods in Vietnam.

Capital goods. "Capital goods" are defined as tangible fixed assets such as building, machines, equipment, etc. When capital goods are purchased and relate to both taxable and exempt supplies made by a taxable person, an apportionment must be calculated to work out the percentage of the goods that relates to the taxable supplies. This percentage can only be deducted as input tax, and

the remaining percentage that relates to the exempt supplies is not allowed to be deducted. There are no special rules for capital goods in respect of time and duration of use.

Refunds. Businesses that pay VAT using the tax credit method (see the *Non-established businesses* subsection above for detail on this method) are eligible for a refund of VAT in the following circumstances:

- The business exports goods and services (including goods imported to export) during a month or quarter and has a credit balance of input tax of at least VND300 million at the end of that month. The refund is granted monthly or quarterly.
- An incorporated establishment is entitled to a refund if it is in the investment stage of a new project (except investment projects that construct houses for sale, investment projects without constituting any fixed assets) and if it has accumulated input tax of at least VND300 million that has not been credited against output tax of its operating businesses. Business establishments of conditional business lines shall be eligible for VAT refund for investment projects as prescribed above if their investment projects fall into the following cases:
  - Investment projects in the investment stage and have been granted licenses to engage in conditional business lines by competent state agencies according to regulations of laws on investment and specialized laws under one of the following forms: licenses, certificates or documents on verification and approval
  - Investment projects in the investment stage that are yet to be required to apply for licenses to engage in conditional business lines issued by competent state agencies according to regulations of laws on investment and specialized laws under one of the following forms: licenses, certificates or documents on verification and approval
  - Investment projects that are not subject to licenses to engage in conditional business lines according to laws on investment and specialized laws under one of the following forms: licenses, certificates or documents on verification and approval
- In the following events, a business shall not be eligible for a refund but can carry forward remaining deductible VAT on its investment project to the subsequent period:
  - The charter capital of the investment project of the business has not been fully contributed as registered as per the laws
  - An investment project is carried out by a business that undertakes conditional trade(s) but is not satisfying business conditions as per the Investment Law; in other words, such investment project is run by a business that engages conditional trade(s) but is not licensed by the competent authorities to engage in conditional trade(s) under one the following forms: licences, certificate or documents on verification and approval or does not meet conditions to perform conditional trade(s) without needing a written verification or approval according to laws on investment (except the case entitled to a VAT refund mentioned above)
  - An investment project is carried out by a business that undertakes conditional trade(s) but fails to sustain business conditions during its operations; in other words, such investment projects are run by a business that engages in conditional trade(s) but has its relevant license(s) (licences, certificate or documents on verification and approval) revoked during its operations; or during the operation the business fails to meet the conditions to undertake conditional trade(s) as per the laws on investment. In these events, the business shall be ineligible for the refund of VAT upon the revocation of one of the said documents or upon being exposed by competent government authorities as having failed to meet the conditions for conditional trades
  - An investment project for extraction of natural resources and minerals that has been licensed since 1 July 2016 or an investment project for production of goods of which the value of natural resources and/or minerals plus the energy cost makes up 51% of its prime cost or above, except for oil and gas field exploration and development projects as regulated
- The business establishment that uses the deduction method shall receive a refund of the surplus VAT or the VAT that is not completely deducted when there is a change of ownership, or when the enterprise is converted, merged, amalgamated, divided, dissolved and bankrupt or shut down

- Foreigners and Vietnamese people residing abroad who have passports or entry papers issued by foreign competent authorities shall receive refunds of VAT paid on goods purchased in Vietnam and taken abroad
- VAT will be refunded when paid by programs/projects using nonrefundable ODA, nonrefundable aid or humanitarian aid
- A taxable person eligible for diplomatic immunity who purchases goods and services in Vietnam shall receive a refund of the VAT stated on the VAT invoice or the receipt that indicates the VAT-inclusive price
- Refunds will be paid when a business establishment receives a decision on VAT refunds from the competent authorities and when VAT refunds are due according to international agreements to which the Socialist Republic of Vietnam is a signatory

An application for a refund must be submitted to the tax authority (that is, to the tax department or to the general tax department in some special cases). Taxable persons may file an electronic claim online or file a physical claim directly or by post to the supervisory tax authority.

The notice detailing the outcome of the tax refund application shall be sent to the applicant within six working days (in the case of refund before examination) or within 40 days (in the case of examination before refund).

Pre-registration costs. A taxable person may recover input tax it incurred prior to registering for VAT. It must hold the invoices bearing the name of the authorized business. The invoices of which the value is VND20 million or more (inclusive of VAT) must be reimbursed via the bank of the company and not via the tax authority.

Bad debts. Output tax accounted for on supplies that do not get paid by the recipient (i.e., bad debts) cannot be recovered in Vietnam.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Vietnam.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses, such as household businesses and individual businesses that pay VAT under the method of VAT calculation directly based on added value, not the tax credit method, is not recoverable. From a tax perspective, individual businesses are resident persons having business operation and are granted separate tax codes. "Household business" means a business or manufacture facility established by an individual or members of a household who take responsibility with all of their property for its business operation.

A VAT refund is allowed only for businesses using the tax credit method. A foreign contractor that has no legal presence in Vietnam but conducts business or derives income from activities in Vietnam may recover VAT if it adopts the Vietnam Accounting Standard/Hybrid and it satisfies certain bookkeeping and tax registration requirements. To be eligible for VAT recovery, a foreign contractor must meet all the following conditions:

- It has a permanent establishment in Vietnam or is a resident of Vietnam
- It conducts business in Vietnam under the contractor's or subcontractor's contract for 183 days or more beginning on the date on which the contract takes effect
- It adopts the Vietnam Accounting Standard/Hybrid Method

Foreign contractors that do not apply the Vietnam Accounting Standard/Hybrid Method may not recover input tax unless a specific international agreement entered into by Vietnam provides otherwise.

H. Invoicing

VAT invoices. A taxable person must provide an invoice for all taxable supplies made, including exports. There are four categories of invoices:
- Invoices of exports for exporting transactions; from 1 July 2022, all exporting transactions are required to use VAT e-invoices or sales e-invoices (see the *Electronic invoicing* subsection below); commercial invoices can be still used for customs procedures for exportation
- VAT invoices for transactions of taxable persons applying the tax credit method
- Sales invoices for transactions of taxable persons applying the direct method or Export Processing Enterprise (EPE)
- Others, including receipts, tickets and other vouchers

The invoices can be presented in the following forms:
- Invoice printed by order: produced by a printing house by order of tax authorities for provision or sale to taxable person
- Electronic invoice: must be created, issued and processed on computers of issuer under the law on e-transactions

The tax authorities may sell only blank invoices to a few specified persons such as nonbusiness organizations, individuals and households that generate sale revenue.

A valid invoice is necessary to support a claim for input tax deduction.

Credit notes. Credit notes are not available in Vietnam. An adjustment or cancellation to a supply is reflected by way of an adjustment invoice. If it is return of goods, the buyer or the seller is required to issue an invoice accordingly..

When a seller discovers that an e-invoice with a certified code from the tax authority that has not been sent to a buyer contains errors, the seller shall inform the tax authority by using a provided form for the cancellation and prepare a new e-invoice. If an e-invoice with or without a certified code from the tax authority that has been sent to the buyer is detected by either the buyer or seller to contain errors, it shall be handled as follows:

a) If the buyer's name or address is wrong but the tax code and other information are correct, the seller shall inform the buyer of the errors and is not required to reissue the invoice. The seller shall inform the tax authority of the erroneous e-invoice by using a provided form, unless data about the erroneous e-invoice is not yet sent to the tax authority.
b) If the information about the tax code, amount, tax rate, tax amount or goods on the invoice is wrong, the seller shall (1) create an e-invoice to correct the erroneous one; or (2) issue a new e-invoice to replace the erroneous one. The seller and the buyer may agree to prepare a document specifying the errors before the seller issues a correction invoice for a new replacement invoice.

Electronic invoicing. Electronic invoicing is mandatory in Vietnam for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory in Vietnam. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Vietnam. This is with effect from 1 July 2022.

All taxable persons must prepare to meet the information technology infrastructure requirements for e-invoicing. Some taxable persons, such as SMEs, that fail to meet the information technology requirements after 1 July 2022 can use the VAT invoices (paper-based) issued by the tax authority for a maximum 12 months, and the tax authority shall enforce gradual transition into e-invoice.

The electronic invoices can be presented in the following two forms:

- Electronic invoice with a certified code from the tax authority: an electronic invoice that is assigned an identification code by the tax authority before an organization or individual selling goods or providing services sends it to buyer
- Electronic invoice without a certified code from the tax authority: an electronic invoice that an organization selling goods or providing services sends to the buyer in the absence of a tax authority's identification code. Subject to the approval of local tax authority, business entity shall register to use such kind of electronic invoice via the portal of General Department of Vietnam Taxation

At the time of preparing this chapter, the government is considering issuing a decree to revise some regulations in current Decree 123 on e-invoices. It is not clear, however, when the amendment decree will be issued and when it will take effect.

Simplified VAT invoices. Simplified invoices are only allowed to be issued in the following circumstances:

- An e-invoice does not necessarily have the customer's electronic signature (including goods/services sold to overseas customers)
- E-invoices separately issued by tax authorities do not necessarily bear the digital signatures of the buyer and the seller
- E-invoices for oil/gas supplies to nontaxable persons (B2C) can omit invoice name, form number, reference number and number of the invoice; the buyer's name, address, tax code number and electronic signature; the seller's digital or electronic signature; and VAT rate
- Electronic documents for air transport services being considered as e-invoices issued via websites and e-commerce systems to nontaxable persons (B2C) following international practices do not necessarily bear the reference number, form number and number of the invoice, VAT rate, the customer's tax code number and address, and the supplier's digital signature
- Invoices for construction and installation, or construction of houses for sale under installment plans do not necessarily bear the unit, quantity and unit price
- Delivery and internal transfer note are not required to contain tax rate, tax amount and total amount payable
- Invoices for interline payment between airliners issued in accordance with regulations of the International Air Transport Association (IATA) do not necessarily have the reference number and form number of the invoice; name, address, tax code number and electronic signature of the customer, unit, quantity and unit price
- Invoices issued by an airline to its agents according to reports verified by two parties and general statements do not necessarily contain the unit price
- Invoices for construction, installation, production or provision of products/services of enterprises servicing national defense and security in accordance with the government's regulations do not necessarily bear the unit, quantity and unit price

Self-billing. Self-billing is not allowed in Vietnam.

Proof of exports. Exports of goods and services are zero-rated. Proof of export is required. The required documents to claim a refund of input tax include contracts for the sale of goods, legitimate invoices, customs declarations for exporting goods or evidence of exporting services consumed outside of Vietnam for exporting services and proof of payment through a bank by foreign parties.

Foreign currency invoices. If an invoice is allowed to be issued in a foreign currency in accordance with regulations of the law on foreign exchange, all values on the invoice must be reported in the foreign currency without having to be converted into the domestic currency, which is the Vietnamese dong (VND). The seller must use an acceptable exchange rate on invoices.

Supplies to nontaxable persons. Suppliers using electronic invoices must issue a full VAT invoice for each transaction, except for transactions that do not require VAT declaration and payment as aforementioned (see section *C. Who is liable* above).

Records. In Vietnam, examples of what records must be held for VAT purposes include documents and other accounting records (including VAT invoices and related documents supporting input tax claims).

In addition, non-established businesses are required to retain all related information used for determining their Vietnam-sourced income in accordance with the Law on Tax Administration in the event of a future tax audit by the Vietnamese tax authority.

In Vietnam, VAT books and records cannot be held outside of the country. In general, records must be physically kept at the premises of the enterprise or at Vietnamese storage supplier during their operation in Vietnam. Upon termination of operations in Vietnam, the legal representative of the entity shall decide where to store the books and records, which can be in Vietnam or outside.

Record retention period. The following general guidelines apply to the retention of documents and other accounting records (including VAT invoices and related documents supporting input tax claims):

- Documents to be kept for at least five years include those used for management or operation of the enterprise
- Documents to be kept for at least 10 years include accounting data, accounting books, financial statements and reports of independent auditing firms
- Documents to be kept permanently include those that are significant in terms of economics, national security and defense

Electronic archiving. Electronic archiving is allowed in Vietnam. Enterprises can choose whether to keep the records in physical form or electronically. E-invoices must be maintained in electric form (XML format), kept in a secured manner to protect them from being altered and assessable to tax authority upon request. Upon the request from competent authorities for the purpose of inspection, enterprises might be required to print out the electronic records, sign and seal to provide.

I. Returns and payment

Periodic returns. Businesses are generally required to file a monthly tax return to the tax office by the 20th day of the following month. Exceptions are taxable persons that make quarterly declarations, of which the deadline is the last day of the first month of the following quarter (this is permitted for businesses whose revenue in the previous year is VND50 billion or lower). Newly established entities are eligible to choose the option of filing VAT on a quarterly basis. After 12 months of operation as of the following calendar year, if eligible for quarterly VAT declarations for satisfaction of the condition on revenue of goods/services of the prior full calendar year, the entity can request permission of the local tax authority to continue declaring VAT quarterly.

If the entity is eligible for paying VAT on a quarterly basis and would like to change from the quarterly to monthly VAT declaration, it is required to notify the local tax office under statutory Form No. 01/DK-TDKTT within the deadline of the first month of the year it commences the monthly VAT declarations at the latest. The method of VAT declaration must be fixed for a calendar year.

Periodic payments. Businesses are generally required to remit the monthly VAT payable to the tax office by the 20th day of the following month or quarterly VAT payable by the last day of the first month of the following quarter. This deadline changed from the 30th day of the following quarter, with effect from 1 July 2020.

Any excess input tax paid may be credited in the following period or refunded if the business is eligible for a refund (see *Section F*).

A business that imports goods subject to VAT must file a customs declaration and remit VAT payable on each occasion when goods are imported. The time limit for notices and payments of VAT with respect to imported goods is the same as the time limit applicable to notices and payments of import duties.

VAT liabilities must be paid in Vietnamese dong (VND). Tax payment can be made via banks. This is done by the taxable person filling out a payment to state budget form and submitting to the commercial bank (which can be done online or in person), and therefore not paying directly to state treasury, but via a commercial bank instead.

Electronic filing. Electronic filing is allowed in Vietnam, but not mandatory. Where a taxable person is carrying out business in a locality with online access, it must make its declarations, pay tax and make transactions with the tax authority as prescribed by the laws on electronic transactions. Different online systems (i.e., both online and offline software such as eTax, iHTKK) have been deployed across Vietnam to facilitate electronic filing.

Payments on account. Payments on account are not required in Vietnam.

Special schemes. *Business individuals and household business.* There is a special scheme that applies for business individuals and household business (in terms of tax rates). Periodical filings apply to large-scale household businesses and individual businesses or other household businesses and individual businesses that choose to pay taxes under periodical filings. For this, they must comply with accounting, invoices and documents. In addition, they are not required to finalize taxes. Individual businesses that have casual business operations and do not have fixed business locations shall pay taxes when arisen.

Annual returns. Annual returns are not required in Vietnam.

Supplementary filings. No supplementary filings are required in Vietnam. However, in case the tax declaration dossier submitted to the tax authority is erroneous or inadequate, supplementary documents may be provided within 10 years from the deadline for submission of the erroneous or inadequate tax declaration dossier but before the tax authority or a competent authority announces a decision on tax document examination.

In addition, non-established businesses are required to retain all related information used for determining their Vietnam-sourced income in accordance with the Law on Tax Administration in the event of a future tax audit by the Vietnamese tax authority.

Correcting errors in previous returns. If the taxable person detects errors in a submitted VAT return after the deadline, the taxable persons may submit supplementary filings to correct errors in previous returns, which can be done online or in paper. The revised returns can be submitted to the local tax authority in any working days, regardless of the next deadline, as long as it is submitted before the local tax authority announces its decision on tax inspection at taxable persons' premises. Supplementary documents include:
- The supplementary tax returns
- The explanation for the supplementation and relevant documents

Noted that if the supplementary filing gives rise to additional tax payable, the taxable person will be subject to late payment interest.

When the decision on tax inspection has been issued:
- Adjustments can be made if errors in the submitted returns are not relevant to the scope of inspection and the inspection periods and late payment interest will be imposed

- Adjustments can be made if errors in the submitted returns are relevant to the inspection period but not relevant to the scope of inspection and late payment interest will be imposed
- Adjustments can be made if errors that are relevant to the inspected periods and the scope of inspection lead to an increase in the amount of tax payable or a decrease in the amount of tax refunded or a decrease in the amount of overpaid taxes. In this case, taxable persons will incur penalty as if such errors are detected by the local authority during tax inspection

If the local tax authority has issued the decision to settle the increase/decrease of deductible input tax, taxable persons shall adjust tax returns of the period during which the decision is received (no supplementary filing is required).

Digital tax administration. There are no transactional reporting requirements in Vietnam.

J. Penalties

Penalties for late registration. Failure to comply with registration requirements (if applicable) may result in a fine. The penalty for late registration ranges from VND1 million to VND10 million, depending on the length of the delay.

Penalties for late payment and filings. Interest is imposed for late payment of VAT at the progressive rate of 0.03% per day from 1 July 2016.

Failure to comply with tax filing requirements may result in a warning or a fine ranging from VND2 million to VND25 million, depending on the length of the delay.

Penalties for errors. The fine for understatement of tax payable or overstatement of refundable tax, exempt tax shall be 20% of the tax arrears or overstated refundable tax, exempt tax.

Late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a warning or a fine ranging from VND500,000 to VND7 million, depending on the specific circumstance. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Tax evasion or tax avoidance if incurring may result in a fine ranging from one to three times of the tax arrears.

Personal liability for company officers. In general, company officers are not personally liable for the company's tax violations, unless criminal intent is detected.

Statute of limitations. The statute of limitations in Vietnam is 2, 5 or 10 years. The tax authorities can go up to 10 years back to review returns and identify errors and impose a shortfall amount of tax and late payment interests. For administrative penalties, the time limit is two or five years, depending on the violation. Taxable persons that fail to apply for a tax registration shall pay all the tax arrears and late payment interest that ever arose before the day of discovering the violations.

Zambia

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At the time of preparing this chapter, the Zambian Government passed legislation that indicated that sales tax will not come into effect and VAT will remain in place.

A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 July 1995
Trading bloc membership	Common Market for Eastern and Southern Africa (COMESA) Southern African Development Community (SADC) African Continental Free Trade Area (AfCFTA) *At the time of preparing this chapter, Zambia is a signatory to the AfCFTA and has submitted the instruments of ratification.*
Administered by	Zambia Revenue Authority (ZRA) (www.zra.org.zm)
VAT rates	
Standard	16%
Other	Zero-rated (0%) and exempt
VAT number format	Taxable person identification number (TPIN) – 100XXXXXXX
VAT return periods	Monthly
Thresholds	
Registration	ZMW800,000
Recovery of VAT by non-established businesses	Yes, subject to certain conditions

B. Scope of the tax

VAT applies to the following transactions:
• Supply of goods and services in Zambia by a taxable person

- Reverse charge on services provided by a nonresident to a taxable person in Zambia
- Importation of goods and services from outside Zambia, regardless of the status of the importer

Effective 1 January 2024, the VAT Act provides that a recipient of an imported service is liable to pay tax on the importation of that service if:
- The recipient of the service did not pay tax in the jurisdiction from which the service was exported from.
- The supplier of the service is not a Zambian resident and has not appointed a tax agent.
- The services supplied do not fall under the Act's definition of cross-border electronic services.

Input tax accrued from imported services cannot be claimed, deducted or form a tax credit.

In addition, effective 1 January 2024, it has been clarified that the VAT on the importation of goods shall be charged as if the tax as a duty under the Customs and Excise Act and is accordingly payable by the importer of the goods.

The VAT Act provides that goods are regarded as being supplied in Zambia if:
- The goods are exported from Zambia.
- The goods are supplied within Zambia.
- The supply of the goods involve entry into Zambia.
- The supply involves installation or assembly of the goods at a place in Zambia.

Withholding VAT. Withholding VAT is a mechanism where the responsibility to account for and pay the VAT due on the supply of goods or services is shifted to the person making the payment, i.e., the customer. Withholding VAT works very much in the same way as normal VAT. The revenue authority through the Commissioner-General appoints agents for purposes of withholding VAT on payments made to VAT-registered suppliers. Normally, large companies with a lot of suppliers are appointed as withholding VAT agents, e.g., mining and manufacturing companies. Once the agent is appointed, the legal obligation of the VAT due on all supplies shifts to the agent from the supplier. Therefore, ultimately, the responsibility to ensure that all the VAT that is due on the agents' purchases is properly accounted for and is remitted to the revenue authority by the due date shifts to the agent.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Zambia, electronically supplied services are subject to the "use and enjoyment" provisions (for both business-to-business [B2B] and business-to-consumer [B2C]). The requirement means that a tax agent must be appointed by the non-established supplier to register for VAT and comply with regulatory obligations.

Transfer of a going concern. Transfer of going concern rules do not apply in Zambia. As such, VAT applies to all sales of a business or part of a business capable of separate operation including assets.

Transactions between related parties. In Zambia, there are no specific rules that indicate the value for VAT purposes for transactions between related parties. However, the Transfer Pricing Regulations (Statutory Instrument No. 24 of 2018), outlines that such transactions must be valued at arm's length. This means that the results of a controlled transaction should be consistent with the results that would have been realized in a comparable transaction between independent persons dealing under comparable conditions. This entails that such transactions involving goods and services supplied in Zambia must be at arm's length, subject to VAT at the appropriate rate.

C. Who is liable

Any person who makes supplies of taxable goods and services in Zambia in the course of a business is liable to register for VAT if the person's turnover exceeds either of the following thresholds:
- Turnover of ZMW800,000 in any 12 consecutive months
- Turnover of ZMW200,000 in any three consecutive months

Turnover tax. Turnover tax (tax charged on gross sales) rather than VAT applies to certain businesses, including those with a turnover of less than ZMW800,000. This tax is calculated at the rate 4% of the total turnover and the remittance cards for returns are to be submitted both manually and electronically. Manual submissions are made by the 5th of the following month to which the return relates, and electronic submissions are made on the 14th of the month following the month in which the transaction occurred. However, the remittance of turnover tax is due by the 14th of the month following the month in which the sales are made.

Exemption from registration. The VAT law in Zambia does not contain any provision for exemption from registration where an entity qualifies as a taxable person. However, where the Commissioner-General is satisfied that all supplies of a business are zero-rated, they may by notice waive the requirement of the business to register. However, the Commissioner-General reserves the right to rescind the decision any time they deem it necessary.

Voluntary registration and small businesses. A taxable person with an annual turnover of less than the statutory registration threshold has the option to register under a voluntary registration if it satisfies the prescribed conditions.

A business registered under voluntary registration is required to:
- Renew the registration every 12 months
- Notify the Commissioner-General in writing 30 days before the expiry of the 12-month period of its intention to renew the registration

Group registration. Group VAT registration is not allowed in Zambia.

Fixed establishment. In Zambia there is no legal definition of a fixed establishment for VAT purposes.

Non-established businesses. A "non-established business" is a business that does not have a fixed establishment in Zambia. A foreign company may not register for Zambian VAT unless it has a place of business in the country. It must also make taxable supplies of goods or services.

A foreign business that makes supplies in Zambia must appoint a representative who is responsible for registration for and payment of VAT. If an agent is not appointed, the non-established business may not deduct input tax (see *Section F. Recovery of VAT by taxable persons*).

Tax representatives. Foreign companies or persons who do business in Zambia but do not reside in Zambia can appoint resident Zambians to act as their representatives. The representatives can be held responsible for tax purposes on behalf of their principals in their representative capacities only.

A tax agent is liable on behalf of the supplier to ensure the following:
- Keep and preserve, or produce records or accounts
- Furnish a tax return
- Pay tax or interest under the VAT Act
- Comply with any requirement of the Commissioner-General in respect of the business

However, it is worth noting that a supplier is not able to deduct, create a tax credit or claim input tax except in the case whereby the supplier at time of lodging the return where the deduction, tax credit or claim is made has the following documents:
- A tax invoice issued from a serially numbered invoice book.
- A tax invoice issued from a computer package authorized by the Commissioner-General for the purpose of invoicing taxable supplies.
- An invoice issued from the approved system.
- An invoice with contents in accordance with the administrative rule made by the Commissioner-General.
- In the case of imported goods, import bills of entry and documentary evidence of the payment of tax that Commissioner-General may, by administrative rule determine.

Reverse charge. A reverse charge may apply for services received by a taxable person in Zambia from a non-established service provider. The Zambian VAT law requires that a taxable person must act on behalf of a non-established supplier of services with respect to matters relating to tax, in the following circumstances:
- The supplier is a company that does not have a business establishment in Zambia.
- The supplier is an individual or partner in a partnership that does not have a usual place of residence in Zambia from which to appoint a person resident in Zambia as a tax agent.

If a tax agent is appointed, the agent invoices the recipient of the services for the VAT payable, collects the tax and accounts for it to the tax authorities. The recipient of the services may claim input tax relief on the basis of the invoice issued by the tax agent (see *Section F. Recovery of VAT by taxable persons*).

If no tax agent is appointed, the recipient of the service must self-assess for the VAT due and declare the output tax as if it were the supplier. However, in this case, no input tax relief may be claimed.

Domestic reverse charge. There are no domestic reverse charges in Zambia.

Digital economy. The taxation of electronic services in Zambia is whereby tax is payable on the provision of an electronic service in Zambia where that service is performed, undertaken or utilized in Zambia or the benefit of the supply is for a recipient in Zambia regardless of whether the provider of the service has a place of business in Zambia, or the service is paid for outside Zambia.

Nonresidents providing electronically supplied services to B2C supplies are required to appoint a tax agent resident in Zambia. The tax agent is then responsible for registration and payment of VAT on behalf of the supplier on its supplies.

Nonresidents providing electronically supplied services to B2B supplies are not required to register and account for VAT in Zambia. Instead, the customer is required to self-account for the VAT via the reverse-charge mechanism (see the *Reverse charge* subsection above).

Effective 1 January 2024, the definition of an "electronic service" has been redefined in the VAT Act to mean, a service provided or delivered through the internet, electronic or digital network. Additionally, "cross-border electronic services" have been defined to mean electronic services supplied in Zambia by a supplier who is resident or carries on business outside Zambia. Notably, the amendment VAT Act has repealed and not replaced the applicable section with regard to the tax chargeable on electronic services. *At the time of preparing this chapter, the tax authority's practice note for detailed and practical guidance on the implication has not been released.* As with other imported services, if the non-established business has no registered office in Zambia, the supplier will be required to appoint a tax agent resident in Zambia to account for VAT. In absence of tax agent, the customer would account for the VAT as output tax. For further details, see the subsection *Tax representatives* above.

There are no other specific e-commerce rules for imported goods in Zambia.

Online marketplaces and platforms. No special rules exist for online marketplaces and platforms in Zambia.

Registration procedures. Businesses are required to apply for VAT registration if they make supplies of taxable goods/services, and their turnover exceeds registration threshold of ZMW800,000 per annum.

Businesses apply by filing a prescribed ZRA application form either manually (by paper) or using e-registration. The following documents must be attached:
- Sketch of map of location
- Bank statements covering a period of three months
- Business plan
- Certificate of registration or incorporation
- Evidence records like cash book, purchase daybook, sales daybook, invoice books, a set of accounts and confirmed orders/signed contracts for existing business
- Tax clearance certificate
- VAT knowledge form

Businesses whose turnover does not meet the statutory threshold may register for VAT voluntarily.

Deregistration. A taxable person whose turnover falls below the registration threshold for VAT can deregister after the end of the relevant accounting year. The taxable person is required to notify the Commissioner-General in writing through Form VAT 99. To complete any deregistration, the taxable person is required to ensure that there are no tax obligations on that account.

Changes to VAT registration details. Changes to VAT registration details (such as the change in the trading name of the business or the name and/or address of any partner in the business, a change in the address of the principal place at which the business is carried out) shall not require the cancellation of registration. The taxable person must notify any Domestic Taxes Office for amendment of such details and update these details online.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero-rate.

The VAT rates are:
- Standard rate: 16%
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods or services unless a specific measure provides for the zero rate or an exemption.

Examples of goods and services taxable at 0%

- Exports of goods
- Books and newspapers
- Foreign aid donations
- Medical supplies and drugs
- Petrol and diesel
- Bread and wheat

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that does not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Health and educational services
- Supply of water and sewerage services
- Most public transport services
- Real estate transactions
- Financial services (except fee-based banking services, which are subject to VAT at the standard rate)
- Insurance services (except property insurance and casualty insurance, which are subject to VAT at the standard rate)
- Basic foods
- Agricultural supplies

Option to tax for exempt supplies. Option to tax for exempt supplies is not allowed in Zambia.

E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." In Zambia, the tax point is when the earliest of the following events occurs:

For the supply of goods:
- The time when they are removed from the seller or supplier's premises.
- The time when made available to the person to whom they are supplied.
- Then a payment is received.
- The time when a tax invoice is issued.

For the supply of services:
- The time when a of supply for prepayments is the date when payment is received.
- The time when a tax invoice is issued.
- The time when they are rendered or performed.

Deposits and prepayments. Most deposits serve primarily as advance payments, and they therefore create tax points when received. However, certain deposits are not consideration for a supply and their receipt does not create a tax point. This latter treatment includes deposits taken as security to ensure the safe return of goods hired out, provided that they form part of the consideration, the time of supply is when the deposit is refunded when the goods are returned safely.

Continuous supplies of services. If a supplier provides services on a continuous basis and receives payments regularly or from time to time, the tax point is the earliest of the conditions as stated above being met. Examples include supplies of water, gas or any form of power, heat, refrigeration or ventilation, etc.

Goods sent on approval for sale or return. When a business supplies goods on "sale or return" terms, the goods have not been sold and the supplier still owns them until such time as the customer adopts them. Adoption means the customer pays for them or otherwise indicates willingness to keep them. Until the goods are adopted, the customer has an unqualified right to return them at any time, unless there is an agreed time limit. The tax point for these consignments is the earliest date of adoption, payment or invoicing.

Reverse-charge services. The time of supply for the supply of reverse-charge services is the time when tax is due and payable. It is, the earliest of the following:
- The time when a payment is received.
- The time when a tax invoice is issued.
- The time when the services are rendered or performed.

Leased assets. The time of supply for the supply of leased assets is whichever is the earliest of the following times:
- The time when payment of the lease rental is received from the lessee.

- The time when the lessor issues a tax invoice.
- The time when the leasing services are rendered, and this condition will only be satisfied at the expiry of the lease period.

In practice, a lease rental will generally be received by the lessor before the conditions listed under the second and third points above can occur, and this is taken to be the tax point.

Imported goods. The time of the supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

F. Recovery of VAT by taxable persons

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

The time limit for a taxable person to reclaim input tax in Zambia is three months. The claim can only be made within three months after the invoice was issued. Input tax includes VAT charged on goods and services purchased in Zambia and VAT paid on imports of goods and services.

Nondeductible input tax. VAT may not be recovered on purchases of goods and services that are not used for business purposes (e.g., goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain business expenses, including the provision of food, beverage, entertainment, amusement, recreation or hospitality of any kind and any incidental transportation provided to any person by a taxable supplier whether directly or indirectly, in connection with a business carried on by a taxable supplier.

The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply.

Examples of items for which input tax is nondeductible

- Purchase and hire of passenger cars
- Business gifts valued at more than ZMW100
- Office, home and mobile telephone service
- Domestic refrigeration equipment, air conditioners, mobile phones, motor vehicle parts, digital satellites, television sets, decoders, video players, curtains and construction of dwelling houses for staff
- Business entertainment
- Fuel for passenger vehicles
- Petrol
- Diesel (recovery restricted to 90%)

Examples of items for which input tax is deductible (if related to a taxable business use)

- Purchase, hire and maintenance of commercial motor vehicles
- Business gifts valued at less than ZMW100
- Mobile telephone handsets
- Hotel accommodations
- Utilities
- Educational material

Partial exemption. Where a taxable person incurs input tax that relates to both taxable and exempt supplies, the input tax that is wholly attributable to the taxable supplies can be recovered in full (subject to the partial exemption rules). Input tax that is fully attributable to exempt supplies cannot be recovered. This situation is referred to as "partial exemption." In Zambia, if a taxable person supplies both taxable and exempt goods and services, the amount of input tax recoverable

is calculated using a simple pro rata method based on the value of taxable and exempt supplies made.

The tax authorities have prescribed four partial exemption methods in practice. Approval from the tax authorities is not required to use any of the four prescribed partial exemption methods in Zambia.

Capital goods. No special input tax rules apply to VAT incurred upon capital goods. As such, normal input tax recovery rules *(as outlined above)* apply.

It is worth noting, however, that capital goods are subject to VAT at the standard rate except where expressly exempted. Thus, input tax would be claimable by a taxable supplier subject to the normal recovery rules. However, when goods are imported into Zambia (which includes removing them from an approved bonded warehouse), VAT, together with any import duties, is payable at importation except for exempt goods. There may be some exceptions for goods import pursuant to the Customs and Excise (General) Regulations.

Refunds. If the amount of input tax in a period exceeds the amount of output tax due, a taxable person may request a VAT refund. VAT refunds are generally paid within three months, subject to the audit of the respective period and approval of the refund by the tax authorities. However, no interest is payable if the refund is paid late.

Pre-registration costs. Businesses registered within one month after becoming liable to register are eligible to claim input tax incurred three months prior to registration.

However, special provisions for intending traders allow for registration and for VAT incurred prior to trading to be claimed for a period up to four years. This four-year period suspends the three-month validity period for claiming input tax. Intending traders are suppliers registered for VAT before trading activities. Such registration is normally for the sole purpose of claiming input tax, which relief is granted as follows:

- Up to 10 years for traders engaged in exploration
- Up to four years for traders engaged in electricity generation, farming and mining
- Up to two years for all others

Bad debts. VAT paid to the authority but not received from a customer may, subject to the rules below, be claimed back:

- The debt has been outstanding for 18 months or more
- The debtor has been declared insolvent by a court of law, i.e.,
  - If the defaulting customer is a person, sole trader or partnership who has been declared bankrupt by the courts
    Or
  - If the debtor is a limited company, the court has ordered it's winding up and an appointed liquidator or receiver has issued a certificate to the effect that in its opinion the company would not meet the debts of unsecured non-preferential debts

To satisfy the revenue authority that claims to bad debt relief are valid, VAT-registered suppliers claiming bad debt relief should retain the following documentary evidence:

- A copy of the tax invoice issued to the debtor in connection with the supply that later became a bad debt
- Evidence that the VAT being claimed as bad debt relief was remitted to the authorities
- Copies of correspondence referred to in the bullet points above on the status of the debt and debtor

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable in Zambia.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Zambia is generally not recoverable. However, a refund scheme allows a VAT refund to be paid to a non-established business that purchases goods from a Zambian VAT-registered supplier for onward export.

The refund scheme applies to foreign passport holders that are on a business visit to Zambia. The scheme applies only to commercial export consignments that do not otherwise qualify for VAT zero rating. The refund is restricted to VAT paid on goods supplied by a participating supplier. VAT incurred on other expenditure in Zambia is not recoverable using this scheme.

The foreign exporter pays the full VAT amount on the export consignment to a participating supplier at the time of purchase. The first time that the scheme is used, the participating supplier must issue a commercial export tax invoice (Form VAT 283) and a commercial export authorization (Form VAT 284). For subsequent exports, the supplier need only issue Form VAT 283. The exporter must declare the goods to Customs at the port of exit from Zambia, and at the same time submit Forms VAT 283 and VAT 284 for verification and certification.

Customs officials at the port of exit retain copies of Forms VAT 283 and VAT 284 for first exports and subsequently dispatch them to the Zambia Revenue Authority for processing. The exporter may retain a certified copy of the forms for its records.

After the refund has been processed, the amount is sent to the exporter's destination address, or an authorized representative may collect the refund in Lusaka. The exporter must indicate an authorized representative on Form VAT 284.

To qualify for this scheme, the export should be sent through the following designated exit points from Zambia:
- Lusaka International Airport
- Mpulungu Border Post
- Kasumbalesa Border Post
- Mwami Border Post
- Nakonde Border Post
- Chirundu Border Post
- Kazungula Border Post
- Victoria Falls Border Post

To participate in the scheme, a foreign business must apply in writing to the Commissioner of VAT. An application form (Form VAT 282) may be obtained by writing to the following address:

The Assistant Commissioner – VAT Credibility
Zambia Revenue Authority
1st Floor, Eastern Wing
Revenue House
Private Bag W136
Lusaka
Zambia

H. Invoicing

VAT invoices. A supplier of taxable goods and services must issue a tax invoice to the purchaser. A valid tax invoice is required to accompany all claims for input tax deduction. The period for which tax invoices can be used to support input tax recovery is three months.

All tax invoices must be issued with a ZRA approved software package. Taxable persons can apply for approval from the tax authority of their accounting packages prior to the issuance of invoices.

Credit notes. A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes should show the same information as tax invoices.

Electronic invoicing. Electronic invoicing is mandatory in Zambia for all taxable persons.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is mandatory for all taxable persons in Zambia. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Zambia. The requirements related to electronic invoicing are the same as those for paper invoicing.

From 1 January 2024 it is mandatory for all taxable persons to use the electronic invoicing system (EIS). The amended VAT Act defines EIS as "the core system which has a fiscal memory capable of generating and storing fiscal information and transmitting production, invoicing and stock data in real time to the tax authority and has the capacity to generate and record data and other reports and includes software applications and web-based applications."

Taxable persons must have the EIS in place at the time of registering for VAT. The application for EISs can be done electronically (via the tax online system) or physically (by paper in person). The statutory provision allows for the Commissioner-General to apply their discretion in approving the use of a document, device or equipment other than an EIS for a certain category of taxable persons. It is mandatory to capture and electronically transmit to the ZRA the taxable person identification number (TPIN) and names of both the buyer and seller of goods and services in all B2B and B2G transactions.

An electronic payment machine must be available at a point of sale for use as a mode of payment for the customer.

Eligible accounting packages must have the capacity to:
- Print tax invoices, credit notes and debit notes bearing all the mandatory features of a tax invoice.
- Generate automatic and consecutive document numbering with inbuilt safeguards against reallocation or resetting of the numbers in any circumstance; transactions, once posted and a tax invoice has been printed, must become read-only to all users. Or, where editing is possible, a read-only audit trail showing the original details are built into the program.
- Produce periodic transaction reports showing the invoice number, invoice date, customer's name, description of goods or services supplied, value before VAT and VAT amount.

The Commissioner-General may allow a taxable supplier to use accounting software (electronic fiscal devices) to issue a tax invoice if that accounting software is integrated with the tax invoice management system.

Simplified VAT invoices. Simplified VAT invoicing is not allowed in Zambia. As such, full VAT invoices are required.

Self-billing. Self-billing is not allowed in Zambia.

Proof of exports. Goods exported from Zambia are zero-rated. However, to qualify for a zero rating, exports must be supported by customs evidence (for example, copies of export documents, copies of documents showing importation in the receiving country and proof of payment by the customer) that proves the goods have left the country.

Foreign currency invoices. Invoices issued using a foreign currency must indicate the equivalent in the domestic currency, which is the Zambian kwacha (ZMW) using the exchange rate for the date of the transaction.

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons. As such, full VAT invoices are required.

Records. In Zambia, examples of what records must be held for VAT purposes include tax invoices and credit notes, proof of importation and exportation of goods. All records and accounts must be preserved in English.

In Zambia, VAT books and records can be kept outside of the country. However, while the VAT Act is silent on whether records need to be kept locally or can be kept outside the country, in practice, taxable persons tend to keep records locally as it is easier to retrieve the documents once requested for by the tax authorities. The only requirement is for information to be provided upon request from the Commissioner-General.

Record retention period. All records and accounts must be held for at least six years and be made available for inspection to authorized officers of the ZRA on demand.

Electronic archiving. Electronic archiving is allowed in Zambia. However, the VAT Act does not specifically provide for electronic archiving. It is recommended to archive records electronically in addition to manual archiving (i.e., by paper).

I. Returns and payment

Periodic returns. The tax period for VAT is one month. Returns must be filed by the 16th day for withholding VAT and the 18th day for normal VAT after the end of the tax period. Electronic filing of VAT returns is mandatory if there are 10 or more transactions.

Periodic payments. Full payment is due by the same date as the filing deadline of the VAT return (see above). A payment registration number (PRN) is generated online, and this number will be used to make payment via online banking.

Electronic filing. Electronic filing is mandatory in Zambia for all taxable persons. These returns are filed on the tax online system of the Zambia Revenue Authority (Tax Online 2). However, the law provides for submission of manual returns for taxable businesses with less than 10 transactions in a tax period.

Payments on account. Payments on account are not required in Zambia.

Special schemes. *Cash accounting.* All VAT-registered businesses are required by law to account for tax based on the invoices issued, except where the law has given relief for cash accounting. The businesses, which are permitted to use the payment or cash accounting basis, are required to account for VAT to the extent that payment has been made or received. Therefore, output tax is accounted for on payments received and input tax is recovered only on those invoices where payment has been made for taxable supplies received.

The cash accounting concession is restricted to businesses that carry on mining activities and are licensed under The Mines and Mineral Development Act and to members of the Association of Building and Civil Engineering Contractors (ABCEC). Intending traders are automatically required to adopt cash accounting if an application has been made and approved by the tax authority. These include businesses that carry on exploration, electricity generation, farming, etc.

Annual returns. Annual returns are not required in Zambia.

Supplementary filings. No supplementary filings are required in Zambia.

Correcting errors in previous returns. The new online system, Tax Online 2, does not allow amendments to be made online. Therefore, all amendments for returns should be made in writing to the Commissioner-General stating the reasons for need of amendment to the return.

Digital tax administration. *Electronic invoicing system.* Effective 1 January 2024, taxable persons are required to use the EIS. The use of EIS is considered real-time reporting/live invoicing in Zambia. For further detail, see the *Electronic invoicing* subsection above.

J. Penalties

Penalties for late registration. ZMW3,000 (10,000 penalty units) for each tax period that the taxable person is eligible to register but remains unregistered. The taxable person is also liable to an assessment on the sales made in the same period; input tax deduction is not allowed.

Penalties for late payment and filings. The penalty for late payment is 0.5% of the tax payable in respect of the period covered by the return for each day the payment is late. Interest is charged at the Bank of Zambia Discounted Rate plus 2%.

Penalties for late filings are ZMW300 (1,000 penalty units) per day or 0.5% of the tax due, whichever is greater, for each day the return is late.

Effective 1 January 2021, the penalty for failure to use an electronic payment machine at a point of sale is ZMW27,000 (90,000 penalty units).

Penalties for errors. Interest is charged at the Bank of Zambia discount rate plus 2% on amounts underdeclared on VAT returns, e.g., under-declarations discovered and assessed following a VAT inspection visit.

Failure to issue a tax invoice from an approved computer package, preprinted tax invoice book or a fiscalized cash register can result in a penalty of ZMW90,000 (300,000 penalty units). There is an increase of the penalties for the failure to use an electronic invoicing system and willfully refusing or failing to issue a tax invoice from an electronic invoicing system. The change reflects the following penalties: a penalty of ZMW30,000 for the first offense, ZMW60,000 for the second offense, and ZMW90,000 or imprisonment for a term not exceeding three years or to both for the third or subsequent offense.

A taxable supplier who fails to issue a tax invoice commits an offense and is liable to receive a penalty not exceeding ZMW30,000 for the first offense, ZMW60,000 for the second offense and ZMW90,000 or a term not exceeding three years or both for the third or subsequent offense.

There are no specific penalties associated with the late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Penalties for the issuance of false returns and statements attract a fine of up to ZMW6,000 (20,000 penalty units) or imprisonment for a term not exceeding two years, or both. Penalties for fraudulent evasion of tax attract a fine of up to ZMW90,000 (300,000 penalty units) or six times the amount of the tax sought to be evaded or recovered, whichever is greater, or imprisonment for a term not exceeding three years, or both.

An escalatory fine is also chargeable on false returns and statements.

Personal liability for company officers. The VAT Act provides that where an offense under the Act is committed by a company, with the knowledge of its director, manager, partner or shareholder, the individual will be liable for the offense and may be convicted to the penalty or term of imprisonment specified for that offense.

Statute of limitations. The statute of limitations is Zambia is six years. The tax authority can go back six years to review any returns that were previously submitted.

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A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Value-added tax (VAT)
Date introduced	1 January 2004
Trading bloc membership	African Continental Free Trade Area (AfCFTA) Common Market for Eastern and Southern Africa Southern African Development Community
Administered by	Commissioner General, Zimbabwe Revenue Authority (ZIMRA) (http://www.zimra.co.zw)
VAT rates	
Standard	15%
Other	Zero-rated and exempt
VAT number format	Tax identification number (TIN) 2000001000 – 10 numeric characters, and business partner (BP) number 200100001 – 9 numeric characters
VAT return periods	Monthly or bimonthly
Thresholds	
Registration	USD25,000
Recovery of VAT by non-established businesses	No

B. Scope of the tax

VAT applies to the following transactions:
- The supply of goods and services in Zimbabwe by a "registered operator" (see *Section C*)
- The importation of goods into Zimbabwe by any person
- The supply of imported services by any person
- The supply of electronic services or satellite broadcast services by a nonresident person to a resident person (for both business-to-business [B2B] and business-to-consumer [B2C] supplies)
- The supply of goods and services through an auctioneer

Withholding VAT. Value-added withholding tax on taxable supplies is at the rate of one-third of the VAT payable on an invoice. With effect from 1 January 2021, a VAT withholding tax agent can be appointed to withhold and pay VAT in the currency in which goods and services were purchased. VAT withholding tax is considered not paid if paid using a different currency than the currency specified.

Effective use and enjoyment. To avoid instances of non-taxation or double taxation, jurisdictions can apply "use and enjoyment rules" that allow a service that is "used and enjoyed" in the jurisdiction to be taxed or prevent a service that is "used and enjoyed" outside the jurisdiction from being taxed. If a service is taxed in the jurisdiction under the "use and enjoyment" provisions, a non-established supplier of the service may be required to register for VAT in that jurisdiction where it has customers that are not taxable persons. In Zimbabwe the "use and enjoyment" provisions (B2B/B2C) apply to supplies of electronic services or satellite broadcast services by a nonresident person to a resident person. The nonresident person suppling the services is deemed to be operating from Zimbabwe and invariably required to register and account for VAT. It applies to both B2B and B2C transactions.

Transfer of a going concern. Normally, the sale of the assets of a VAT-registered or VAT-registrable business will be subject to VAT at the appropriate rate. However, a transfer of a business as a going concern (TOGC) may be subject to VAT at the zero-rate under certain conditions. A TOGC is the sale of a business or part of a business capable of separate operation including assets. Where the sale meets the conditions, the supply is treated as outside the scope of VAT. In Zimbabwe, a TOGC is treated as outside the scope of VAT where both registered operators elect in writing to transfer a business or part of a business as a going concern. The transferor and transferee must be VAT registered. The transferred business must immediately be able to trade.

Transactions between related parties. Transactions between related parties are chargeable to VAT at the standard rate. Where both parties are VAT registered, the value of the supply of the transacted goods or services is any amount charged by the parties. However, where the transferee is not registered or required to be registered for VAT, the consideration of the supply shall be the open market value of the supply.

C. Who is liable

A "registered operator" is required to account for output tax on all goods and services supplied unless the supply is exempt or zero-rated.

A "registered operator" is a person who is or is required to be registered under the VAT act. The person must be trading wholly or partly in Zimbabwe. A person includes a public authority, local authority, company or body of persons, whether corporate or unincorporated, the estate of a deceased or insolvent person and a trust fund.

The VAT registration threshold from 2012 to 2019 was USD60,000. With effect from 1 January 2020 to 31 December 2020 the threshold was RTGS1 million. With effect from 1 January 2021 the threshold is ZWL7.8 million. A taxable person must notify ZIMRA of its obligation to register for VAT within 30 days of becoming obligated to register.

The auctioneer through whom a non-registrant supplies goods and services is responsible for the VAT on the supply of such goods and services.

Exemption from registration. Traders of exempt supplies and supplies by exempt bodies under the Geneva Convention are exempt from VAT registration in Zimbabwe.

Voluntary registration and small businesses. The law requires a trader to satisfy the Commissioner General that they are eligible to register for VAT before it is approved There are no special rules for small businesses. The approval is on a case-by-case basis. A company cannot apply for VAT registration for the sole purposes of recovering input tax.

Group registration. Group VAT registration is not allowed in Zimbabwe.

Fixed establishment. In Zimbabwe, there is no legal definition of fixed establishment for VAT purposes.

Non-established businesses. A non-established business is a person who supplies goods or services and does not have a fixed place of business in Zimbabwe. Generally, the Revenue Authority does not register for VAT purposes a resident who does not have fixed place of business.

However, a non-established business that trades, that is, makes supplies of goods or services in Zimbabwe must register and charge VAT on supplies of goods or services in Zimbabwe. Trade is defined in the VAT Act as meaning "any trade or activity that is carried on continuously or regularly by any person in Zimbabwe or partly in Zimbabwe and in the course or furtherance of which goods or services are supplied to any other person for a consideration, whether or not for profit …" The foreign registered operator must appoint a representative to account for VAT on its behalf. The representative must be a resident in Zimbabwe.

Tax representatives. Foreign companies or persons who do business in Zimbabwe but do not reside in Zimbabwe can appoint resident Zimbabweans to act as their representatives. The representatives can be held responsible for tax purposes on behalf of their principals in their representative capacities only.

Reverse charge. The reverse charge is applicable with regard to imported services and where a price can be ascertained by the customer and not the supplier. For example, on the sale of farm produce where weighing or grading must be carried out before a price is set. This requires prior approval of the Commissioner.

An importer of goods is required to pay VAT. The recipient of "imported services" is required to self-assess and to declare the tax to ZIMRA. VAT on imported service is due on the 25th of the following month. Prior to this, VAT on imported services was due 30 days from date of invoice or date of payment, whichever is earlier.

Domestic reverse charge. Applicable in limited situations. The Commissioner's approval is required before it is applied. The domestic reverse charge applies to the following:
- Supplies of commodities
- Supplies made within the mining sector
- Supplies of returnable containers (upon agreement between the supplier and customer)

For such supplies, the customer is required to self-account for the VAT due. It is also allowed to self-bill for the supplies made, as it is only the purchaser who can exactly quantify what and how much has been supplied, due to the nature of the supplies and sectors in scope.

Digital economy. With effect from 1 January 2020, foreign suppliers of satellite broadcasting services and electronic commerce operators to residents of Zimbabwe with at least annual income of ZWL1 million must register and account for VAT. See the *Online marketplaces and platforms* subsection below. This applies to both B2B and B2C transactions.

The supply of radio and television services from outside Zimbabwe to an address in Zimbabwe or of electronic service by an electronic commerce operator domiciled outside Zimbabwe to a person resident in Zimbabwe shall be deemed to be a supply made in Zimbabwe. The VAT is chargeable at the standard rate of 14.5%. This means operators are supposed to charge VAT at the standard rate. The obligation to charge and account for tax shall be that of the supplier or their duly appointed representative in Zimbabwe. Operators are required to appoint a representative taxpayer who will be responsible to account for the tax.

There are no other specific e-commerce rules for imported goods in Zimbabwe.

Online marketplaces and platforms. From 1 January 2020, VAT is due on supplies made through online marketplaces and platforms in Zimbabwe. Electronic commerce suppliers are required to complete the Rev 1E application form to register with ZIMRA. It is mandatory to appoint a local representative who will be responsible to discharge the obligations of the nonresident supplier.

Registration procedures. Registration with ZIMRA must be made within 30 days of meeting the registration threshold. Registration can be done manually (i.e., by paper) or online. The regulator requires a minimum of five working days to process the VAT registration application form. Registrations are done online or application forms can be emailed.

Application for registration is made on form REV 1. The following documents should be attached to the REV 1:
- VAT 1
- Company registration documents or national identity document of public officer
- Bank statements (at least three previous months)
- Location of the company
- Invoices issued in the last three months prior to registration
- Appoint a public officer or local representative

Deregistration. A registered operator may apply to be deregistered if the taxable turnover of goods or services in a period of 12 months does not exceed USD25,000 (or equivalent in local currency) or is not expected to exceed USD25,000 (or equivalent in local currency) in the period of 12 months commencing at the beginning of any tax period.

Taxable person may object to the Commissioner's decision to refuse to register or deregister for VAT.

Changes to VAT registration details. A taxable person must notify the Commissioner on form VAT4 of any changes to its VAT registration details within 21 days of the change taking place. Documentary proof should be attached to the notification.

D. Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate.

The VAT rates are:
- Standard rate: 15% (*with effect from 1 January 2023*)
- Zero-rate: 0%

The standard rate of VAT applies to all supplies of goods and services, unless a specific measure provides for the zero-rate or an exemption.

With effect from 1 January 2024, the Second Schedule (which provided a list of zero-rated goods or services) was repealed. A special set amount is charged on exports of unbeneficiated hides and select minerals, as follows:
- Hides: the higher of USD0.75 or 15% of the gross value

- Lithium: 1% of export proceeds
- Platinum: currently suspended

Withholding VAT. Value-added withholding tax agents collect one-third of VAT on an invoice to suppliers and remit the same to ZIMRA. The agent must issue a VAT withholding tax certificate to the supplier who uses the same to claim a credit.

Examples of goods and services taxable at 0%

- Exports of goods (including financial services other than short-term insurance)
- Exported services
- International transport of goods and services and ancillary transport services
- Sales of businesses as going concerns to registered persons
- Gold sales to the central bank, Fidelity Printers and Refiners, and commercial banks
- Services (other than accommodation) provided by operators of designated tourist facilities, such as hotels, tour operators and car-hire companies
- Intellectual property rights for use outside Zimbabwe
- Certain supplies of goods that are used exclusively in an export country *(until 1 January 2024)*
- Services supplied outside Zimbabwe to foreign head offices by Zimbabwean branches or to nonresident persons that are outside Zimbabwe when they are rendered *(until 1 January 2024)*
- Certain foodstuffs except rice, margarine, cereals, mahewu, pork, beef, fish, chicken and potatoes, which are now exempt *(until 1 January 2024)*
- Supply of domestic electricity *(until 1 January 2024)*
- Certain goods used for agricultural purposes, such as animal feed, fertilizers, seed, animal remedies, pesticides, plants, tractors and, when exported, specified agricultural implements *(until 1 January 2024)*
- Prescription medicines *(until 1 January 2024)*
- Building bricks *(until 1 January 2024)*
- Goods used by disabled persons *(until 1 January 2024)*
- Fixed charges on commercial and domestic electricity *(until 1 January 2024)*
- Supply of pipeline transportation services *(until 1 January 2024)*
- Livestock *(until 1 January 2024)*

The term "exempt supplies" refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Medicines and medical services provided by public medical services institutions
- Water supplied through a pipe for domestic use
- Commission charges on tobacco sales at tobacco auction floors
- Tobacco supplied on tobacco auction floors
- Tobacco not sold at auction floors
- Agriculture equipment and machinery of heading 8424, 8432 and 8433
- Fuel and fuel products and ethanol fuel
- Goods covered under the first schedule to the VAT Act
- Sanitary ware
- Basic goods like maize (corn), rice, salt, margarine, cooking oil, sugar cane, wheat, milk, etc.

Option to tax for exempt supplies. Option to tax for exempt supplies is not allowed in Zimbabwe.

E. Time of supply

The time of supply is the earlier of the following:

- The issuance of an invoice by the supplier or the recipient with respect to the supply
- The receipt of a payment of the consideration by the supplier with respect to the supply

- In the case of supply of an immovable goods, at the time the recipient takes possession of said goods
- In the case of a supply of a movable good, at the time of its removal from the place of sale
- In case of a supply of a service at the time the service is performed

Other time of supply rules apply to various situations, such as change of use, repossessions, betting transactions and lay-by sale agreements (the purchaser makes partial payments over time, and when a predetermined amount has been reached, the goods are released to the purchaser).

Deposits and prepayments. The time of supply for prepayments is the date when payment is received. If deposits form part of the consideration, the time of supply is when the deposit is paid or received. The time of supply for a deposit may be delayed if the supply of goods or service is conditional.

Continuous supplies of services. The time of supply for periodic supplies is the earlier of the date on which the payment is due, the date on which payment is received or the date on which an invoice relating only to that payment is received.

Goods sent on approval for sale or return. The time of supply is dependent on the "cooling off period" under the agreement of sale. If goods are returned during a cooling off period, there is no supply. The date of decision to buy during the cooling off period is the time of supply. If goods are not returned, the time of supply is on the day the cooling off period expires.

Reverse-charge services. These are permissible subject to the Commissioner's approval. As the VAT due on imported services is accounted for by way of the reverse-charge mechanism (i.e., the customer self-accounts for the VAT), the tax point for imported services is the earlier of the receipt of the invoice or receipt of payment.

Leased assets. There are no special time of supply rules in Zimbabwe for supplies of leased assets. As such, the general time of supply rules apply (as outlined above).

Rental agreements. The time of supply for rental agreements is the earlier of the date on which the payment is due or the date on which payment is received.

Installment credit agreements. For installment credit agreements, the supply is deemed to take place at the earlier of when the goods are delivered or when a payment of the consideration is received.

Immovable property. The time of supply for the supply of fixed property is the earlier of the date on which the change of ownership is registered in the deeds office or the date of receipt of a payment of the consideration. If the sale is settled over a period, VAT is payable on each installment.

Imported goods. VAT is paid at the earlier of the time of importation or on removal of goods or bond.

Supplies between related persons. Two value of supply rules apply for supplies between related persons. Where both are VAT registered, the value of supply is any amount agreed to. Where the customer is not registered or not required to register, the value of supply is the open market value of the supply.

F. Recovery of VAT by taxable persons

A registered operator may claim input tax (that is, VAT charged on goods and services supplied to it for business purposes) by deducting it from output tax, which is VAT charged on supplies made. Input tax may be deducted if all the following conditions are satisfied:

- The expenses are incurred in the making of taxable supplies
- The claimant has a valid tax invoice or bill of entry (imports)

- The claiming of input tax deduction is not specifically prohibited by the VAT Act
- Input tax is only claimed when supported by fiscal tax invoices. The invoice must carry the words "fiscal invoice" prominently displayed
- Tax clearance certificates will not be issued to registered operators whose fiscal devices are not interfaced with ZIMRA servers
- The time limit for a taxable person to reclaim input tax in Zimbabwe is 12 months. This is from date of the invoice
- Input tax is claimed on domestic purchase of goods and services, imported goods and on VAT on imported services

Nondeductible input tax. Input tax incurred on goods and services used for nontaxable purposes is not deductible. It is only deductible where exempt supplies are less than 10% of total supplies during a tax period.

Examples of items for which input tax is non-deductible

- The hire, purchase and importation of a passenger motor vehicle
- Fees or subscriptions paid by registered operators with respect to memberships in clubs, associations or societies of a sporting, social or recreational nature
- Amounts with respect to goods or services acquired for the purposes of business or staff entertainment
- VAT payable on exports of unbeneficiated hides and unbeneficiated platinum

Examples of items for which input tax is deductible (if related to a taxable business use)

- Maintenance and repair costs of passenger motor vehicles
- Purchase, hire and maintenance costs of non-passenger motor vehicles, such as vans and trucks
- Cost of inputs made in the supply of food and leisure for which VAT is chargeable
- Expenses incurred by registered operators in the making or importation of taxable supplies, such as trading stock, raw materials, administration expenses and marketing costs

Partial exemption. VAT incurred in the making of exempt supplies is not deductible. Where a registered operator makes both exempt and taxable supplies (mixed supplies) input tax must be based on their relative weighting.

If VAT is incurred in the making of both exempt and taxable supplies, deductible input tax is determined using a two-stage calculation, which is described below.

Direct attribution. For direct expenses, the first stage is to identify expenses incurred in making taxable supplies and those incurred in making exempt supplies. VAT paid on expenses incurred in making taxable supplies is deductible as input tax while VAT paid on expenses incurred in making exempt supplies is not deductible.

Apportionment. For overheads, the turnover method or another apportionment method acceptable to the ZIMRA must be used to allocate the VAT between taxable supplies and exempt supplies. Input tax related to taxable supplies is deducted, while input tax related to exempt supplies is not deducted. If taxable supplies exceed 90% of the total supplies made by a registered operator, all the VAT incurred by the registered operator is deductible as input tax.

Approval from the tax authorities is not required to use the partial exemption standard method in Zimbabwe. Special methods are not allowed in Zimbabwe.

Capital goods. The sale of capital goods is subject to VAT. Equally input tax incurred on capital goods that are used in the producing taxable supplies is deductible. Where capital goods are used to produce exempt supplies and taxable supplies, input tax claimed proportionately. The input tax amount shall bear the ratio of intended use of the goods. If goods are used for more than 90% to

produce taxable supplies, they are regarded as having been acquired or used wholly for the purpose of making taxable supplies. In the event of change of use of the capital goods, an adjustment must be made to reflect the usage change.

Refunds. If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that period, the excess is refunded by the Commissioner. Amounts below ZWL1,000 may be claimed as a credit on subsequent VAT return. The Commissioner does not refund amount below ZWL1,000. In addition, any VAT refund can be utilized to settle other tax liabilities.

Pre-registration costs. VAT incurred on capital goods prior to VAT registration is claimed as input tax deduction on the first VAT return upon registration. The goods should have been used for making taxable supplies. There is no time limit for such an input tax claim. However, input tax on consumables stocks, can only be claimed for prior periods not exceeding six months.

Input tax cannot be recovered on services prior to VAT registration.

Furthermore, costs incurred six months prior to incorporation of a company or in connection with the incorporation of a company qualify for input deduction provided the goods and services were acquired solely for the purpose of a trade to be carried on by the company, and the purchaser is reimbursed by the company for the whole amount of the consideration for the goods and services.

Bad debts. A taxable person is permitted to claim relief for the VAT on bad debts written off. The taxable person is required to satisfy the Commissioner that they have taken all reasonable steps to collect the bad debt without success. The amount should be included in the prior period VAT returns and should still be due to the taxable person.

Noneconomic activities. Input tax incurred on purchases that are used for noneconomic activities is not recoverable.

G. Recovery of VAT by non-established businesses

Input tax incurred by non-established businesses that are not registered for VAT in Zimbabwe is not recoverable.

H. Invoicing

VAT invoices. A registered operator must provide a fiscalised VAT invoice to the recipient for all taxable supplies made at the time of supply. In certain circumstances, subject to ZIMRA approval, the recipient of goods and services issues a VAT invoice to the supplier. The VAT Act requires invoices to be issued through fiscal devices linked to the Revenue Authority online.

Effective 1 January 2024, all invoices are required to include the tax identification number (TIN) and business partner (BP) number, electronic signatures, authentication codes and quick response codes for verification of the fiscal invoice. These requirements are in addition to the requirement to include the words "fiscal tax invoice" displayed in a prominent place to qualify for an input tax deduction.

All VAT-registered taxable persons are required to install (at the time of registering for VAT) electronic registers or electronic signature device, with prescribed specifications to record taxable transactions. They must have real-time interface with ZIMRA. Fifty percent of the cost of acquiring these prescribed, "fiscalized" electronic registers is deductible from VAT payable.

Credit notes. The issuance of a credit or debit note is permitted. It is issued by the supplier and the customer where permission was received from the Commissioner.

A credit or debit note must contain the words "credit note" or "debit note," as well as the full VAT invoicing requirements. It must also be refenced to an invoice it is correcting, as well as the reasons for its issuance.

Electronic invoicing. Electronic invoicing is allowed in Zimbabwe, but not mandatory.

Scope of electronic invoicing. For B2B, B2C and business-to-government (B2G) supplies, electronic invoicing is allowed but not mandatory in Zimbabwe. There is no threshold beyond which taxable persons are required to adopt electronic invoicing in Zimbabwe. The requirements related to electronic invoicing are the same as those for paper invoicing.

However, note that there is no provision for electronic invoicing in the VAT law. If an invoice is issued electronically the recipient should print and file a printed copy.

Simplified VAT invoices. A simplified VAT invoicing system is used in exceptional circumstances. This is subject to the Commissioner's approval, and then an agreement may be used as an invoice, even though it does not have all features of a full VAT invoice.

Self-billing. Self-invoicing is allowed in Zimbabwe. However, this is subject to the approval by the Commissioner. Self-billing may apply to the following:
- Supplies of commodities
- Supplies made within the mining sector
- On agreement between supplier and customer

Proof of exports. Exports can be classified as direct or indirect exports.

Direct exports arise if the registered operator is responsible for consigning or delivering the goods to an address in an export country. These exports can be zero-rated if the documentary requirements are met.

Indirect exports arise if the registered operator does not consign the goods to an address in an export country but instead delivers them to the purchaser that is responsible for taking them out of the country. The registered operator must satisfy ZIMRA that it will comply with all exchange-control regulations relating to the export of goods. If ZIMRA is satisfied that the goods were not taken out of Zimbabwe, the seller of such goods is liable to VAT at a rate of 15%.

The registered operator must provide proof of export to zero-rate the supply. The required documents are as follows:
- Tax invoice
- Debit and credit notes
- Sales agreement
- Lease agreement
- Contract document
- Export documents bearing a ZIMRA stamp at the point of exit or placement of goods on rail, airline or post office
- Acquitted Customs Declaration Form No. 1 (CD1) showing receipt of export proceeds
- Other receipts if applicable
- Other documents acceptable to ZIMRA

Foreign currency invoices. Zimbabwe uses multiple currencies. With effect from 1 January 2019, VAT is paid using the currency received from the customer. Zimbabwe's functional currency is the Zimbabwe dollar (ZWL). In cases where another currency other than the USD is used, the international cross rate is used to determine the USD equivalent. Invoices may be issued in any currency. However, payments to the Revenue Authority in cases of other foreign currencies other than USD should be converted to USD at the international cross rate.

As part of measure to enforce payment of VAT in the currency of receipt, the following measures were introduced with effect from 1 December 2020:
- Registered operators to configure fiscal devices to capture all transactions in the currency of trade
- Interface systems with the ZIMRA server with effect from 1 December 2020
- Registered operators required to issue invoice in currency of trade
- Failure to comply – the registered operator faces exclusion from buying foreign currency from weekly foreign currency auctions conducted by the Reserve Bank of Zimbabwe. The registered operator may be blacklisted from participating in the weekly foreign currency auctions for noncompliance with payment of tax in foreign currency where goods and services are sold in foreign currency

Supplies to nontaxable persons. There are no special invoicing rules for supplies to nontaxable persons in Zimbabwe. As such, full VAT invoices are required. However, all VAT-registered taxable persons are required to install fiscal devices at all points of sale.

Records. In Zimbabwe, every registered operator must maintain and keep records. This also applies to non-established businesses.

In Zimbabwe, examples of what Records must be held for VAT purposes include the following:
- Sales and purchases records
- A record of all goods and services supplied by or to the registered operator showing suppliers or agents in sufficient detail
- A record of all importations of goods and documents relating thereto
- The charts and codes of account, the accounting instruction manuals and the system and program documentation
- Any documentary proof required to be obtained and retained

In Zimbabwe, VAT books and records must be held within the country. Specifically, they must be held at the local registered office.

Record retention period. VAT records must be held for a period of six years from the date of the last transaction in any book or within six years after the completion of the transaction, acts or operation of which they relate. The records must be ready for the Commissioner's inspection. However, the Companies and Other Businesses Act requires company records to be retained for eight years.

Electronic archiving. Electronic archiving is allowed in Zimbabwe. However, there is no provision for electronic archiving in the VAT law, and as such, generally, taxable persons are required to maintain physical archiving (i.e., paper, computer print outs). Where records are electronically archived, the system should have capacity to produce printed copies on request. Generally paper records must be held as well as electronic (if opted), because the paper records must be kept as alternatives.

I. Returns and payment

Periodic returns. VAT returns can be filed monthly or bimonthly in Zimbabwe. The filing frequency is split into three categories, depending on levels of annual taxable supplies.

For monthly returns there is one category – C. All registered operators with annual taxable supplies greater than RTGS19.2 million have a monthly tax period.

For bimonthly returns, there are two categories – A and B. Category A is the two months starting with an even number and ending with an odd one, e.g., December/January. Category B is the two months starting with an odd number and ending with an even one, e.g., January/February. The threshold for category A and B is RTGS7.8 million to 19.2 million.

Additionally, category D is allocated to traders whose income is discretely received, such as income form pastoral activities.

In terms of the filing deadline, VAT returns must be filed by the 25th day of the month following the tax period. If the due date falls on a Saturday, Sunday or public holiday, the due date is the last business day before the 25th.

Periodic payments. The payment of VAT and submission of the returns are done concurrently, by no later than the 25th day of the month following the tax period. Payment of VAT is done through bank transfer or bank deposits or other online platforms. The Commissioner of Taxes does not accept cash payments.

VAT deferment is allowed on imported capital equipment. Deferment ranges from 90, 120 or 180 days from the date of importation. To qualify for this deferment, the value of such imported plant, equipment and machinery must be USD100,000 to USD1 million (90 days), USD1 million to 10 million (120 days) or more than USD10 million (180 days).

Electronic filing. Electronic filing is mandatory in Zimbabwe for all taxable persons. VAT returns must be submitted through the Zimbabwe Revenue Authority web portal. The exception is where the return has failed to go through the revenue authority e-services portal (for example, due to a technical issue). In this case the return must be scanned and emailed instead.

Payments on account. Payments on account are optional in Zimbabwe. Registered operators may apply to the Commissioner for specific payment terms. Interest at 25% is charged for payments received after due date.

Special schemes. No special schemes are available in Zimbabwe.

Annual returns. Annual returns are not required in Zimbabwe.

Supplementary filings. Supplementary filings are only required at the instance of the Commissioner, where revenue was understated.

Correcting errors in previous returns. VAT returns can be amended within a six-year prescription period. Registered operators (i.e., those who are registered or are required to be registered under the VAT Act) are encouraged to submit a voluntary disclosure to reduce or eliminate any penalties. A manual (i.e., paper) amended return is required to correct errors. In case of additional tax payable interest at 25% is charged.

Digital tax administration. *Real-time transactional reporting.* All VAT-registered taxable persons are required to install (at the time of registering for VAT), electronic registers or electronic signature devices, with prescribed specifications to record taxable transactions. Fifty percent of the cost of acquiring these prescribed, "fiscalized" electronic registers is deductible from VAT payable. The law requires transmission of sales data online to ZIMRA through a server-to-server connection. Therefore, all transactions are transmitted to the ZIMRA on a real-time basis. Note, these fiscal devices are to be phased out after the introduction of a virtual fiscalization solution.

J. Penalties

Penalties for late registration. A person becomes liable to pay tax from the time that person first becomes liable to be registered. A penalty of up to 100% of the amount of VAT and 25%, interest thereon is assessed for the period interval when the person first became liable to be registered and the late-registration date.

Penalties for late payment and filings. A penalty is imposed for late payment of VAT at a rate of up to 100% of the outstanding tax for each month. Additional tax equal to 100% of the relevant tax may be levied in cases of fraud. With effect from 1 January 2024, failure to pay tax by the due date is an offense liability to a fine not exceeding level seven or imprisonment for a period

not exceeding three months. The property of a taxpayer who fails to pay tax on due date may be attached.

Payment is allowed of the principal amount first before payment of penalty and interest. Interest is charged on outstanding tax at a rate of 200% or 10% per year where VAT is payable in local or foreign currency.

For late submission of VAT returns, a civil penalty of USD30 per day per tax return is imposed. Those daily penalties continue during the first 91 days that each return is in default. If the person continues to be in default after the 91 days, he or she shall be guilty of an offense and liable, on conviction, to a fine not exceeding level 14 (USD5,000) or imprisonment for a period not exceeding five years or to both the fine and imprisonment.

Where a taxable person received income in foreign currency but pays the tax in local currency or does not pay the tax at all, they are eligible to a primary civil penalty of twice the USD tax payable.

Penalties for errors. A civil penalty of up to USD25 per point of sale per day is charged for failure to use prescribed "fiscalized" electronic registers. A similar penalty is imposed on approved suppliers of electronic signature devices and fiscalized or non-fiscalized electronic registers who fail to supply them within six weeks of an order with payment in full. Specific fiscalisation offenses and penalties are as follows:

- Failure to issue fiscal invoice or receipt is an offense liable to a fine of USD1,000 or local currency equivalent
- Failure to acquire or use electronic fiscal device attracts a penalty of USD1,000 or equivalent in local currency. In addition, civil penalty of USD25 per point of sale the operator remains in default for a period not exceeding 90 days.
- If the operator remains in default after the specified period, such operator shall be guilty of offense and liable to a fine not exceeding level seven or imprisonment for a period not exceeding six months or to both fine and imprisonment
- Any person who manufactures, offers for sell or distributes fiscal memory device without ZIMRA approval is liable on conviction to a fine not exceeding level 14 or imprisonment not exceeding five years or to both such fine and imprisonment
- Failure to interface within 96 hours of receipt or expiry of civil penalty order attracts a fine of USD25 per point of sale for each day the operator remains in default up to a maximum of 90 days. If the operator remains in default after the specified period, it shall be guilty of offense and liable to a fine not exceeding level seven or imprisonment for a period not exceeding 12 months or both such fine and imprisonment
- Deliberate tampering with electronic fiscal devices attracts a penalty of USD1,000 or equivalent in local currency or three time the taxes involved, whichever is greater. If the operator continues in default, it shall be liable to a penalty of USD50 per day to a maximum of 90 days. The operator is also guilty of an offense and is liable on conviction to a fine not exceeding level 14 or imprisonment not exceeding five years or to both such fine and imprisonment

Fines, imprisonment or both may also apply to various other offenses, including making false statements and obstructing a revenue officer.

Failure to pay in the prescribed currency will result in a penalty double the amount payable. Failure to pay the penalty will result in a civil penalty of USD30 per day that the penalty remains unpaid up to 181 days.

The late notification or failure to notify the tax authorities of changes to a taxable person's VAT registration details may result in a penalty of USD30 for each day the taxable person remains in default, not exceeding a period of 181 days. For further details, see the subsection *Changes to VAT registration details* above.

Penalties for fraud. Any person or agent who with intent to evade the payment of tax or obtain a refund that they are not entitled to is liable for any of the following actions:

- Makes or causes or allows to be made any false statement or entry in any return
- Prepares or maintains or authorizes the preparation or maintenance of any false books of accounts or authorizes the falsification of records
- Gives any false answer to any request of information
- Make use of any fraud or false statement
- Issue erroneous or incomplete invoice, credit and debit note

They shall be guilty of an offense and liable to a fine of level 12 (USD3,000) or imprisonment not exceeding two years.

Personal liability for company officers. Company officers can be held personally liable for errors and omissions in VAT declarations and reporting in Zimbabwe only for fraudulent activities. See the *Penalties for fraud* subsection above for more details on what penalties can apply.

Statute of limitations. The statute of limitations in Zimbabwe is six years. If fraud and misrepresentation is not suspected, the prescription period is six years. Recent court rulings indicate that submission of a return with errors is considered misrepresentation. This interpretation creates a potential risk that assessments can be reopened beyond six years.

Table of VAT, GST and sales tax rates

Jurisdiction	Standard rate*	Other rates**
Albania	20%	6%, 0%
Algeria	19%	9%
Angola	14%	7%, 5%, 0%
Anguilla	13%	0%
Antigua and Barbuda	ABST: 17%	ABST: 0%
Argentina	VAT: 21%	VAT: 27%, 10.5%, 0%
	IIBB: 1%–4% (industrial), 2.5%–5% (commerce and services) and 4.9%–8% (commission and intermediation)	IIBB: 0%
Armenia	20%	0%
Aruba	RT: 4% (combined rate of BBO [2.5%] and BAVP [1.5%]) HT: 3%	N/A
Australia	10%	0%
Austria	20% (rest of Austria), 19% (regions of Jungholz and Mittelberg)	13%, 10%, 0%
Azerbaijan	18%	0%
Bahamas	10%	10%, 9%, 8%, 6.5%, 6%, 4%, 2.5%, 1%, 0.1%, 0%
Bahrain, Kingdom of	10%	0%
Bangladesh	15%	10%, 7.5%, 5%, 4.5%, 2.4%, 2%, 1.5%, 0%
Barbados	17.5%	22%, 10%, 0%
Belgium	21%	12%, 6%, 0%
Bhutan	7%	0%
Bolivia	13% (effective rate 14.94% because VAT must be included in the sales price)	0%
Bonaire, Sint Eustatius and Saba (BES Islands)	Goods: 6%–8% Services: 4%–6%	30%, 25%, 22%, 18%, 10%, 7%, 5%, 0%
Bosnia and Herzegovina	17%	0%
Botswana	12%	0%
Brazil	ICMS: 0%–35% IPI: 0%–300% ISS: 0%–5% PIS-PASEP: 0.65%, 1.65% COFINS: 3%, 7.6%	ICMS: N/A IPI: N/A ISS: N/A PIS-PASEP: N/A COFINS: N/A
Bulgaria	20%	9%, 0%

Jurisdiction	Standard rate*	Other rates**
Cambodia	10%	0%
Canada	GST: 5% HST: 13%–15% QST: 9.975% PST: 6%–7%	0%
Chad	19.25%	9.9%, 0%
Chile	19%	15%–50%
China Mainland	13%	9%, 6%, 5%, 3%, 0%
Colombia	19%	5%, 0%
Congo, Republic of the	18% (effective 18.9% as surtax at 5% applies at the same time as VAT, and is not deductible)	5%, 0%
Costa Rica	13%	4%, 2%, 1%, 0%
Côte d'Ivoire (Ivory Coast)	18%	9%, 0%
Croatia	25%	13%, 5%, 0%
Curaçao	6%	9%, 7%
Cyprus	19%	9%, 5%, 3%, 0%
Czech Republic	21%	12%, 0%
Democratic Republic of the Congo	16%	8%, 0%
Denmark	25%	0%
Dominican Republic	18%	16%, 0%
Ecuador	12%	8%, 0%
Egypt	14%	5%, 0%, special table tax rates
El Salvador	13%	0%
Equatorial Guinea	15%	6%, 0%
Estonia	22%	13%, 9%, 5%, 0%
Eswatini	15%	0%
European Union	N/A	N/A
Fiji	15%	0%
Finland	24%	14%, 10%, 0%
France	20%	10%, 5.5%, 2.1%, 0%
Georgia	18%	0%
Germany	19%	7%, 0%
Ghana	15%	5% *(proposed)*, 3%, 0%
Greece	24%	13%, 6%, 4%, 0%
Guatemala	12%	5%, 4%, 0%
Guinea	18%	0%
Guyana	14%	0%
Honduras	15%	18%
Hungary	27%	18%, 5%, 0%
India	28%, 18%, 12%, 5%, 3%, 0.25%, 0%	N/A

Jurisdiction	Standard rate*	Other rates**
Indonesia	11%	0%
Ireland, Republic of	23%	13.5%, 9%, 0%
Isle of Man	20%	5%, 0%
Israel	17%	0%
Italy	22%	10%, 5%, 4%, 0%
Jamaica	15%	25%, 10%, 5%, 0%
Japan	10%	8%
Jersey, Channel Islands	5%	0%
Jordan	GST: 16% SST: Various (20 types of goods and one type of service are subject to percentage rates or fixed amounts)	GST: 10%, 5%, 4%, 2%, 1%, 0% SST: N/A
Kazakhstan	12%	0%
Kenya	16%	0%
Korea, Republic of	10%	0%
Kosovo	18%	8%, 0%
Kuwait	5%***	0%***
Kyrgyzstan	N/A	N/A
Lao, People's Democratic Republic of	7%	0%
Latvia	21%	12%, 5%, 0%
Lebanon	11%	0%
Lesotho	15%	10%, 0%
Liechtenstein, Principality of	8.1%	3.8%, 2.6%, 0%
Lithuania	21%	9%, 5%, 0%
Luxembourg	17%	14%, 8%, 3%
Malawi	16.5%	0%
Malaysia	Sales tax: 10% Service tax: 6% on prescribed taxable services *(proposed to increase to 8% from 1 March 2024)*	Sales tax: 5%, several specific rates for certain petroleum products, 0% Services tax: specific rate of RM25 per year on the provision of credit card or charge card services
Maldives	GST: 8% TGST: 16%	GST: 0% TGST: N/A
Malta	18%	12%, 7%, 5%, 0%
Mauritania	16%	0%
Mauritius	15%	0%
Mexico	16%	8%, 0%
Moldova	20%	8%, 0%
Mongolia	10%	0%
Montenegro, Republic of	21%	7%, 0 %

Jurisdiction	Standard rate*	Other rates**
Morocco	20%	10%, 0% and transitional reduced rates of 16%, 13%, 12%, 11%, 8%
Mozambique	16%	5%, 0%
Myanmar	N/A	N/A
Namibia	15%	0%
Nepal	13%	0%
Netherlands	21%	9%, 0%
New Zealand	15%	9% (effective rate based on GST valuation rules), 0%
Nicaragua	15%	0%
Nigeria	7.5%	0%
North Macedonia	18%	10%, 5%, 0%
Norway	25%	15%, 12%, 0%
Oman	5%	0%
Pakistan	Goods: 18% Services: 13%–16%	Goods: 0%–16% Services: 0%–19.5%
Panama	7%	15%, 10%
Papua New Guinea	10%	0%
Paraguay	10%	5%
Peru	18%	10%
Philippines	12%	0%
Poland	23%	8%, 5%, 0%
Portugal	Mainland: 23% Madeira: 22% Azores: 16%	Mainland: 13%, 6% Madeira: 12%, 5% Azores: 9%, 4%
Puerto Rico	10.5%	7%, 4%, 1%
Qatar	5%***	0%***
Romania	19%	9%, 5%, 0%
Rwanda	18%	0%
Saint Kitts and Nevis	17%	10%, 0%
Saint Lucia	12.5%	10%, 0%
Saint Vincent and the Grenadines	16%	11%, 0%
São Tomé and Príncipe	15%	7.5%, 7%, 2%, 0%
Saudi Arabia	15%	0%
Senegal	18%	10%, 0%
Serbia	20%	10%, 0%
Singapore	9%	0%
Sint Maarten	5%	N/A
Slovak Republic	20%	10%, 5%, 0%
Slovenia	22%	9.5%, 0%
South Africa	15%	0%
South Sudan	18%	20%

Jurisdiction	Standard rate*	Other rates**
Spain	21%	10%, 5%, 4%, 0%
Sri Lanka	VAT:18%	VAT: 0%
	SSCL:2.5%	SSCL: N/A
Suriname	10%	25%, 5%, 0%
Sweden	25%	12%, 6%, 0%
Switzerland	8.1%	3.8%, 2.6%, 0%
Taiwan	VAT: 5% GBRT: 0.1%–25%	VAT: 0% GBRT: N/A
Tanzania	18%	0%
Thailand	7%	0%
Trinidad and Tobago	12.5%	0%
Tunisia	19%	13%, 7%
Türkiye	20%	10%, 1%
Uganda	18%	0%
Ukraine	20%	14%, 7%, 0%
United Arab Emirates	5%	0%
United Kingdom	20%	5%, 0%
United States	2.9%–10.75%	N/A
Uruguay	22%	10%, 0%
Uzbekistan	12%	0%
Venezuela	16%	5%–25%, 0%
Vietnam	10%, 8% *(with effect until 30 June 2024)*	5%, 0%
Zambia	16%	0%
Zimbabwe	15%	0%

* Rate shown here is the most common standard rate; for regional variations, see each chapter.
** Reduced rates for special supplies, as explained in each chapter.
*** Final legislation has not been published at the time of preparing the *2024 Worldwide VAT, GST and Sales Tax Guide*, so these are the expected, not confirmed, rates.

Table of currencies

The following list sets out the names and codes for the currencies of jurisdictions included in this Guide.

Jurisdiction	Currency	Code
Albania	Albanian lek	ALL
Algeria	Algerian dinar	DZD
Angola	Angolan kwanza	AOA
Anguilla	Eastern Caribbean dollar	XCD
Antigua and Barbuda	Eastern Caribbean dollar	XCD
Argentina	Argentine peso	ARS
Armenia	Armenian dram	AMD
Aruba	Aruban florin	AWG
Australia	Australian dollar	AUD
Austria	Euro	EUR
Azerbaijan	Azerbaijani manat	AZN
Bahamas	Bahamian dollar	BSD
Bahrain, Kingdom of	Bahraini dinar	BHD
Bangladesh	Bangladeshi taka	BDT
Barbados	Barbadian dollar	BBD
Belgium	Euro	EUR
Bhutan	Bhutanese ngultrum	BTN
Bolivia	Bolivian bolivianos	BOB
Bonaire, Sint Eustatius and Saba (BES Islands)	United States dollar	USD
Bosnia and Herzegovina	Bosnian convertible mark	BAM
Botswana	Botswanan pula	BWP
Brazil	Brazilian real	BRL
Bulgaria	Bulgarian lev	BGN
Cambodia	Cambodian riel	KHR
Canada	Canadian dollar	CAD
Chad	Central African CFA franc	XAF
Chile	Chilean peso	CLP
China Mainland	Chinese yuan	CNY
Colombia	Colombian peso	COP
Congo, Republic of the	Central African CFA franc	XAF

Jurisdiction	Currency	Code
Côte d'Ivoire (Ivory Coast)	West African CFA franc	XOF
Costa Rica	Costa Rican colón	CRC
Croatia	Euro	EUR
Curaçao	Antillean guilder	ANG
Cyprus	Euro	EUR
Czech Republic	Czech koruna	CZK
Democratic Republic of the Congo	Congolese franc	CDF
Denmark	Danish krone	DKK
Dominican Republic	Dominican peso	DOP
Ecuador	United States dollar	USD
Egypt	Egyptian pound	EGP
El Salvador	Salvadoran colón	SVC
Equatorial Guinea	Central African CFA franc	XAF
Estonia	Euro	EUR
Eswatini	Swazi lilangeni	SZL
European Union	N/A	N/A
Fiji	Fijian dollar	FJD
Finland	Euro	EUR
France	Euro	EUR
Georgia	Georgian lari	GEL
Germany	Euro	EUR
Ghana	Ghanaian cedi	GHS
Greece	Euro	EUR
Guatemala	Guatemalan quetzal	GTQ
Guinea	Guinean franc	GNF
Guyana	Guyana dollar	GYD
Honduras	Honduran lempira	HNL
Hungary	Hungarian forint	HUF
India	Indian rupee	INR
Indonesia	Indonesian rupiah	IDR
Ireland, Republic of	Euro	EUR
Isle of Man	British pound sterling	GBP
Israel	New Israeli shekel	NIS
Italy	Euro	EUR
Japan	Japanese yen	JPY
Jamaica	Jamaican dollar	JMD
Jersey, Channel Islands	Jersey pound	JEP

Jurisdiction	Currency	Code
Jordan	Jordanian dinar	JOD
Kazakhstan	Kazakhstani tenge	KZT
Kenya	Kenyan shilling	KES
Korea, Republic of	Korean won	KRW
Kosovo	Euro	EUR
Kuwait	Kuwaiti dinar	KWD
Kyrgyzstan	Kyrgyz som	KGS
Lao, People's Democratic Republic of	Lao kip	LAK
Latvia	Euro	EUR
Lebanon	Lebanese pound	LBP
Lesotho	Lesotho loti	LSL
Liechtenstein, Principality of	Swiss franc	CHF
Lithuania	Euro	EUR
Luxembourg	Euro	EUR
Malawi	Malawian kwacha	MWK
Malaysia	Malaysian ringgit	RM
Maldives	Maldivian rufiyaa	MVR
Malta	Euro	EUR
Mauritania	Mauritanian ouguiya	MRU
Mauritius	Mauritian rupee	MUR
Mexico	Mexican peso	MXN
Moldova	Moldovan leu	MDL
Mongolia	Mongolian tughrik	MNT
Montenegro, Republic of	Euro	EUR
Morocco	Moroccan dirham	MAD
Mozambique	Mozambican metical	MZN
Myanmar	Myanmar kyat	MMK
Namibia	Namibian dollar	NAD
Nepal	Nepalese rupee	NPR
Netherlands	Euro	EUR
New Zealand	New Zealand dollar	NZD
Nicaragua	Nicaraguan córdoba	NIO
Nigeria	Nigerian naira	NGN
North Macedonia	Macedonian denar	MKD
Norway	Norwegian krone	NOK
Oman	Omani rial	OMR

Jurisdiction	Currency	Code
Pakistan	Pakistani rupee	PKR
Panama	Panamanian balboa	PAB
Papua New Guinea	Papua New Guinean kina	PGK
Paraguay	Paraguayan guaraní	PYG
Peru	Peruvian sol	PEN
Philippines	Philippine peso	PHP
Poland	Polish zloty	PLN
Portugal	Euro	EUR
Puerto Rico	United States dollar	USD
Qatar	Qatari rial	QAR
Romania	Romanian leu	RON
Saint Kitts and Nevis	Eastern Caribbean dollar	XCD
Saint Lucia	Eastern Caribbean dollar	XCD
Saint Vincent and the Grenadines	Eastern Caribbean dollar	XCD
São Tomé and Príncipe	São Tomé and Príncipe dobra	STD
Saudi Arabia	Saudi riyal	SAR
Senegal	West African CFA franc	XOF
Serbia	Serbian dinar	RSD
Singapore	Singapore dollar	SGD
Sint Maarten	Antillean guilder	ANG
Slovak Republic	Euro	EUR
Slovenia	Euro	EUR
South Africa	South African rand	ZAR
South Sudan	South Sudanese pound	SSP
Spain	Euro	EUR
Sri Lanka	Sri Lankan rupee	LKR
Suriname	Suriname dollar	SRD
Sweden	Swedish krona	SEK
Switzerland	Swiss franc	CHF
Taiwan	New Taiwan dollar	TWD
Tanzania	Tanzanian shilling	TZS
Thailand	Thai baht	THB
Trinidad and Tobago	Trinidad and Tobago dollar	TTD
Tunisia	Tunisian dinar	TND
Türkiye	Turkish lira	TRY
Uganda	Uganda shilling	UGX
Ukraine	Ukrainian hryvnia	UAH

Jurisdiction	Currency	Code
United Arab Emirates	United Arab Emirates dirham	AED
United Kingdom	British Pound sterling	GBP
United States	United States dollar	USD
Uruguay	Uruguayan peso	UYU
Uzbekistan	Uzbekistani so'm	UZS
Venezuela	Venezuelan bolívar	VES
Vietnam	Vietnamese dong	VND
Zambia	Zambian kwacha	ZMW
Zimbabwe	Zimbabwe dollar	ZWL

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