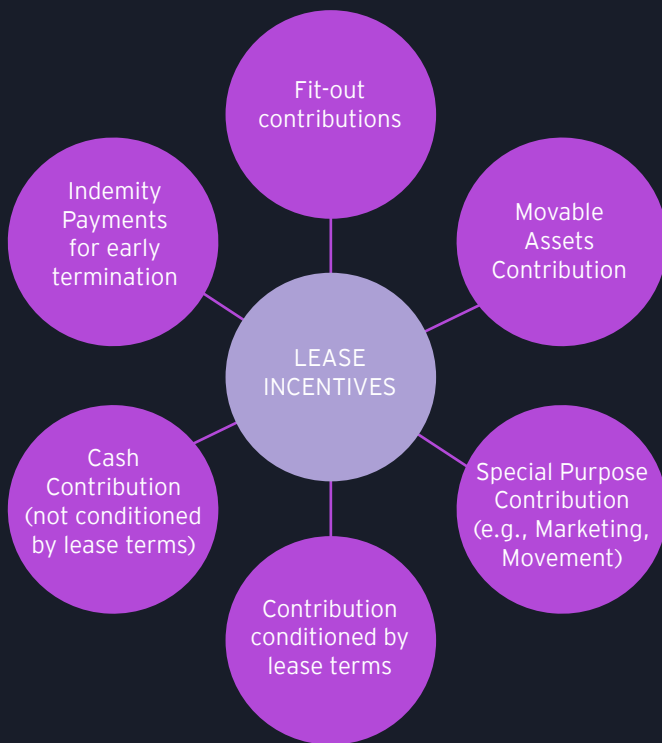


LEASE INCENTIVES

Refurbishment and other arrangements



In the current economic climate, we are seeing more and more lease restructures – particularly arrangements for refurbishment or early termination. When discussing lease variations landlords and tenants need to make sure that they are aware of any VAT implications.



Under the Luxembourg VAT law, a supply of goods or services generally falls within the scope of VAT when made for consideration by a taxable person. The general rule as per the VAT law provides that the taxable basis of a supply is made by everything that constitutes the consideration received by the supplier, i.e., the price actually paid or deemed to be paid. It is thus crucial to understand

- ▶ Whether the incentive granted or received should be considered as being part of the remuneration for the leasing of the real estate Or
- ▶ Whether the incentive constitutes a service on its own
- ▶ Who is the supplier and who is the recipient of the service/good for VAT purposes (tenant or landlord)

Depending on the arrangements, the incentive could fall outside the scope of VAT, be subject to VAT or VAT exempt, resulting in different VAT implications and obligations for landlords and tenants.

The VAT treatment of the incentives does not only decide whether VAT is due by the supplier but may also impact the input VAT deduction right of the supplier and thus cause unintended VAT costs (such as non-deductible VAT and/or the regularization of deductible VAT for capitalized costs).

HOW WE CAN HELP

It is important that landlords and tenants take proper VAT advice when granting or restructuring leases in order to avoid any unintended VAT pitfalls.

Our network of dedicated indirect tax professionals combines deep technical and industry knowledge. We can advise you on the VAT implications already upon the set-up of the lease contract and work with you to mitigate adverse VAT consequences.

OUR TEAM



Olivier Lambert
Partner, Indirect Tax
+352 42 124 7361
olivier.lambert@lu.ey.com



Jacques Verschaffel
Partner, Indirect Tax
+352 42 124 7219
jacques.verschaffel@lu.ey.com



Rebecca Obermahr
Partner, Indirect Tax
+352 42 124 7117
rebecca.obermahr@lu.ey.com